



THE WORLD BANK

Implementing Right to Information A Case Study of India



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Abbreviations and Acronyms

APIO	assistant public information officer
CIC	Central Information Commission
CPWD	Central Public Works Department
CSO	civil society organization
CVC	Central Vigilance Commission
CWG	Commonwealth Games
DOPT	Department of Personnel and Training
FOI Act	Freedom of Information Act 2002
HLRN	Housing and Land Rights Network
IAY	Indira AwasYojana
IEC	Information, Education and Communication Division of the Department of Rural Development
GOI	Government of India
MGNREGS	Mahatma Gandhi National Rural Employment Guarantee Scheme
MKKS	MazdoorKisan Shakti Sangathan
NAC	National Advisory Council
NCPRI	National Campaign for People’s Right to Information
NREGA	National Rural Employment Guarantee Act
NGO	nongovernmental organization
PCRf	Public Causes Research Foundation
PIO	public information officer
PM	prime minister
PMGSY	PradhanMantri Gram Sadhak Yojana
PwC	PricewaterhouseCoopers
RAAG	Right to Information Assessment and Analysis Group
RTI	right to information
RTI Act	Right to Information Act 2005
RTI-MIS	online request and appeals tracking system
SNS	SatarkNagarikSangathan
UPA	United Progressive Alliance

1. Introduction

On May 10, 2005, the Indian Parliament enacted the Right to Information Act 2005 (RTI Act), providing citizens with a legal right to access government information and records; establishing mechanisms of implementation, promotion, and enforcement to enable the exercise of this right; and, in effect, opening the official decision-making processes to public scrutiny. The recognition, by law, of citizens' right to access the information contained in hitherto secret documents marked a shift in the paradigm of governance—from one characterized by official discretion, secrecy, and control to one of openness and transparency. The significance of the law's passage was recognized by commentators who hailed the law as a "great and revolutionary law"¹ with the potential of "fundamentally altering the balance of power between the government and citizens"² in India.

The passage of the law was rooted in a strong grassroots movement that gained national momentum in the early 2000s, it was consequently embraced as a key platform by a major political party. India's civil society and media have also expressed high expectations of the RTI Act. The law was expected to usher in a new era of transparent and open governance and "merge with and strengthen the aspirations of people for participatory democracy."³

On paper, the law provides a way for citizens to access information and records held by public authorities at the central, state, and local government levels and establishes an independent grievance-redressal system to deal with complaints that arise from noncompliance.

In practice, the law's potential has been realized to a certain extent. Various studies have shown that citizens have responded to the RTI Act enthusiastically, filing information requests with government departments on a range of issues. In the two-and-a-half years after the RTI Act was passed, it was estimated that 2 million requests for

information had been filed by citizens citing the legislation.⁴ Civil society, in particular, has popularized the law by mobilizing citizens to use it and by monitoring its implementation. For its scope and design,⁵ the Indian RTI Act is widely regarded as a model piece of legislation.⁶ This attention, as well as the tremendous popularity of the law, has prompted several countries around the world to draw up their own access-to-information legislation. At the same time, in some instances, information obtained through the RTI Act has been used by civil society groups and individuals to demand improvements in the provision of government services.

These are positive developments, but they only go so far. Reports also indicate that public officials, by and large, lack the skills and training needed to comply with the law, and in many ways, they continue to resist its implementation. Meanwhile, continued resistance to the RTI Act at various levels raises important questions about the government's willingness to create an enabling environment for citizens to exercise their right to information (RTI).

This case study builds on recent work on the subject and also draws from numerous interviews conducted with an array of stakeholders. It examines India's experience with the implementation of the RTI Act to date, focusing on both the implementation measures put in place by the government as well as the use of the law. It examines the role of three key stakeholders in particular—politicians, civil society actors, and bureaucrats—in the design and implementation of the law; in so doing, this study seeks to shed light on how the law has been put in practice.

An analysis of the various implementation measures enacted by the central government suggests that there has been procedural compliance with the basic provisions of the RTI Act. Specifically, rules and regulations regarding the payment of fees and the appeals process have been framed, information

commissions have been set up, and officers have been designated to handle requests and appeals in various government departments. But recent assessments of the law's implementation indicate that there are key gaps in the RTI regime. A number of studies cite inadequate infrastructure and insufficient budgetary and human resources as key constraints on the performance of departments as well as information commissions. Public information officers (PIOs) in both the central and state governments have reported low levels of awareness, training, and capacity building as well as poor records management as the major reasons for delays in responding to requests for information.

The growing backlog of pending appeals and complaints with the information commissions—and the low number of penalties thus far imposed—have prompted civil society groups to question the efficacy of the enforcement mechanisms under the RTI Act. These implementation gaps suggest that while there has been procedural compliance, the government has only made limited efforts to ensure the systemic change required occurs. For example, internal rules and procedures have not been reviewed, and records management practices have not been improved to enable departments to disclose information more efficiently. The implementation of the RTI Act appears to have become a “check-the-box” procedure; its actual realization would require the substantial, internal reforms of the structures and processes of government departments.

1.1. Methodology

This case study is a combination of desk-based secondary research and primary data collection from interviews and TI requests, drawing on secondary literature on the genesis of the RTI Act in India as well as recent studies assessing the status of the law's implementation.

In order to understand the dynamics of RTI implementation, this case study analyzes the efforts of the nodal implementing agency—the Department of Personnel and Training (DOPT)—as well as three departments of the central government.⁷

- **Department of Rural Development.** This department, under the Ministry of Rural Development, formulates and oversees implementation of the government's flagship programs on livelihood generation, wage employment, rural housing, and rural connectivity. These schemes are implemented across the country through state governments, district rural development agencies, and Panchayati Raj institutions.
- **Department of School Education and Literacy.** This department, under the Ministry of Human Resource Development, is responsible for the formulation and implementation of policies on elementary education, secondary education, literacy, and adult education.
- **Central Public Works Department (CPWD).** This department, under the Ministry of Urban Development, is the premier public works agency of the central government. It is responsible for the construction and maintenance of all central government works and assets.

Qualitative interviews were conducted with key officials in each of these four departments to understand departmental compliance with the RTI Act (assessed against the key obligations of public authorities under the RTI Act),⁸ challenges to its implementation, and the impact of the law on departmental functioning. Interviews were also conducted with civil society organizations (CSOs), activists, and the media. The study focused on the use of the RTI in three key sectors: rural development, education, and public works. The interviews helped to gauge perceptions of the RTI Act, understand ways in which the law is being used to demand information from the government, and evaluate how the law has changed or influenced the way that government departments are held accountable to the public.

To assess the readiness of the department to implement the law, RTI applications were filed in the three central government departments seeking information on the total number of RTI applications

that were received, rejected, and fulfilled as well as the number of first appeals filed between 2008–10.

In addition, a literature review was undertaken. Although data assessing the status of RTI implementation in India are limited, there are several valuable studies on the subject. In 2008–09, the Government of India commissioned the private consultancy firm PricewaterhouseCoopers (PwC) to assess the implementation of the RTI Act. Simultaneously, civil society groups launched their own study under the umbrella of the Right to Information Assessment and Analysis Group (RAAG), a coalition of people’s organizations and activists. Despite differences in scale and methodology, both studies contain similar findings.

On a positive note, these studies echo several others in suggesting that the institutional mechanisms for operationalizing the key provisions of the law have been set in place at various levels. Central and state governments have formulated rules to implement the law, government departments have designated information officers to handle requests and appeals, and information commissions have been set up across various states.⁹

However, the studies also cite low levels of awareness about the law among civil servants, limited training and capacity building among PIOs, inconsistent rules and procedures for accessing information, and poor records management.¹⁰

2. Adoption of the RTI Act, 2005

Public demand for the RTI Act, coupled with support from the Congress-led United Progressive Alliance (UPA) government, eventually led to its enactment in May 2005. It was preceded by a number of state RTI laws and, at the national level, by the less ambitious and ineffectual Freedom of Information Act 2002 (FOI Act). The pluralistic nature of the Indian state as well as its highly vibrant and active civil society not only spurred the passage of the law but has also helped to maintain pressure on the government to effectively implement it.

An extensive body of literature chronicles the history of the RTI movement in India.¹¹ This movement is particularly significant because of its deep grassroots origins, unlike in many other countries where the impetus for reform was supplied by either reformist elements within governments or pressure from international donor organizations. Although the Constitution of India constitution does not explicitly recognize citizens' right to information, a series of progressive judgments by the Supreme Court of India has recognized this right as an extension of the fundamental right of freedom of speech and expression under Article 19 (1)(A).¹² But it was not until a powerful grassroots movement, championed by well-connected national advocacy groups, became aligned with the vision of the political class in the early 2000s, that a law to operationalize such judgments was adopted.

In the 1990s, a small grassroots organization in rural Rajasthan—the MazdoorKisan Shakti Sangathan (MKSS, Organization for the Empowerment of Workers and Peasants)—began to campaign for access to government records and documents as part of its broader struggle to secure minimum wages under the government's drought relief programs.¹³ For over a decade, the successes of this group in extracting information from the government sparked a nationwide campaign that culminated in the enactment of various state and national RTI laws.

In many ways, the MKSS campaign was unique. While sporadic demands for information had been articulated by people's organizations in other parts of the country, the MKSS created a mass support base of ordinary farmers and villagers for the movement.¹⁴ Inspired by the MKSS, people's groups and organizations throughout the country (including the National Alliance of People's Movements, Rural Workers' Campaign, and Dalit Sangharsh Samiti) realized the importance of RTI in their own work.¹⁵

The movement also drew support from human rights activists whose efforts against human rights violations and illegal detentions were frustrated by a lack of information; from environmental groups that had initially achieved some success in petitioning the Supreme Court for greater transparency on environmental issues;¹⁶ advocacy groups able to draw the support of opinion makers, such as the Lokayan, the Commonwealth Human Rights Initiative (CHRI), and the National Campaign for Advocacy Studies; prominent individuals, including retired bureaucrats, lawyers, senior journalists, and academics; and even officials from within the bureaucracy.¹⁷

In 1996, the National Campaign for People's Right to Information (NCPRI) was formed, a critical development in galvanizing on one platform disparate groups, including representatives of people's movements, activists, lawyers, journalists, academics, and retired bureaucrats. To build up mass support for its movement, the NCPRI adopted a strategy of reaching out to groups and organizations working on different issues across the country. The NCPRI prepared and submitted a draft RTI bill to the Press Council of India, which was forwarded to the government following a series of public consultations. A government committee (the H. D. Shourie Committee) was set up to review the draft bill, and within a few months, it submitted a diluted version of the bill to the government.¹⁸

At the national level, the government's response remained ambivalent. Other than some minor efforts—such as those under the V. P. Singh government in 1989 (scuttled by the bureaucracy) and an unfulfilled promise in the election manifesto of the National Democratic Alliance government, which came to power in 1998¹⁹—the government had never quite espoused the RTI cause.

State governments, meanwhile, made more rapid progress; many enacted RTI laws in the 1990s,²⁰ responding to a diverse set of pressures. In some states, such as Tamil Nadu and Karnataka, the impetus for reform came from within the government.²¹ In others, such as Maharashtra, a grassroots campaign for greater transparency led by Anna Hazare, forced the government to repeal an ineffective law and replace it with a stronger state RTI law.

While these state laws varied in strength and application, they went a long way toward increasing awareness of citizens' right to information and thus prepared the ground for national legislation.²² But at the national level, while some public officials²³ supported RTI, others continued to resist the idea. This resistance, according to Singh (2010), emerged from a fear among the bureaucracy that the law would bind the government to set rules, leading to the "death of discretion."²⁴

Sharp divisions, even among the political class, came to the fore in 1999, when one cabinet minister unilaterally ordered the public disclosure of all records and papers in his ministry²⁵ and the prime minister (PM) rescinded the order. In response to a petition against the PM's order (filed by activists and lawyers in 2000), the Supreme Court ordered the government to provide for RTI, paving the way for the 2002 FOI Act.

However, the FOI Act was widely criticized for its weak and ineffectual clauses;²⁶ it wasn't even published in the *Official Gazette of India* and, therefore, never came into force.²⁷ In 2004, the

newly-elected UPA government promised to make RTI "progressive, participatory and meaningful."²⁸ To monitor the implementation of the government's programs, the leader of the Congress Party, Sonia Gandhi, set up a National Advisory Council (NAC) that included key RTI advocates.²⁹ In August 2004 the NCPRI submitted a draft RTI bill to the NAC that essentially a series of amendments to the 2002 FOI Act. The amendments included renaming the law from the "Freedom of Information Act" to the "Right to Information Act." This was significant since it placed the demand for information in the context of a legally justifiable right rather than an abstract freedom.

Based on submissions from civil society groups including the NCPRI, the NAC submitted its recommendations to the government for amending the FOI Act 2002. In December 2004, based on these recommendations, the Right to Information Bill 2004 was tabled in Parliament. The bill, while better than the 2002 law, still excluded a number of key clauses recommended by civil society groups: it restricted RTI to the central government only and excluded penalties for noncompliance. Eventually, a parliamentary standing committee and a group of ministers were appointed to review the bill and, after a great deal of lobbying from civil society groups, a number of the original NCPRI-NAC recommendations were reinstated.³⁰ The stronger legislation that resulted from this process—the RTI Act—received support from Sonia Gandhi and the NAC; it was finally passed by both houses of Parliament in May 2005, received presidential assent in June 2005, and came into formal force on October 13, 2005.³¹

From the outset, civil society groups were determined that the RTI Act should follow international best practices on access to information. They specifically pushed for the incorporation of the basic principles of maximum disclosure, minimum exemptions, independent appeals, penalties, and universal accessibility within the law. These principles found expression in the final text of the RTI Act.

3. The Clarity and Comprehensiveness of the Legal Environment

The RTI Act 2005, is widely regarded as a progressive law overriding all existing laws, including the Official Secrets Act 1923.³² It draws upon the provisions of international access-to-information laws, such as those from Canada, Jamaica, Mexico, and South Africa.³³ In effect, the law covers the whole country, except Jammu and Kashmir.³⁴

While sporadic attempts to introduce RTI legislation had been made by the government since the 1980s, it was really a massive push by groups such as the MKSS and NCPRI in the 1990s that paved the way for the reform. The national campaign for RTI strategically built partnerships with various stakeholder groups, including the media, lawyers, civil society groups, and people's movements across the country. In particular, the NCPRI organized workshops with groups working on issues as diverse as child labor, health, education, and human rights in order to highlight the cross-cutting nature of RTI.³⁵

The campaign also recognized the need to build support within the political establishment, and RTI activists drew upon their personal connections with senior bureaucrats and party leaders to gather support for the campaign. In the final weeks before the RTI Act's enactment, CSOs, including the NCPRI, CHRI, and others, lobbied Members of Parliament relentlessly with to ensure that the most progressive provisions were crafted into the legislation—such as extending the coverage of the law to the entire government (rather than only the central government, as was the case with the 2002 Act and an earlier draft of the 2005 law).

In many countries, expanding RTI is perceived as a neoliberal reform effort pushed by governments, but in India, since its inception, the RTI Act has been seen as linked to the realization of basic rights and entitlements and as a tool to combat corruption.³⁶ The MKSS campaign in rural Rajasthan demonstrated the potential of RTI in helping ordinary workers and farmers access their wages under the government's wage employment programs. In so doing, the MKSS developed a radical interpretation of the notion that citizens have a right to know how they are governed and to participate actively in the process of auditing their representatives.³⁷

3.1. The Scope of Coverage

The RTI Act brings under its purview public authorities that are established, constituted, owned, or substantially financed by central, state, or local government bodies as well as organizations substantially controlled or financed by government funds (directly or indirectly), including nongovernmental organizations (NGOs). It covers all courts, Parliament, legislative assemblies, and councils. Certain security and intelligence agencies established by the government are exempted from coverage,³⁸ but it is noteworthy that, if allegations of corruption or human rights violations are concerned, exemptions from information disclosure do not apply.

The law does not specifically cover private bodies, but it does enable citizens to access information about private bodies if such information can also be accessed by public authorities. For instance, in the case of a public private partnership, any information about the private company that is required to be submitted to the government is available to citizens under the RTI.

3.2. The Scope of Exceptions

The law defines 10 exemption clauses to protect information that is likely to affect the country's national interests, foreign relations, commercial and trade secrets, and the like.³⁹ These notwithstanding, information that can be provided to Parliament or to a state legislature can also be provided to citizens. Further, if the public interest in disclosing information outweighs the harm to protected interests, public authorities may disclose the information.⁴⁰

Civil society pressure resulted in the reinstatement of two important NAC recommendations in the RTI Act: (1) a provision for requiring the disclosure of information pertaining to corruption and human rights violations by intelligence agencies (which had been removed in the bill tabled in Parliament);⁴¹ and (2) the law was extended to cover all branches of government, including those at the state level. This is particularly critical to civil society groups, since information relevant to the urban and rural poor can only be accessed at the state-government level.⁴²

In 2006, soon after the law was enacted, the DOPT issued a notice on its Web site stating that "file notings" were not to be disclosed under the RTI Act.⁴³ Civil society groups and activists were quick to respond, challenging the notice before the central and state information commissions who supported the view that notings could be accessed under the law. Undeterred, the government prepared a draft RTI amendment bill, the main purpose of which was to exclude file notings from the purview of the law.⁴⁴ Civil society groups and leading RTI activists, rallying against the bill, launched a major campaign with the support of the media, successfully stalled the government from pushing the amendment through.⁴⁵

In 2009–10, in response to an RTI request, the government again confirmed that amendments to the RTI Act meant to improve the functioning of the law and prevent its misuse were being considered, including exemptions for frivolous and vexatious requests for information,

discussions on policy decisions, and information from the office of the Chief Justice of India.⁴⁶

After civil society groups addressed letters to the PM and Sonia Gandhi protesting the potential amendments, the government decided to shelve them, assuring activists that they would be considered only after consultations with a range of stakeholders had taken place. In this way, civil society groups have played a crucial role—not only in the passage of the legislation, but also as watchdogs, remaining vigilant and responsive to any government push back on the RTI Act.

3.3. Procedures for Access

The RTI Act clearly outlines the implementation roles and responsibilities of public authorities at various levels. Central and state governments are tasked with framing rules and guidelines to facilitate citizens' access to information, developing education programs for the public, promoting the timely dissemination of information by public authorities, conducting training and capacity building of public authorities, and so on.⁴⁷ Each public authority must appoint PIOs and assistant public officers (APIOs) within its administrative units and offices to receive and process requests for information. The law spells out the procedure to be followed by citizens in seeking information as well as the protocol to be followed by PIOs and APIOs in receiving and handling information requests.

Citizens can seek information under the law by submitting an application in writing, electronically, or orally in Hindi, English, or the official language of a given area. Applicants are not required to state reasons for requesting information or provide any personal details beyond basic contact information.

The law prescribes the imposition of reasonable fees as well as the waiver of fees for citizens living below the poverty line. The RTI Act sets a time limit of 30 days for official responses to RTI applications. Where the information requested concerns a matter of life or liberty, information must be provided within 48 hours.

3.4. Implementing Rules/ Regulations

Under the RTI Act, the central and state governments are required to frame rules to enable its provisions. These rules determine any fees and costs for the supply of information, the format of applications, modes of payment, procedures for accessing information, and the appeals process for information commissions. In addition, the legislatures, high courts, Supreme Court, and both houses of Parliament—can also frame rules as “competent authorities.” The RTI

Regulation of Fee and Cost Rules, applicable to central government departments, came into effect on September 16, 2005. State governments have also formulated rules under the RTI Act.

The variations in the rules framed by the central and state governments have resulted in as many as 88 different RTI rules currently in operation in India.⁴⁸ In particular, inconsistent fee structures, restrictive formats, and varying procedures for accessing information have been cited by civil society groups as stumbling blocks to citizens’ efforts to use the law.⁴⁹

4. Capacity, Promotion, and Oversight

The RTI Act lays out a very detailed implementation framework for public authorities. In some countries, like the United Kingdom, the government had five years to fully operationalize the RTI law; in India, the time gap between the enactment of the RTI Act and its implementation was quite short: enacted in May 2005, the law came into full force on October 12, 2005. Public authorities were given 120 days within which to implement the law in its entirety. Some key provisions came into immediate effect, including the framing of rules by central and state governments, the appointment of PIOs by public authorities, and the establishment of the information commissions at the central and state government levels.

4.1. Implementing Organizations

While the law does not specifically provide for the designation of a nodal implementing agency, institutional arrangements have been made with specific departments to lead implementation at the central and state government levels. At the central level, the DOPT in the Ministry of Personnel, Public Grievances, and Pensions has been designated as the nodal agency.⁵⁰ In this role, the department has the powers and responsibilities of the central government as outlined under the RTI Act.⁵¹ Notably, the DOPT was closely involved in the formulation and drafting of the RTI Act; it even presented the draft bill in Parliament. The department has a separate RTI division that deals with all RTI matters and the Central Information Commission (CIC).⁵² In most states, either a general administration department or department of administrative reforms has been designated as the primary RTI implementing agency.

The DOPT's role as the lead implementing agency reveals certain contradictions. As the department responsible for the formulation of personnel policies, senior staff appointments, and general administration in the central government, the

DOPT has played an important role in setting the tone for implementation. It has issued detailed notifications and instructions to departments, organized trainings for officers relating to the RTI Act, conducted mass public awareness campaigns, clarified key provisions of the law, and issued specific orders to ministries to appoint PIOs, proactively disclose information, and to improve records management practices.⁵³

But on some issues concerning the disclosure of information by the bureaucracy, the department's interpretation of the law has been controversial. As previously mentioned, in 2006, the DOPT stated that file notings could not be disclosed under the law;⁵⁴ this led to a number of government departments refusing citizens access to information.⁵⁵ From a civil society perspective, access to file notings provides a critical insight into the deliberative process of government, and opens up to scrutiny the views, recommendations, and decision of officials on specific policy issues.⁵⁶ Civil society objections⁵⁷ forced the DOPT to backtrack on the issue,⁵⁸ but the controversy proved to be only the first in a series of attempts by the government to amend the RTI Act.⁵⁹ In subsequent years, the department has been frequently critiqued for its interpretation of the law's key provisions. Most recently, the department has mooted a series of amendments that, if introduced, would limit both the subject matter and word count of RTI applications.⁶⁰

As agencies on the frontlines, ministries and departments (at both the central and state levels) play critical roles on a day-to-day basis in determining how RTI is translated into a tangible right for citizens. Under the implementation framework outlined in the RTI Act, it is the responsibility of each line ministry—and the public authorities under them—to set in place systems and processes to enable citizens to access information under the law.

There are a total of 60 ministries under the central government, each with a number of departments and public authorities under its jurisdiction. Aggregate data on compliance with the RTI Act by these ministries are unavailable, but information from the government's national RTI portal suggests that a large number of ministries have complied with the basic provisions of the law, including appointing PIOs and appellate authorities and proactively disclosing information.⁶¹

Interviews with officials in the DOPT, Department of Rural Development, and CPWD shed light on the internal processes and procedures that departments have developed for RTI implementation.⁶² The nodal division or the RTI cell is generally responsible for coordinating the receipt, transfer, and disposal of RTI requests and ensuring that there is department-wide compliance with the provisions of the law. In their efforts to set in place systems and processes to facilitate RTI implementation, the DOPT and CPWD stand out. The CPWD has set up an RTI coordination cell to receive and redirect RTI requests to its relevant branches, divisions, and subdivisions. It is well staffed and well organized, with nine dedicated staff members and a separate office space with proper workstations, computers, and sufficient filing space. The DOPT has recently set up a dedicated RTI cell to streamline the disposal of RTI applications. Of the four departments, the DOPT is the only one that has issued detailed internal guidelines for the efficient handling of requests and appeals within the department.⁶³ In the Department of Rural Development, the Information, Education and Communication (IEC) Division handles all RTI-related matters. The Department of School Education and Literacy does not have a dedicated cell or division; all matters related to RTI implementation are handled by another department in the Ministry of Human Resource Development.

It appears that the ways in which departments organize themselves to deal with RTI implementation reflects sector-specific characteristics. Policy-intensive departments such as the Department of Rural Development and Department of

School Education and Literacy tend to have leaner RTI implementation structures, with fewer information officers and less infrastructure. This is primarily because most of their programs are implemented at the state and local government levels; therefore, requests for information are usually transferred to these levels. On the other hand, departments that are heavily engaged in the day-to-day implementation of programs, such as the CPWD, have more formalized systems, reflected in a higher number of information officers and a dedicated and well-staffed RTI cell, as examples. This difference in policy versus implementation is also reflected in the number of RTI requests received by departments: the CPWD receives a greater number of requests than the other two.

4.2. Budget

At the central and state government levels, there are no dedicated budgets for RTI implementation. Additional allocations have, however, been made to help governments set up information commissions.⁶⁴ In addition, in November 2008, the central government launched a centrally sponsored scheme⁶⁵—to the tune of Rs. 26.68 crores—for strengthening implementation, capacity building, and awareness generation under the RTI Act.⁶⁶ At the level of line ministries and departments, however, there have been no additional allocations. Expenditures related to the implementation of the RTI Act, including the designation of PIOs, APIOs, and appellate authorities, are charged to the overall administrative budgets of each ministry or department.⁶⁷ Interviews with officials from the CPWD, Department of Rural Development, and Department of School Education and Literacy confirmed that they do not have any dedicated budgets for RTI implementation.⁶⁸

This is a significant implementation issue. A subcommittee set up by the CIC in 2007 noted that public authorities, particularly at the lower levels of government, were constrained in their information provision by inadequate financial resources. The subcommittee recommended that central and state governments earmark a certain percentage of departmental budgets for the

implementation of RTI programs—such as creating infrastructure, training, and capacity-building programs.⁶⁹ The inadequacy of budgets and infrastructure has also been cited as a key constraint by the PIOs and department heads at the central and state government levels.⁷⁰

4.3. Staffing and Training

4.3.1. Staffing

The RTI Act provides for the designation of information officers in all administrative units or offices of a public authority.⁷¹ In October 2005, the DOPT issued a directive instructing public authorities to designate PIOs and APIOs. At the sub-divisional and sub-district levels, where public authorities do not have offices or administrative units, arrangements have been made with the Department of Posts to provide the services of APIOs.⁷²

Aggregate data on the total number of central government personnel employed to process RTI requests are not available. The number of information officers varies depending on the number of offices, branches, and administrative units within a given ministry or department (as can be seen in the four departments analyzed in table 1). The jurisdiction of each PIO and AA has been clearly defined: officers process information requests and appeals related to the specific schemes or programs being handled by them.⁷³ This clear allocation of subject area benefits both the officers and citizens who can address queries to specific PIOs or AAs.

There seems to be a wide variation in the seniority levels of PIOs within the central government and across states. In many instances, junior officers have been designated as PIOs and AAs, which, according to a 2009 CIC sub-committee, is likely to have a detrimental effect on the quality of decisions.⁷⁴ In the DOPT and Department of School Education and Literacy, officers at the level of undersecretary have been designated as PIOs, whereas in the Department of Rural Development, PIOs are at the level of director or deputy secretary.⁷⁵ Civil society groups also highlight that in the years immediately following the passage of the RTI Act, senior officers (like joint secretaries) were designated as PIOs, but that junior officers who often lack the capacity to respond to RTI requests or interpret the true letter and spirit of the law are now being appointed.⁷⁶

While PIOs have been designated at various levels to handle requests and appeals, assessments of the RTI Act suggest that the infrastructure and human resources allocated for implementation at various levels are insufficient.⁷⁷ For example, 82 percent of the public authorities surveyed within the central government reported the need for additional infrastructure to implement the RTI Act; public authorities at the block and local levels of government lack basic infrastructure like photocopy machines and computers.⁷⁸ To facilitate the day-to-day handling of RTI requests, the DOPT has instructed departments with more than one PIO to designate a nodal officer to receive all requests and appeals.⁷⁹

Table 1. Number of PIOs, APIOs, and AAs in Four Departments

Department	No. of PIOs	No. of APIOs	No. of AAs
Department of Personnel and Training (DOPT)	49	0	49
Department of Rural Development	21	0	8
Department of School Education and Literacy	25	0	14
Central Public Works Department (CPWD)	153	53	60

Source: Data on the Department of School Education and Literacy and CPWD obtained in response to RTIs. Data on the Department of Personnel and Training and Department of Rural Development from the information disclosed proactively on the departments' Web sites.

4.3.2. Training

The RTI Act includes provisions for the training needs and capacity building of officers. Central and state governments, subject to the availability of resources, may conduct training programs for the PIOs of public authorities and produce training materials and manuals on the RTI Act.⁸⁰ The training division of the DOPT is the nodal agency in the government for formulating and implementing training policy.⁸¹ The training of government functionaries in processes relevant to the RTI Act is conducted regularly by the Institute of Secretariat and Management (ISTM), a training institute under the DOPT. Departments may nominate officers to take part in the ISTM courses, which include special modules for PIOs and AAs implementing the RTI Act.⁸²

At a national level, in 2005, the DOPT partnered with the United Nations Development Program to launch a five-year training effort for all RTI stakeholders. Implemented in two districts each in 27 states, the project involved capacity building and the training of government officials at the central, state, and district levels; the training of trainers; and the development of training materials. Almost 100,000 stakeholders have been trained under the project, including 8,100 resource persons to train other officials in the RTI and other trainers.⁸³ The DOPT has also been experimenting with the use of information and communication technology in training, and in 2009, launched a 15-day online certification course⁸⁴ that targets PIOs, APIOS, AAs, public officials, citizens, CSOs, and other stakeholders.⁸⁵ To date, there have been 24 groups for this training course.⁸⁶

But, despite these training initiatives, studies and interviews with civil society groups have highlighted the need for greater training and capacity building among government officials on the provisions of the RTI Act. Approximately 60 percent of both rural and urban PIOs have not received any RTI training, and approximately 40 percent of PIOs cited this as a constraint on their capacities to supply information to RTI applicants.⁸⁷ The lack of training is reflected in the low levels of awareness about the law among

PIOs; among the rural PIOs surveyed, 30 percent did not know the provisions of the RTI Act,⁸⁸ and civil society groups observe that most PIOs are not aware of their roles and responsibilities under it.⁸⁹ According to one activist, although most departments in the government have training centers where civil society and RTI experts are invited to train officers, for the most part these are not taken seriously since the training is not compulsory and the departments are required to nominate officers for training.⁹⁰

4.3.3. Human Resource Policies

The RTI Act mandates the designation of existing staff as PIOs and APIOs. Consequently, there are no formal rules or procedures that require changes in human resource policies to facilitate the disclosure of information under the RTI Act. In each of the four departments analyzed, PIOs handle other portfolios in addition to their responsibilities under the RTI Act. But responsiveness to RTI requests is not considered in the annual personnel performance appraisal of officials designated to perform RTI-related functions. Notably, there are no specific incentives that reward PIOs for good performance in discharging their RTI responsibilities, which is one reason for their lack of motivation.⁹¹ Over 10 percent of the PIOs surveyed cited a lack of financial and other incentives as reason for their reluctance to be PIOs. According to officials interviewed, though the RTI Act places certain obligations on government departments as a whole, the implementation of the RTI Act on a day-to-day basis is the responsibility of PIOs who face penalties if information is not provided on time. This has prompted resistance to the implementation of the law: over 30 percent of rural PIOs surveyed admitted that they did not want to be in their position.⁹²

4.4. Records Management

Under the RTI Act, public authorities are required to take steps to index, categorize, and catalog their records in order to enable the efficient dissemination of information. Within the central government, records management is the responsibility of a sister department of the DOPT—the Department of Administrative

Reforms and Public Grievances. Over the years, the department has undertaken a number of initiatives to improve government records management systems, including developing manuals on records management procedures and implementing a records-management e-learning module. But despite these initiatives, record-keeping practices across the central and state governments generally still remain quite poor.

In 2006, the Second Administrative Reforms Commission highlighted record keeping as the “weakest link” in the government’s information system. Noting that the “practice of cataloguing, indexing, and orderly storage” was absent at various government levels, the commission recommended the creation of a public records office and a one-time allocation of one percent of funds from flagship programs over five years to update records and improve infrastructure.⁹³ Despite these recommendations, efforts have been slow to align records management practices with the RTI Act.⁹⁴

Fifteen percent of rural PIOs and 25 percent of urban PIOs cited poor records management as a key constraint to the swift processing of RTI applications.⁹⁵ Similarly, 38 percent of PIOs (responding to the PwC study) reported ineffective records management as the reason for delays in processing requests. This problem was mentioned consistently in interviews with government officials and civil society representatives, who all attributed the problem to a lack of dedicated staff to handle government records. For their part, the DOPT and CIC have issued notifications to public authorities to improve their records management systems under the RTI Act,⁹⁶ but compliance with these orders has been slow. Records management practices in most states have not been revised in decades.⁹⁷ Officials mentioned that, in the past, government offices had dedicated record keepers (or *daftaris*) responsible for maintaining and managing records. The removal of this post has left a gap that has been, to date, unfilled.⁹⁸ The PwC study diagnoses the problem as the absence of an “institutional mechanism in public authorities” that focuses on the RTI Act and record-keeping guidelines.⁹⁹

In recent years, the Government of India has launched a number of high-profile initiatives aimed at promoting the use of information and communication technology in improving governance and service delivery. Notably, the government has set up an Office on Public Information Infrastructure and Innovations under the PM to develop IT infrastructure to improve the efficiency of public service-delivery systems.¹⁰⁰

While departments in some states have developed innovative IT solutions, these have been mostly limited to status tracking of RTI applications. For example, at the central government level, the DOPT has developed an online request and appeals tracking system (RTI-MIS) for ministries and departments that enables PIOs, AAs, and CIC officers to input information on requests, appeals, and complaints received from citizens under the RTI Act and to use the system to generate reports and alerts. But in most departments, RTI applications continue to be maintained in physical form, and efforts to computerize RTI records have been limited. Most departments do not have an electronic document management system, and most PIOs do not maintain an electronic list of RTI applications.¹⁰¹ Though officials in interviews spoke of the introduction of a new file-tracking system, it is not clear to what extent the system was being used.

4.5. Monitoring

The RTI Act requires each government ministry or department to compile information and data on the handling of RTI requests and to submit a detailed annual report to the information commissions. This report must detail the number of requests and appeals received by each public authority under its jurisdiction, the number of cases in which information was rejected, the exemptions used, fees and charges collected, and details of disciplinary action taken, and so on. The information commissions have to submit an annual report to the central and state governments (as the case may be) on the implementation of the law based on this report. The central and state governments at the end of each year may table a copy of these reports before the houses of Parliament or the state legislature.¹⁰²

In the central government, the CIC has developed an online RTI annual returns system to which departments can upload information directly. Information on the number of public authorities that have submitted annual reports to the CIC in the past three years is not available.¹⁰³ According to data from the most recent CIC report (2007–08), 1,382 out of 1,597 public authorities submitted reports. The number of public authorities listed in the report also steadily increased from 938 in 2005–06 to 1,597 in 2007–08.¹⁰⁴

The DOPT, Department of Rural Development, Department of School Education and Literacy, and CPWD have been submitting reports to the CIC quite regularly. The annual reports for these departments can be accessed through the CIC's system, though there are doubts about the

accuracy and reliability of the data provided. For example, for the year 2008–09, according to information received in response to an RTI request, the CPWD department received 2,830 RTI applications. For the same period, the annual returns of the Ministry of Urban Development—the parent ministry of the CPWD—reported a total of 2,731 cases, while data for 2008–09 from the CIC's annual returns system suggests 2,263. In other cases, departments submitted incomplete data. Detailed information would be available on the number of requests received by a department and the various public authorities under its jurisdiction for some years, but in other years, only data for the department itself (or possibly no data at all) would be available. Thus, getting concrete data and statistics is challenging and, in most cases, information is not even available on the departments' Web sites.

5. Enforcement and Sanctions

The RTI Act sets in place a two-stage appeals mechanism for denied requests. Internally, within public authorities, the law mandates the appointment of an appellate authority (a senior officer in a public authority) to process and handle appeals. A second appeal can be made to the central or state information commissions (whichever is relevant to the particular case) within 90 days of the decision of the appellate authority.

The information commissions are autonomous and independent government bodies set up at the central and state levels. Headed by a chief information commissioner who is assisted by up to 10 information commissioners, the commissions have broad powers and can hear appeals and complaints under the RTI Act, monitor the law's implementation, impose penalties on PIOs, recommend disciplinary action against erring officials, and award compensation to applicants for any loss or detriment suffered.¹⁰⁵

In addition, the information commissions have been empowered to order public authorities to fully comply with the provisions of the RTI Act. Specifically, they may order public authorities to appoint information officers, publish specific categories of information, make information available in a particular form, improve records management practices, and enhance the training of officials in the provisions of the RTI Act.¹⁰⁶ A major lacuna in the law is that it does not prescribe a time limit within which information commissions must process appeals and complaints. The draft RTI bill did set a time limit for processing applications, but in subsequent amendments to the bill, this clause was inadvertently omitted. Amending it would require parliamentary action and activists are concerned that this could open up a can of worms in terms of allowing the introduction of other regressive amendments; further, there is no incentive for the government to reform the law in a way that would make things more difficult for it.

Unlike a number of other countries' RTI laws, the Indian RTI Act provides for a maximum penalty of

Rs. 25,000 and disciplinary action against PIOs for noncompliance, enforceable by the information commissions.¹⁰⁷ The draft RTI bill that was originally submitted to the government by the NAC included an additional penalty of imprisonment, but this clause was removed in the final drafting stages to ensure that civil servants took the law in the right spirit and "did not see it as a draconian law for paralyzing the government."¹⁰⁸

In total there are 28 information commissions—the CIC and 27 state information commissions. This case study focuses on the functioning of the CIC,¹⁰⁹ which was constituted by the central government on October 11, 2005. The procedures for deciding appeals and complaints are laid out in the CIC (Appeals) Procedure Rules 2005 that were published on October 28, 2005.¹¹⁰ Headquartered in New Delhi, the CIC has been set up under the Ministry of Personnel, Public Grievances, and Pensions and is currently headed by one chief information commissioner and five information commissioners.

The RTI Act enjoins central and state governments to provide information commissions with the officials and employees necessary to function efficiently.¹¹¹ The central government has sanctioned a total of 116 posts to the CIC, of which, as of March 2010, 51 were filled and 65 vacant. The commission is largely staffed by government officials, as reflected in the list of sanctioned posts (see table 2). In addition to its regular staff, certain administrative and data entry positions in the CIC have been outsourced. Information on the training and capacity building of CIC staff is not available.¹¹² The shortfall in staff has been said to be a key constraint on CIC's performance.¹¹³

RTI activists have also raised concerns about the selection and appointment of information commissioners. Under the law, individuals with experience in a diversity of fields (such as law, science, journalism, technology, management, or mass media) may be appointed as information commissioners. But studies suggest that most

information commissioners are former bureaucrats. According to one study, of the 28 chief information commissioners initially appointed, 23 were retired bureaucrats.¹¹⁴ While former bureaucrats have stronger skills and experience in administrative matters than other citizens, this could be seen as perpetuating a bureaucratic culture within the enforcement agencies, potentially compromising objectivity.

The CIC is funded by the central government. Specifically, the demands for grants for the CIC are presented to the exchequer as part of the overall budget of the Ministry of Personnel, Public Grievances, and Pensions. The allocations of funds and approval of expenditures are subject to clearance from the ministry. Staff salaries are set according to government norms, and the commission does not have the authority to create new posts or fix staff salaries. Therefore, while the RTI Act gives the commission considerable autonomy,¹¹⁵ its dependence on the central or state government for the sanctioning of budgets and staff¹¹⁶ goes against the spirit of its autonomy. In its first annual report, the CIC noted that the independence and efficient functioning of the CIC could not be guaranteed unless it was provided with financial and administrative autonomy.¹¹⁷

RTI activists have recommended that the budgets of information commissions be delinked from any government department and be determined by the Parliament or the state assembly, as the case may be. Furthermore, they have recommended that information commissions should be autonomous and independent in their ability to create posts, hire staff, incur expenditures, and so on.¹¹⁸

As per information received in response to an RTI request, the annual budget of the CIC in 2009–10 was Rs. 1,188 lakhs while the actual expenditure incurred was Rs. 1,113.79 lakhs (see table 3).

The CIC maintains a monthly record of the number of cases (both appeals and complaints) that are received and disposed. This number has been steadily increasing, from only 703 in 2005–06 to 22,818 in 2009–10 (see figure 1). In total, in the period 2005–10, the CIC received 57,046 appeals and complaints, 45,283 of which were disposed. On average, the CIC disposes of 9,056.6 cases per year. Detailed data on the time taken to respond to appeals and complaints are not available, but it has been estimated that the average waiting time is approximately 6.2 months.¹¹⁹

Table 2. List of Sanctioned Posts in the CIC

Sl. No.	Posts	Sanctioned Post	As of March 2010	Vacant
1	Secretary (additional secretary to the Government of India (GOI))	01	01	Nil
2	Additional secretary (joint secretary to GOI)	01	01	Nil
3	Registrar	01	Nil	01
4	Joint secretary (director to GOI), deputy secretary	04	04	Nil
5	Senior PPS	10	07	03
6	Undersecretary	05	04	01
7	Section officer	02	02	Nil
8	PPS	01	Nil	01
9	OSD (protocol)	01	Nil	01
10	Court master	11	01	10
11	PS	04	04	Nil
12	Assistant	14	13	01
13	Librarian	01	Nil	01
14	Translators	02	Nil	02
15	Personal assistant (PA) (grade C)	14	02	12
16	Steno (grade D)	11	01	10
17	UDC	02	01	01
18	DEO	11	Nil	11
19	Driver	11	05	06
20	Peon	09	05	04
	Total	116	51	65

Source: Information received in response to an RTI filed with the CIC, Reply No.CIC/CPIO/2010/1057.

Table 3. Annual Budget of the CIC

Year	Budget estimates	Revised estimates	Actuals (in lakhs)
2005-06	—	100.00	87.25
2006-07	500.00	622.00	150.56
2007-08	900.00	733.00	547.06
2008-09	1,340.00	1,234.00	819.03
2009-10	1,174.00	1,188.00	1,113.79

Source: RAAG 2009: 42.

Data on the number of penalties imposed, disciplinary actions recommended, and compensation awarded since 2005 are not readily available, but studies suggest that information commissions across the country have imposed penalties in very small numbers. The RAAG study, based on an analysis of appeals and complaints at 19 information commissions across the country, found that a total of 343 penalties had been imposed as of March 31, 2008. Of these, 74 penalties were imposed by the CIC (figure 2); as a percentage of cases, this is quite low. Civil society groups interviewed say this creates a culture of impunity for noncompliance with the law.

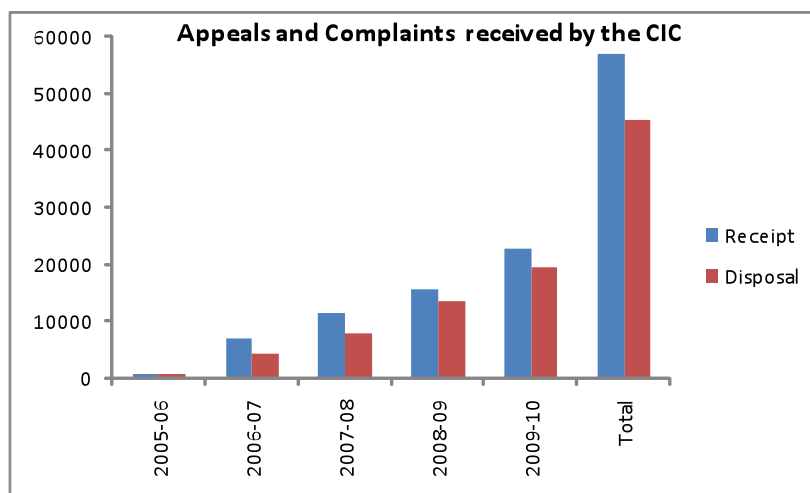
The 2008-09 RAAG study found that less than 2 percent of potential penalties under the RTI Act were actually imposed by the information commissions.¹²⁰ A more recent 2009-10 study by the Public Causes Research Foundation (PCRF) estimates that the failure to impose penalties has cost the Indian exchequer Rs.

86 crores. Based on its analysis of 76,813 orders passed by 87 information commissioners across 27 states, it was determined that penalties were imposed when information was delayed in only 1,896 out of 59,631 cases (3.17 percent).¹²¹

5.1. Judicial Appeals

The RTI Act bars lower court jurisdiction for hearing appeals and complaints related to the RTI Act because the framers of the law were keen to ensure that it did not fall prey to problems of delays and pendency characteristic of India's lower courts. Thus, an independent appeal system was created. But because RTI is a constitutional right, interpreted by the courts as a fundamental right under Article 19 (1) of the Constitution, citizens can appeal to the High Court or Supreme Court in their writ jurisdiction if they believe their rights has been infringed.

Figure 1. Appeals and Complaints Received by the CIC



Source: Information received in response to an RTI filed with the CIC. No.CIC/CPIO/2010/1057, dated September 3, 2010.

Consequently, the orders and decisions of the information commissions may be challenged in the High Courts and the Supreme Court. Detailed data on the number of first and second appeals that been challenged in the courts are not available.

Anecdotal evidence from newspaper and media reports, however, indicates that a number of public and private authorities—private schools, stock exchanges, sports associations, and other organizations—have challenged the decisions of the information commissions and its coverage under the law in court.¹²² Additionally, there have been instances in which government officials have challenged penalties imposed by the CIC; in some of these cases, the courts have either reduced or overturned penalties while staying the CIC’s orders.¹²³

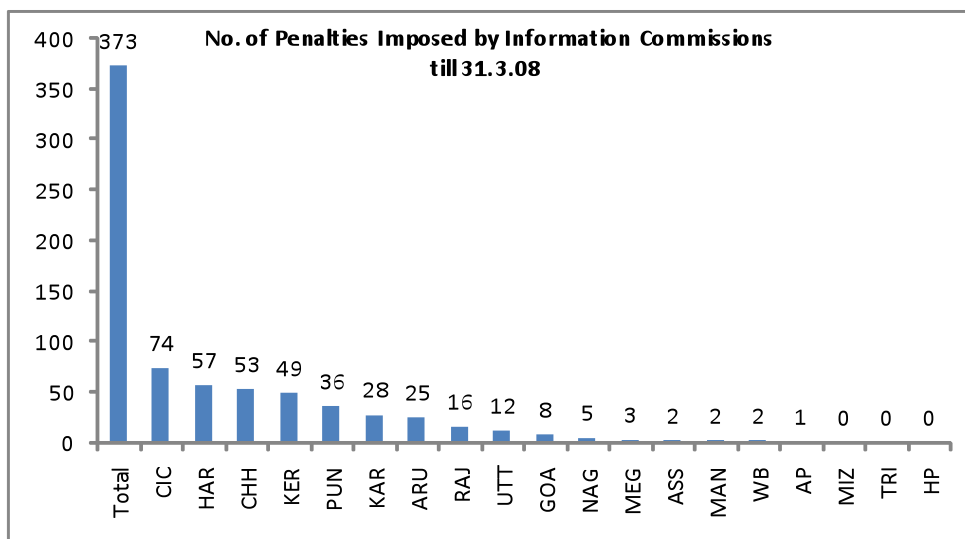
5.2. Influence of Stakeholders

RTI activists and civil society groups in India have been vocal in their demand for strong and independent information commissions. Since 2006, a number of studies by CSOs have tracked the performance of information commissions in various states.¹²⁴ These studies have helped highlight the various implementation challenges

faced by the commissions. Earlier studies tracking RTI in eight states (Andhra Pradesh, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Madhya Pradesh, Uttar Pradesh, and Uttarakhand) found that state information commissions were constrained by the poor allocation of infrastructure, staff, and budgets.¹²⁵ These findings have been supported by more recent assessments. In response to a nationwide survey assessing the status of RTI implementation, 75 percent of information commissions reported that they were not financially independent, 85 percent felt that sanctioned staff were inadequate, and nearly 60 percent said they did not have sufficient infrastructure.¹²⁶ Civil society groups view the dependence of the commissions on government departments for the sanctioning of budgets and staff as a major impediment to their ability to function effectively.

Through their continued vigilance, civil society groups have ensured that critical gaps in the implementation of the RTI Act at various levels are highlighted and brought into public view. While the extent to which these efforts have been successful in pressuring the government to improve implementation is not directly evident, the existence of a strong counter pressure to the government has certainly been beneficial.

Figure 2. Number of Penalties Imposed by Information Commissions as of March 31, 2008



Source: RAAG 2009.

Box 5.1. Performance Issues of the Judiciary and Independent Agencies

The data available suggest that information commissions are falling into a pattern of regular delays and poor enforcement characteristic of a number of other enforcement and grievance redress agencies—notably the judiciary. The growing backlog of appeals and complaints in information commissions has been flagged as a major problem in the implementation of the law.¹²⁷ A 2009 PCRF study of information commissions reports that, in some state information commissions, applications remain pending for more than a year. Activists fear that if remedial measures are not taken, information commissions will soon mirror the judiciary, where court cases remain pending for years.

In 1996, the Mallimath Committee report estimated that 28 million judicial cases were pending across the country. Since that time, the number of pending cases has increased to such an extent that, by one estimate, it would take the judiciary 320 years to clear the backlog of 31.28 million pending cases.¹²⁸ A series of government committees have cited shortage of staff, lack of training, and capacity building, and poor infrastructure as the major reasons for the delays. Judicial reforms to rectify the delays and high costs involved in the delivery of justice have been slow to materialize.¹²⁹

Vigilance and enforcement agencies like the Comptroller and Auditor General of India and the Central Vigilance Commission (CVC) have been characterized by similar stories of delays and poor enforcement measures.¹³⁰ Studies suggest huge delays in audits commissioned by the Comptroller and Auditor General. A lack of scrutiny and enforcement of audit recommendations by the legislature have also been flagged as a key issue. In the period 1998–99, out of a total of 1,478 audits, only 87 (5.88 percent) were selected for review; only 32 (2.18 percent) were finally reviewed by Parliament’s financial committees. Within the CVC, delays in the investigation of anticorruption cases vary from six months to three years. The CVC’s enforcement record is equally poor: in the period 1989–98, out of a total of 21,164 cases, the CVC recommended prosecution in only 517 (2 percent) cases.¹³¹ In total, only 606 government servants lost their jobs during a 10-year period.

In recent times, the judiciary and CVC have also been critiqued for a lack of transparency in the selection of staff; senior appointments in both organizations have been given to retired Indian Administrative Service officers. The appointment of these retired bureaucrats to leadership positions in institutions of accountability and enforcement is seen by some as a concerted government effort to subvert the institutions’ autonomy. It has been argued that such posts act as “inter-temporal” incentives for retiring bureaucrats who—once in positions of authority—tow the government’s line.¹³² Here again, similarities with information commissions that have been similarly criticized by civil society groups for their selection and appointment processes are evident.

In sum, the RTI Act appeals process is becoming an increasingly bureaucratic exercise because information commissions are unable to process appeals and complaints in a timely manner., reflecting a prevailing culture of delayed processing in many enforcement and grievance redress agencies (such as judiciary). This bureaucratic culture is also exacerbated by a tendency to appoint former civil servants as information commissioners. These practices, in addition to the low rate of imposed penalties, raise serious questions about the efficacy of information commissions in enforcing the RTI Act.

6. Compliance

6.1. Proactive Disclosure

Section 4 of the RTI Act mandates the proactive disclosure of information, but it has been poorly implemented. After the enactment of the law, departments did promptly upload Section 4 manuals on their Web sites, but efforts at routinely updating this information have been inadequate.

A physical and electronic audit of government departments at the central, state, and district levels found that most of the Section 4 information published was incomplete and outdated. For example, while 65 percent of urban public authorities had published details about their respective their organizations on their Web sites, only 45 percent had published PIO information, and only 25 percent had published information on budgets and salaries.¹³³ Moreover, even PIOs were often unaware of their obligation to update and upload this information: 43 percent had no knowledge of the proactive disclosure provisions of the law. Overall, state government compliance with Section 4 is inadequate.¹³⁴

Smaller studies assessing the state of Section 4 compliance offer similar findings. For example, a 2009 survey of central and state government Web sites cited “abysmally low” compliance, varying from 28 percent among state governments, 44 percent among information commissions, and 58 percent among central government departments.¹³⁵ Compliance levels appear to be even worse at the local government level. A 2009 study assessing RTI Act compliance by government offices at the *taluka* (local) and district levels in the state of Gujarat noted that a lack of availability of Section 4 information is widespread. In 94 percent of the *taluka* offices, researchers had to file formal RTI requests to get this information; in 85 percent of the offices, researchers were required to pay application fees.¹³⁶

Though central government departments have generally performed better, gaps still remain. A study of five central government ministries conducted in 2009 found that compliance was

limited, with researchers facing difficulties in extracting Section 4 information. Initial compliance with the law was motivated by euphoria or fear; subsequently, compliance has not been taken seriously.¹³⁷ Each of the four departments assessed under this study have separate RTI links on their Web sites that provide citizens with some basic information on the RTI Act, a listing of PIOs and AAs, fee payment modalities, and access to circulars and notifications that may have been issued by the department. But an analysis of the uploaded Section 4 data suggests that there are gaps in the availability of information:

- The Department of Rural Development has developed a complex management information system for disclosing information under some of its schemes, but the Section 4 information given is inadequate.¹³⁸
- The Section 4 manual uploaded by the Department of School Education and Literacy has not been reviewed since the RTI Act was passed. Only recently has the department issued a circular to officers requesting that they update Section 4 information.¹³⁹
- The CPWD has uploaded a three-page “manual” on its Web site that claims to provide information on Section 4, but the information is inadequate. An official in the RTI coordination cell acknowledged that, while the PIOs/AAs list was frequently updated online, very little work had been done relating to Section 4.

Basic information (the department’s functions, powers and duties of officers, acts and rules, and the PIOs/AAs list) has been uploaded to the DOPT Web site, but key information—such as the categories of documents held by the department, facilities available for public consultation, a list of boards and councils, and details of recipients of concessions—have not been made publicly available.

The poor implementation of Section 4 is attributed to various factors. The PwC study concludes that there has been inadequate planning among public authorities for implementing Section 4. Under the RTI Act, it is the responsibility of the public authority as a whole to proactively publish information, but at a departmental level there is no clarity about whether Section 4 is the responsibility of the heads of departments or the PIOs. This lack of ownership and of clearly defined roles and responsibilities for updating Section 4 information is considered one of the major reasons for poor performance.¹⁴⁰

Studies have recommended defining responsibilities within departments and incentivizing proactive disclosure through institutionalized awards and penalties.¹⁴¹ Some civil society groups have stated that unless there is pressure on departments from the CIC, there will be no real motive to implement this clause effectively; PIOs and heads of departments will continue to pass the responsibility back and forth to the other.¹⁴²

6.2. Requests and Responsiveness

Since 2005, an increasing number of citizens have filed requests for information with public authorities in the central and state governments. While concrete data on the total number of requests since 2005 are unavailable, the RAAG study estimates that approximately 2 million requests were filed in the first two-and-a-half years after the passage of the law (October 2005–March 2008).¹⁴³ The findings of the PwC study are roughly similar: there were an estimated 85,000 requests in 2008 alone.

Civil society groups think that these numbers are relatively small and reflect low levels of awareness among large segments of the population.¹⁴⁴ The RAAG study found that nearly 90 percent of rural applicants and 85 percent of urban applicants were male;¹⁴⁵ the PwC survey found that only 15 percent of the public is aware of the RTI Act.¹⁴⁶

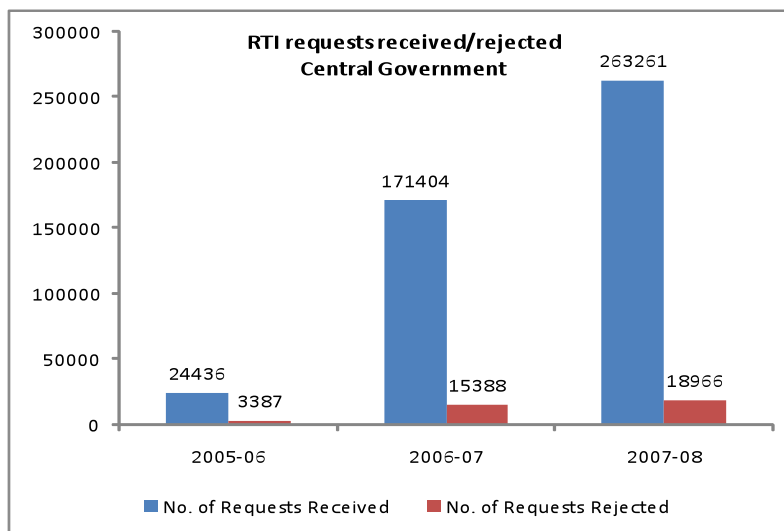
Citizens aware of the law still face a number of difficulties, including a lack of information on

filing RTI requests; an inability to find PIO contact information, particularly at district and local government levels; inconvenient submission and payment methods; and lack of assistance from PIOs in submitting requests.¹⁴⁷ Additionally, applicants often must make three or four visits to public authorities in order to file requests; the PwC study determined that over 26 percent of applicants had to make more than three visits.¹⁴⁸

The “fear factor” associated with seeking information through the RTI Act—particularly among weaker and more vulnerable sections of society—has also been identified as a major constraint in several studies. This fear is born out of widespread reports of harassment of RTI applicants by officials, particularly in rural areas;¹⁴⁹ over 40 percent of rural and 15 percent of urban applicants surveyed by RAAG reported experiencing harassment and threats.¹⁵⁰ The problems in accessing information faced by citizens are a reflection of low levels of awareness and poor training and capacity building among PIOs.¹⁵¹ More broadly, these difficulties can be seen as an expression of the bureaucracy’s unwillingness to part with information.¹⁵² According to PwC, encouraging access to information is “one of the major change management issues” faced by governments at various levels.¹⁵³

Information about types of requests the manner in which they are processed is limited. Most requests for information have been focused on state and local levels of government because the bulk of public services are provided by agencies at these levels.¹⁵⁴ In many cases, requests have been filed seeking improvements in the delivery of basic services (such as water, roads, electricity, and sanitation) and access to basic entitlements (such as ration cards, below-poverty-line cards, pensions, and wages).¹⁵⁵ Citizens and CSOs have also used the law to audit and monitor government schemes, the public distribution system,¹⁵⁶ and the government’s flagship rural employment scheme—the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS).¹⁵⁷

Figure 3. RTI Requests Received or Rejected by the Central Government



Source: Data compiled from the CIC Annual Reports for 2007–08, <http://cic.gov.in/AnnualReports/AR-2007-08/MainReport.pdf>.

Note: Data for subsequent years are not available since the CIC has not published any further annual reports.

6.2.1. Responsiveness of Line Ministries

The RAAG study found that between 50 percent and 60 percent of information requested was actually received by applicants. When information was received, 40 percent of rural applicants and 60 percent of urban applicants reported that the information fully served the original reason for filing the application; 20 percent said it served the purpose in part. Sixty-five percent of respondents reported that the law had been useful in accessing government information and resolving basic problems.¹⁵⁸

Statistics on the central government compiled by the CIC suggest a steady increase in RTI applications—from 24,436 in 2005–06 to 2,63,261 in 2007–08 (see figure 3); a relatively small number of these applications were rejected.

But there are currently no data available on the types of information requests that have been rejected, and whether or not these rejections were legitimate. Overall, central government departments were quite responsive (based on RTI applications filed by the RAAG): the central government was successful in providing information in 81 percent of the cases.¹⁵⁹

In all, of the four departments analyzed, the number of RTI requests initially received was

quite small, but all of the departments have witnessed a subsequent spike.

6.2.2. Department of Personnel and Training

In 2009–10, the DOPT received 6,956 requests for information (see figure 4),¹⁶⁰ of which a very small number were rejected. On average, the department receives 8–10 RTI requests per day.¹⁶¹

6.2.3. Department of Rural Development

Despite its size, the department does not receive a great volume of RTI requests (see figure 5).¹⁶² In 2005–06, the department received only eight RTI applications, and though that number rose to 350 by 2009–10, it remains lower than could be expected. Officials in the department confirmed that 90 percent of requests that come to the department relate to programs or rural development schemes (such as the PradhanMantri Gram SadhakYojana [PMGSY], the Indira AwasYojana [IAY], and the MGNREGS) that are being implemented at the state and district levels and that are therefore transferred to the relevant departments at these levels. According to department officials, the MGNREGS division in the ministry receives the most RTI requests, especially ones related to the number of staff at different levels in the department, queries about

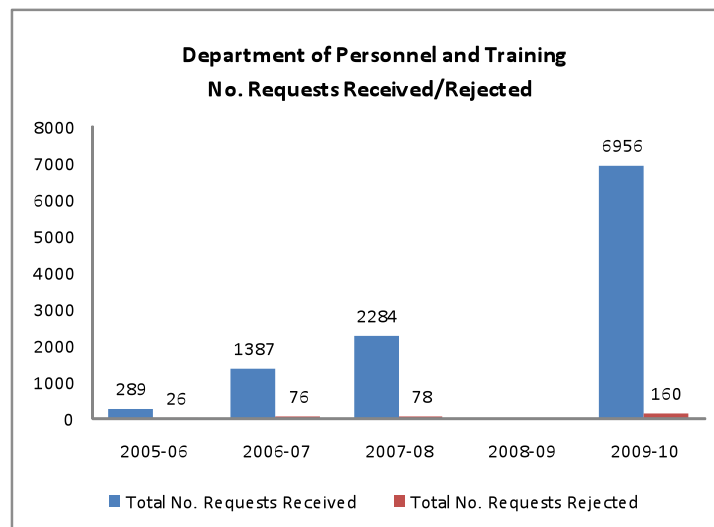
salaries and benefits of officers, and so on. Available data also suggest that the department has not rejected a single request for information in the past five years.

From the perspective of department officials, the RTI requests received are largely “unproductive,” noisome, and time-consuming, since that they usually involve the seeking of information related to local-level schemes.¹⁶³ Officials interviewed claimed that the RTI Act was principally being used by people to resolve individual grievances, to settle scores, and to harass government departments. They complained about the vague nature of requests and the low fees for filing RTIs. The officials suggested that frivolous requests for information should not be entertained under the law.

6.2.4. Department of School Education and Literacy Data submitted by this department to the

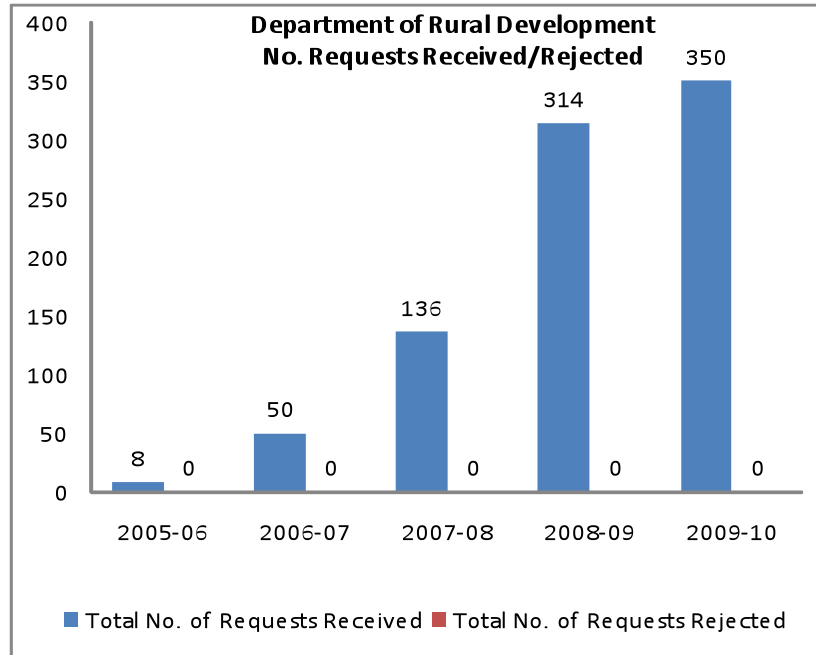
CIC provide an insight into the number of RTI requests received by it:¹⁶⁴ in 2009–10, a total of 660 RTI requests were received, of which only 3 were rejected (see figure 6).¹⁶⁵ These suggest that the RTI Act has been used to seek information on teacher salaries and recruitment and retirement policies, probe the functioning of government schools, and question school enrollment policies. Kabir, a CSO that works on spreading awareness about the RTI Act, has used the law to seek specific kinds of information from education departments in the central and Delhi government. For example, the organization has filed RTI requests with the Central Board of Secondary Education (which is under the Department of School Education and Literacy in the central government) seeking information on curriculum design.¹⁶⁶

Figure 4. RTI Requests Received or Rejected by the DOPT



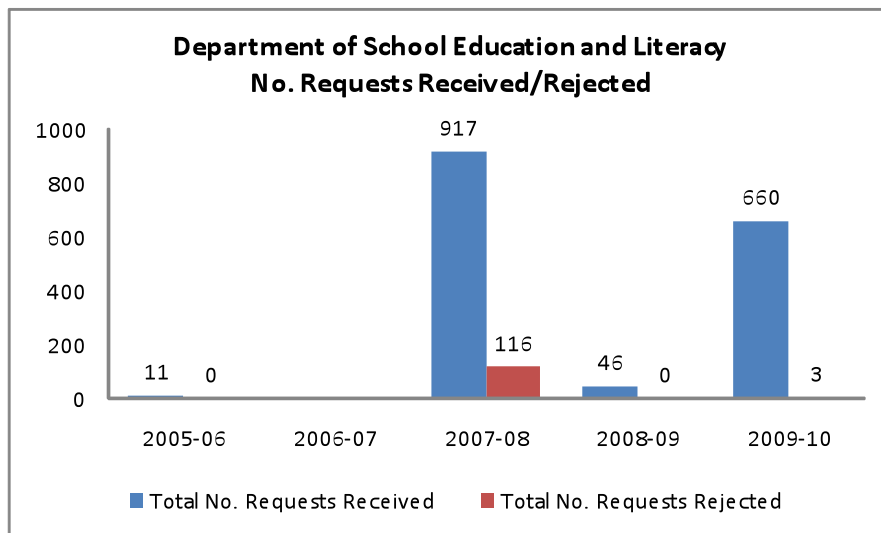
Source: DOPT Annual Returns Reports to the CIC for the years 2005–06, 2006–07, 2007–08, and 2009–10. Annual returns were not filed by the department in 2008–09.

Figure 5. RTI Requests Received/Rejected by the Department of Rural Development



Source: Department of Rural Development Annual Returns Reports to the CIC for the years 2005-06, 2006-07, 2007-08, and 2009-10. Annual returns were not filed by the department in 2008-09.

Figure 6. RTI Requests Received or Rejected by the Department of School Education and Literacy



Source: Department of School Education and Literacy Annual Returns Reports to CIC for the years 2005-06, 2006-07, 2007-08, and 2009-10. Annual returns were not filed by the department in 2008-09. Data available at the CIC RTI Annual Returns System, <http://rtiar.nic.in/rtiar09/ARReportMenu.asp>.

6.2.5. Central Public Works Department

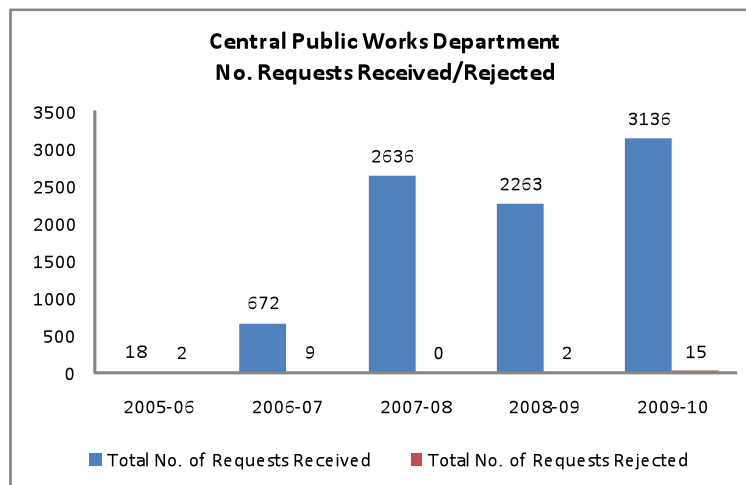
According to data submitted by the CPWD to the CIC, of the three line departments, the CPWD processes the highest volume of requests (see figure 7); since 2007, the department has consistently been receiving over 2,000 requests for information. It receives an average of 20– 25 RTI applications per day,¹⁶⁷ in marked contrast to the Department of Rural Development, which receives only 6–7 requests.¹⁶⁸ This is not surprising, given that the CPWD provides a range of public services and, consequently, has greater interaction with the public. To respond to these requests, the CPWD has invested significant time and effort in building up the capacities of the department to handle RTI implementation.

To gauge the responsiveness of line ministries to the RTI, an information request was filed in the Department of Rural Development, Department of School Education and Literacy, and CPWD—three RTI requests in total; RTI requests were submitted by mail on the same date (see annex 1 for a sample of the RTI request). Responses were received from all three departments, but some

responded sooner and more efficiently than others. The CPWD provided the speediest reply (7 days), followed by the Department of School Education and Literacy (26 days), and the Department of Rural Development (31 days). The quick response from the CPWD is a reflection the department’s better management of RTI requests and applications.

With regard to the quality of information given: the CPWD and the Department of School Education and Literacy provided partial information; the Department of Rural Development provided incomplete information. The Department of Rural Development provided particularly poor-quality information, failing to respond to a number of questions on the application. While the small sample of RTI requests filed is insufficient to make comprehensive assessments of departmental responsiveness to the law, considered with other available data, it suggests that departments feel compelled to respond to requests, even if they do not fully. While the quality and timeliness of these responses may be critiqued, the responsiveness itself is indicative of some degree of institutional change.

Figure 7. RTI Requests Received/Rejected by the Central Public Works Department



Source: Ministry of Urban Development Annual Returns Reports to CIC for the years 2005–06, 2006–07, 2007–08, 2008–09, and 2009–10. Data available at the CIC RTI Annual Returns System, <http://rtiar.nic.in/rtiar09/ARReportMenu.asp>.

7. The RTI Act and Accountability

There are high expectations for the RTI Act in India. It is frequently cited in government speeches as landmark legislation that testifies to the government's commitment to "promote transparency and accountability for fostering good governance and democracy."¹⁶⁹ The law, it is argued, grants citizens with a legal right to demand information and clarification from government officials for the first time and, in so doing, challenges longstanding relationships of power and patronage.¹⁷⁰ Prior to the RTI Act, citizens had few opportunities to hold the government accountable for its policies and actions; the law has given citizens a legal channel for doing this.¹⁷¹ The enactment of the RTI Act itself is perceived as a symbolic shift from a culture of secrecy to one of transparency and openness.

There is clear evidence to suggest that the RTI Act is being used by citizens across the country: there are over a million requests for information citing the law every year. Studies acknowledge that the law has been used most often in sectors where citizens have traditionally had to struggle to access their rights.¹⁷² For example, an analysis of over 1,500 RTI applications, filed by citizens in five villages as part of a village-level RTI campaign in 2006–07, found that most requests were filed with departments delivering basic social services (such as ration cards, pensions, and other benefits). A number of civil society groups and people's movements have also been actively using and promoting the law.¹⁷³

Since 2005, a number of case studies have documented and highlighted the use of the law in helping citizens access their basic entitlements, redress grievances related to the nonprovision of basic services, and even expose corruption in public services.¹⁷⁴ In many instances, the very act of filing an RTI application has served as a deterrent, prompting government action to resolve the grievances of citizens.¹⁷⁵

Historically, social welfare and development programs in India have been associated with reports of corruption, pilferage, and mismanagement. In

particular, rural employment programs have been vulnerable to loss of funds in this way, as collusion between private contractors and local politicians have led to inflated procurement bids and misappropriation of funds.¹⁷⁶ For example, a 2006 survey by the National Food for Work Program, conducted in six states, unearthed instances of false muster rolls, ghost entries on muster rolls, and massive discrepancies in the payment of minimum wages to workers.¹⁷⁷ The lack of information about how schemes were being implemented and how funds were being allocated and spent made it practically impossible for citizens to uncover and check corrupt practices.

7.1. The National Rural Employment Guarantee Act (NREGA)

For the first time, RTI has been institutionalized in the country's largest rural employment guarantee scheme—the MGNREGS, which provides rural households with 100 days guaranteed employment in public works at a minimum wage and which mandates compliance with the provisions of the RTI Act and the proactive disclosure of all scheme-related data and information. Specifically, information that must be disclosed includes demands for work received, workers registered, job cards issued, funds received and spent, wage payments, and work sanctioned.¹⁷⁸ The law also mandates regular social audits of work and expenditures under the scheme, including disclosure of government records and documents.¹⁷⁹ The RTI Act has been critical in the success of these audits, and although leakages in the scheme persist, it is widely acknowledged that the "insistence on transparency and access to records ... has helped prevent pilferage."¹⁸⁰

The RTI Act has proved to be a useful tool for citizens and civil society groups to legally demand information on the functioning of state-sponsored rural development and welfare programs. For example, in 2006, SabarEktaManch, an NGO in Gujarat, filed an RTI application seeking information on the minimum wage being paid to MGNREGS workers. The information revealed

that these workers were being paid a paltry wage compared to what state mandates. Based on this, the SabarEktaManch filed an RTI request in the Gujarat High Court, seeking to fix irregularities in the wage payment system.¹⁸¹ The institution-alization of the law as well as the social audits within the MGNREGA have brought a greater focus to issues of transparency and accountability in the delivery of social-sector programs.

7.2. Supporting the Education of the Poor

Pardarshita, a Delhi-based NGO, has used the RTI Act to scrutinize the admissions process among New Delhi's elite public schools, many of which were allocated land at subsidized rates by the Delhi government on the condition that they reserve 25 percent of their seats for children from economically weaker segments of the population. In practice, few schools were adhering to this requirement.

In July 2004, on the petition of the NGO Social Jurist, the Delhi High Court issued an order requiring all schools that had been allotted government land to fulfill this condition. Pardarshita, the SatarkNagarikSangathan (SNS), and other groups filed a series of complaints on this issue with the Directorate of Education in the Delhi government and with schools, and then used the RTI Act to follow up on the status of the complaints. In many instances, the filing of such applications alone led to swift action by the schools, resulting in several poorer students being able to gain admission. The group continues to monitor and pursue the implementation of this quota; today, most schools are complying with the quota as originally intended.¹⁸²

7.3. Opening Up Examination Results

JOSH, a Delhi-based NGO, has set up a youth task force that operates an RTI help-line for Delhi University students; it has been using the RTI Act to campaign for greater transparency at the university,¹⁸³ addressing issues including the internal assessment system and the functioning of college canteens, hostels, street lights, and roads.¹⁸⁴

In 2007, JOSH filed a number of RTI applications with colleges of the Delhi University, seeking updates on their compliance with the proactive disclosure provisions of the RTI Act. The lack of response spurred JOSH to take the matter up with the CIC. Under pressure from the CIC and JOSH, colleges were quick to disclose information through manuals on their Web sites.

The information received through the RTIs revealed that colleges were not following standard procedures for internal assessment, but after the initial disclosure of information by colleges, follow-up compliance by departments has been weak. From the perspective of groups involved in the campaign, departments cooperated initially because of pressure from the CIC, but as soon as the pressure eased, they returned to the *status quo*.¹⁸⁵

7.4. Public Works

In 2002, Parivartan, a Delhi-based CSO, sought information under the Delhi Right to Information Act 2001 for public works contracts in two East Delhi neighborhoods. A public hearing, or *jansunwai*, organized by Parivartan to audit the 68 contracts revealed massive corruption and embezzlement of funds in 64 of the local municipal corporation contracts (Municipal Corporation of Delhi).¹⁸⁶ The investigations revealed that out of a total Rs. 13 million that was officially sanctioned for improving civic amenities in these localities, approximately Rs. 7 million worth of items did not exist.¹⁸⁷

Following the public hearing, Parivartan petitioned the chief minister of Delhi. In May 2004, the Delhi High Court directed the Delhi police to investigate allegations of corruption,¹⁸⁸ prompting the local municipal councilor to offer full transparency in public works programs in the area. The Municipal Corporation of Delhi agreed to a series of corrective measures, which included proactively displaying information about public works projects at worksites, offices, and in local communities.¹⁸⁹ The court case proved less successful: the Delhi police failed to collect evidence years after the alleged corruption case. Parivartan has also campaigned for greater transparency and accountability in the management of the public distribution system in Delhi.¹⁹⁰

7.5. Ration Shops

The SNS, another Delhi-based NGO, runs an information center in New Delhi to educate and encourage local residents to use the RTI Act for a range of issues, including pensions, primary and secondary school education, housing, electricity, and water supply and sanitation.

Case studies documented by SNS track their successful record in using the law to demand basic entitlements for slum dwellers, including access to ration cards, regular water supplies, clean sanitation, and so on.¹⁹¹ In 2004, the SNS helped slum dwellers file applications under the Delhi Right to Information Act 2001 in order to access ration shop records; they revealed that shopkeepers were regularly siphoning rationed wheat, rice, and sugar and selling it to fictitious ration-card holders. Sustained pressure by the SNS and its volunteers has also led to significant improvements in the management of the public distribution system. More recently, the SNS has been using the law to access information about the performance of elected representatives.

Other groups, including the Hazards Centre (a New Delhi-based CSO that works primarily on issues of the urban poor), have filed RTI requests with the public works departments on behalf of the inhabitants of resettled and unauthorized colonies, seeking information on the provisioning of basic services in these areas.¹⁹²

7.6. Commonwealth Games

Meanwhile, in a particularly high-profile case, the Housing and Land Rights Network (HLRN), another Delhi-based organization, used the RTI Act to access information on governmental expenditures for the 2010 Commonwealth Games (CWG).¹⁹³ Based on RTI responses from different departments, the HLRN found that social development funds earmarked for the poor—to the tune of Rs. 744 crores, or \$164 million—had been reallocated by the Delhi government for the CWG.¹⁹⁴ Following these findings, the group called for an audit and an investigation into the diversion of funds by the Delhi and central government authorities. While the chief minister of Delhi publicly denied that funds had been diverted,¹⁹⁵ the matter caught the attention of

parliamentarians—not only in India (where the issue was raised in both the lower and upper houses)¹⁹⁶—but also in the United Kingdom, where a question on the diversion of funds was raised by a Member of Parliament in the House of Lords.¹⁹⁷ Following the disclosure of these and other expenditure-related discrepancies, the government ordered an official probe and investigation into the CWG expenditures.

7.7. Media

In some instances, journalists have used the RTI as a tool to collect information. Shyamal Yadav, an associate editor with the leading periodical *India Today*, has filed over 1,800 RTI applications to gather information for his investigative stories.¹⁹⁸ In 2008, Yadav used the RTI Act to seek details of the foreign trips made by ministers in the UPA government. Four months and 59 RTI applications later, Yadav found that 71 out of the 78 ministers of the UPA government had made a total of 786 foreign trips over a three-and-a-half year period—at government expense.¹⁹⁹ The article raised considerable public interest and gained a lot of media attention, eventually prompting the PM to write to the ministers asking them to curtail foreign travel expenditures.²⁰⁰

In the following year, *India Today* filed RTI applications with every central government ministry, seeking information on the foreign travel of bureaucrats, revealing that between January 2005 and April 2008, 1,576 officials of the rank of director and higher had travelled abroad for a total of 24,458 days, at a cost of more than Rs. 56.38 crores.²⁰¹

In 2006, the media house NDTV and several newspapers (including *The Hindu*, *The Telegraph*, and *Hindustan Times*) partnered with CSOs to launch the “Drive against Bribes Campaign” and to combat corruption. The 15-day campaign sought to discourage people from taking bribes, using the RTI Act to access information from the government. Almost 1,500 trained volunteers assisted people at centers in 48 cities about the law. According to journalist Manish Sisodia, the campaign involved over 700 groups from across the country (including NGOs, resident welfare associations, students, and lawyers) and helped generate a buzz about RTI.²⁰²

These examples and other case studies suggest that the RTI Act has been used in an innovative way by individuals and citizen groups seeking a range of information on government schemes, development projects, benefits, and entitlements. Audits of the MGNREGS have helped expose corruption in the wage payments and construction projects. Groups such as Parivartan and SNS have used it as a tool for the redress of grievances and as an alternate mechanism for the poor to access their basic rights and entitlements to ration cards, pensions, electricity, water connections, and so on. Meanwhile, organizations like HLRN used the law to expose instances of

poor administration (as with the diversion of social sector funds to pay for CWG).

But instances of information obtained through the RTI Act translating into direct action against corrupt and inefficient practices or resulting in punitive action against officials have been few in number. From the perspective of civil society, this is not as much a reflection of the law and its implementation as of the state's weak mechanisms of horizontal accountability, evident in, for example, the unwillingness of judiciary bodies and law enforcement agencies to act on findings unearthed through the RTI Act.

8. Conclusion

The RAAG study concludes: “while the awareness of the importance of transparency has indeed increased manifold [in government], infrastructure needs to be built around it to allow it to work better.” Similarly, the PwC study notes a lack of adequate planning among public authorities to “proactively identify and address constraints in providing citizens with information.”²⁰³ The RAAG report also notes that “the key to increasing accountability of public authorities (vis-à-vis the RTI) lies in bringing about attitudinal changes” within the government at various levels.²⁰⁴

Since the enactment of the RTI Act, civil society groups have continued to push for its better and more stringent implementation, remaining vigilant against any attempts to amend or curb it. Studies have acknowledged the key roles played by CSOs in raising awareness and in training and assisting the public in filing requests.²⁰⁵ Because of civil society’s continued engagement with the RTI campaign, India did not face the problem seen in other countries where RTI laws were passed but rarely used.

The Indian media were early supporters of RTI, with senior journalists lending strong support to the movement.²⁰⁶ They have also served as watchdogs: in 2006, when rumors of a possible government amendment to the law opposed by the media began to circulate, the media opposed it. Since its passage, national newspapers have regularly featured articles relevant to the RTI Act. The RAAG survey of over 60 publications in English, Hindi, and other regional languages found that, on average, 65 news items per publication per year deal with RTI.²⁰⁷ Another key finding of the RAAG survey, however, is that the Indian media rarely use the law to unearth stories and investigate issues.²⁰⁸

Although the RTI campaign did receive some support from progressive bureaucrats (notably, N. C. Saxena and Harsh Mander, among others), the bureaucracy’s overall response to the law has been ambivalent.²⁰⁹ Specifically, this resistance was manifest in repeated attempts to amend the law and a lack of effort at improving the internal capacities of departments to supply information.

In 2010, an all-India perceptions survey of over 4,000 civil servants revealed that they view the law with trepidation. The RTI Act is perceived as curbing the discretion of government officials who now fear recording their views on file in the event that an RTI request reveals that these views are contrary to official rules and procedures.²¹⁰ There have even been some reports of officials recording their views on Post-It® notes rather than on files.²¹¹ Some also fear that the law will be used to harass and blackmail them.²¹²

Another common concern is that departments will be inundated with a huge volume of requests, bringing the government to a standstill. In interviews conducted with the DOPT, Department of Rural Development, and CPWD, officials consistently made reference to frivolous, vexatious, and voluminous requests for information. In 2009–10, attempts were made by the bureaucracy to amend the RTI Act to exempt such requests. More recently, in December 2010, the DOPT mooted an amendment to restrict the number of words that could be used in drafting an application.²¹³

On a day-to-day basis, resistance from government officials creates obstacles to citizens accessing information under the law. Respondents to the 2008–09 RAAG and PwC studies (particularly those belonging to economically weaker segments of society) reported that they had been harassed and intimidated by government officials. In some instances, this harassment became violent, with a number of RTI activists being assaulted and even murdered in the past few years.²¹⁴ Puddephatt observes that a major challenge to the implementation of the RTI Act is this “mindset of resistance” within public institutions, concluding that while “a moment of political will and a concerted push by civil society” allowed for the RTI Act to pass, it is not clear, given this resistance, the extent to which political will has translated into improved implementation outcomes.²¹⁵

It has been observed that the perpetuation of colonial laws, including the Official Secrets Act 1923, the Indian Evidence Act 1872, and the Civil Services Conduct Rules, have created an atmosphere in

which government confidentiality is the norm and disclosure the exception. As early as 2006, the Second Administrative Reforms, in its second report on the RTI Act, acknowledged that the effective implementation of the law would depend on a shift from “the prevailing culture of secrecy to a new culture of openness.”²¹⁶ While a series of government committees, including the Fifth Pay Commission and the Second Administrative Reforms Commission, have recommended amending the Official Secrets Act and other rules and procedures that restrain the disclosure of information, this shift has not occurred because efforts to reform the internal structures and processes of the state—and thus facilitate the disclosure of information—remain weak.

Politically, the RTI Act, along with the NREGA, is perceived as a major achievement of the Congress-led UPA government. While a succession of non-Congress governments initiated efforts to introduce the RTI Act (notably the BJP-led United Front Government that introduced the FOI Act 2002), it was the Congress Party in 2004 that gave RTI a political impetus.²¹⁷ Since the enactment of the legislation, some political leaders, including Congress Chairperson Sonia Gandhi, have ardently supported the RTI Act and have resisted efforts to amend the law. But from time to time, serious questions have been raised by various factions within the political establishment about the applicability of the law to specific areas (if, for example, the communications of the PM and President of India can be disclosed under the law²¹⁸ and whether or not the judiciary is covered under it.²¹⁹ Political actors have also been divided over the issue of RTI amendments, with some supporting them as necessary for the smooth implementation of the law and some resisting them.²²⁰

Citizens and the state have been said to share a client–patron relationship, in which citizens are perceived more as beneficiaries of state goods than as the bearers of rights. The RTI Act challenges this power dynamic by granting citizens the right to question the government and to seek information on its various activities. Alongside this shift comes an increasing focus on government performance evident in the development of outcome budgets and the introduction of a new performance management system in government. Yet, on a day-to-day basis, it seems that government bodies

continue to be bound by rules and procedures. Given this focus on procedures rather than outcomes, it is not surprising that the implementation of the RTI Act has become, as previously noted, a “check-the-box” process. In other words, there has been procedural compliance, but little attention given to whether or not existing systems and processes are able to facilitate the efficient supply of information.

In sum, an analysis of the implementation of the RTI Act suggests mixed results. On one hand, there is evidence to suggest that, at various levels, the government has complied with the basic provisions of the law, including formulating rules and regulations, designating information officers, setting up information commissions, and establishing procedures for accessing information. Backed by civil rights groups, citizens are often using the law to demand a range of information from the government that has been used as the basis of campaigns demanding basic rights and entitlements, especially for the poor.

But the systemic changes needed are yet to be seen. For example, departments lack sufficient budgets, manpower, and infrastructure, and they are hampered by poor records management practices. Moreover, the institutions set up to uphold and promote the RTI regime, such as information commissions, have performed poorly, as seen in the growing number of appeals and complaints and in the low rates of penalties.

The RTI Act 2005 is groundbreaking legislation that commits the Indian government to an unprecedented degree of transparency. But research studies and our own analysis suggest that there have been gaps in the government’s efforts to implement the law, particularly with regard to bringing about systemic changes in the rules and procedures governing the disclosure of information. Discretionary practices remain, as does a bureaucratic focus on procedures over outcomes. Even so, the law’s impact on society is impossible to dismiss. Thanks to the continued and active presence of civil society groups who continue to press the government for more effective implementation of the law, it is estimated that approximately 1 million people per year, on average, are exercising their right to information.

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Notes

¹ Lord Meghnad Desai speaking at the Fourth Annual Convention on the RTI, New Delhi, October 2009; quoted in Roberts 2010: 3.

²V. Narayanaswamy, minister of state (Planning and Parliamentary Affairs), “Responsibility of Political Leadership in Promoting RTI,” the Fifth Convention on The Right to Information Act, New Delhi, September 13, 2010; <http://cic.gov.in/convention-2010/Speeches/Narayanasamy.pdf>.

³Roy and Dey undated: 18.

⁴RAAG 2009: 7–8.

⁵ Drawing influences from access-to-information laws in Canada, Mexico, South Africa, and Jamaica.

⁶ In fact, the World Bank’s access-to-information policy also draws from the Indian law.

⁷These sectors were selected because departments within them are implementing major schemes and programs.

⁸These obligations include the appointment of information officers, proactive disclosure of information by the department, setting up of internal systems and processes to facilitate the supply of information, and the submission of annual RTI reports to the Central Information Commission (CIC) at the end of each year.

⁹See RAAG 2009; PwC 2009; PRIA 2007, 2008; Roberts 2010.

¹⁰The PwC study assessed the implementation efforts of government departments in a sample of five states. The study was based on the feedback of over 2,000 RTI applicants and 200 information providers across public authorities in the central, state, and local levels and included feedback from 5,000 citizens. See <http://rti.gov.in/rticorner/studybyppwc/index-study.htm>. The RAAG study was more extensive, covering public authorities in the central government, ten states, and the National Capital Territory of Delhi, with three districts in each state and eight villages in each district randomly selected. In total, as part of the study, 515 public authorities were surveyed across the country, 37,704 people interviewed, and over 800 RTI applications filed with different public authorities across the country. See http://rti-assessment.org/exe_summ_report.pdf.

¹¹For a rich and detailed history of the RTI campaign, see Singh (2007, 2009). Also see Jenkins and Goetz (1999); Mander and Joshi (1999); Goetz and Jenkins (1999); and Banisar (2006).

¹² In 1975, the Supreme Court, in the case of *State of UP v. Raj Narain* (AIR 1975 SC 865), ruled that all citizens had the right to know how the government functions. A few years later, in 1982, in a case related to the disclosure of information about the transfer and nonappointment of judges, the Supreme Court recognized RTI as a fundamental right under the Constitution. For a detailed account of the constitutional development of RTI, see Mander and Joshi (1999).

¹³ The MKSS was founded by Aruna Roy, a retired Indian civil servant; Nikhil Dey, a lawyer who left his studies in the United States to take up rural activism; and Shankar Singh, an expert in rural communication. For a detailed history of the MKSS and its early work, see Mander and Joshi (1999) and Roy and Dey (2004).

¹⁴ In the late 1980s and early 1990s, people’s organizations—particularly those working in the environmental field—began to make sporadic demands for information. Concerned about the social and environmental impacts of development works, groups campaigning against illegal forest use, large dams, and mining began to demand access to records and information on government projects. For example, in 1988, the Narmada Bachao Andolan (Save the Narmada Movement), a major antidam movement, demanded access to all government documents on the construction of the Narmada dam and in so doing challenged the Official Secrets Act (Baviskar 2006; Singh 2007; 2009).

¹⁵ Roy and Dey (undated), Facilitating People’s Participation.

¹⁶ Singh 2010: 9–10.

¹⁷ For example, in 1996, Harsh Mander, a divisional commissioner in Bilaspur, Madhya Pradesh, passed a series of executive orders giving people the right to scrutinize government records. Bureaucrats in the Lal Bahadur Shastri National Academy of Administration, Mussoorie, Uttarakhand—the premier training academy of the Indian Civil Services—also lent their support to the movement and helped organize a national workshop on RTI at the academy in 1995 (Roy and Dey undated: 13; Mander and Joshi 1999).

¹⁸ Singh 2007; 2010.

¹⁹ Led by the Bharatiya Janta Party (BJP).

²⁰ Tamil Nadu (1997), Goa (1997), Rajasthan (2000), Karnataka (2000), Delhi (2001), Assam (2002), Maharashtra (2002), Madhya Pradesh (2003), and Jammu and Kashmir (2004). In May 1997, the need for a comprehensive RTI law was unanimously recognized at a conference of chief ministers held in New Delhi. It is not clear whether or not this conference acted as a catalyst for the enactment of RTI laws across other states.

²¹ In Tamil Nadu, there was no movement or civil society campaign for RTI, and the enactment of the law caught many civil society activists by surprise. In Karnataka the government expressed an interest in RTI and reached out to campaigners to seek their assistance in drafting the state law (Interview, Shekhar Singh, November 15, 2010).

²² For some background on the developments that led to the enactment of RTI laws in each state, see the Commonwealth Human Rights Initiative (CHRI) at www.humanrightsinitiative.org/index.php?option=com_content&view=article&id=62&Itemid=71.

²³ Reformists such as N C Saxena, former bureaucrat and member of NAC (2010–).

²⁴ Singh 2010: 11–12.

²⁵ Ram Jethmalani, the then union minister for urban development, issued an order that enabled citizens to inspect files and get photocopies of files from the Ministry of Urban Development (Singh 2010: 12).

²⁶ Specifically, the law excluded a number of security and intelligence agencies from RTI coverage, expanded the scope of exemptions, and did not include a mechanism for independent appeals or for penalties for noncompliance with the provisions of the law (see Singh 2007: 44).

²⁷ Singh 2009: 13.

²⁸ Congress Party Manifesto 2004 (www.congresssandesh.com/manifesto-2004/20.html).

²⁹ Aruna Roy, N. C. Saxena, and Jean Dreze.

³⁰ Singh 2010: 14–15.

³¹ Certain provisions of the law came into immediate effect.

³² Section 22, RTI Act 2005.

³³ Civil society organizations such as the NCPRI and CHRI drew upon their connections with internal experts to provide input on the law.

³⁴ The exclusion of the state of Jammu and Kashmir is due its special status under the Indian Constitution. The state, however, has its own RTI law known as the Jammu and Kashmir Right to Information Act 2009. With the enactment of the national RTI Act, state governments have a choice to retain or repeal their RTI laws. While some states, such as Maharashtra and Karnataka, have repealed their RTI laws, in other states, notably Delhi, both laws (national and state) coexist side by side. When there is conflict between laws, the national law prevails (NCPRI 2007: 10).

³⁵ Singh 2010.

³⁶ Puddephatt 2009: 22.

³⁷ Jenkins 2007.

³⁸ Section 24, RTI Act 2005. The second schedule of the RTI Act lists the names of security and intelligence agencies exempt from coverage under the law.

³⁹ See sections 8 and 9 of the RTI Act 2005 for a full list of exemption clauses.

⁴⁰ Section 8 (2), RTI Act 2005.

⁴¹ The NCPRI's (2004) comparative analysis of the RTI Bill 2004 against the FOI Act 2002 and the original NAC.

www.humanrightsinitiative.org/programs/ai/rti/india/national/rti_act_amendments_tabulated_ncpri_dec04.pdf.

⁴² Singh 2010: 14.

⁴³ File notings are essentially the opinions and notes of civil servants on government files that sum up the decisions taken on a particular matter. The draft RTI bill prepared by civil society groups included the term "file notings" in the definition of "information." But this was deleted by the government while the bill was being finalized for Parliament. The unease with the disclosure of file notings appears to extend to the highest levels of government; even the president of India expressed concerns about it to the PM in a string of official correspondence (Singh 2010: 13).

⁴⁴ Singh 2010: 13.

⁴⁵ Outlook, "Protest against RTI Amendments Gaining Momentum," August 8, 2006. <http://news.outlookindia.com/item.aspx?405250>. Also see CNN IBN, "Government Backs Off, Won't Harm RTI Act," 2006. <http://ibnlive.in.com/news/govt-to-drop-rti-amendment-act/19031-4.html>.

⁴⁶ Venkatesan 2010. <http://beta.thehindu.com/news/national/article451129.ece>.

⁴⁷ Sections 26 and 27, RTI Act 2005.

⁴⁸ PRIA 2008; RAAG 2009.

⁴⁹ For example, while the central government has set a minimal fee of Rs. 10 for filing an RTI application, in other states the fees range from Rs. 50 in the state of Haryana to Rs. 100 in Sikkim. For a comparison of the RTI rules in different states see the CHRI (undated), Comparative Table on RTI Fee Rules:

www.humanrightsinitiative.org/programs/ai/rti/india/comparative_table_on_the_fee_rules_issued_by_central_&_state_govt.pdf.

⁵⁰ The term *nodal agency* refers to the department of the appropriate government tasked with providing administrative support for the implementation of the RTI Act. The DOPT is one of three departments in the Ministry of Personnel, Pensions, and Public Grievances, Government of India that coordinates all personnel matters in the central government.

⁵¹ Sections 26 and 27, RTI Act 2005.

⁵² Specifically, the RTI division handles all policies related to the implementation and amendment of the RTI Act and the framing of rules, guidelines, and orders related to its implementation. It is also responsible for developing public awareness programs on the RTI Act.

⁵³ A compilation of notifications and circulars issued by the DOPT on the RTI Act is available on the department Web site at www.righttoinformation.gov.in/Circulars/CircularReportForRTI.asp.

⁵⁴ Himanshi Dhawan, "On DOPT Site, File Notings Not under RTI Act Purview," *The Times of India*, June 28, 2006, <http://timesofindia.indiatimes.com/india/On-DoPT-site-file-notings-not-under-RTI-Act-purview/articleshow/1686539.cms>.

⁵⁵ Zee News, "1

T Portal Misleads President's Office on File Notings," March 27, 2007, www.zeenews.com/news362460.html.

⁵⁶ Notably, in drafting the RTI Act, RTI campaigners had specifically included "file notings" in the definition of "information." This provision was later removed when the bill was tabled in Parliament (Singh 2010: 15–16).

⁵⁷ Singh 2010: 15–16. See also coverage of the CIC's decision at <http://right2information.wordpress.com/2006/08/23/more-fireworks-on-file-notings/>.

⁵⁸ Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, Office Memorandum No. 1/20/2009-IR, 2009. http://persmin.gov.in/WriteReadData/RTI/1_20_2009_IR_1.pdf.

⁵⁹ Vidya Subhramaniam, "The Empire Strikes Back," *The Hindu*, August 18, 2006, www.hindu.com/2006/08/25/stories/2006082504181100.htm.

⁶⁰ Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, "Amendments to RTI Rules," Office Memorandum No. 1/35/2008-IR, December 10, 2010. http://persmin.gov.in/WriteReadData/RTI/RTI_rules_01122010-1.pdf.

⁶¹ The Government of India's "Right to Information—Information Service Portal" provides citizens with access to information on the PIOs and appellate authorities appointed in various ministries in the central government. It also provides access to the Section 4 disclosure information by these ministries and links to the RTI Act on their Web sites. See www.rti.gov.in/.

⁶² When an RTI request is received, details of the request are manually entered into an RTI application register. Information regarding the name of the applicant, postal address, subject of the request, mode of payment, and date of receipt is recorded in the register. Once an application is thus noted, it is forwarded to the concerned PIO for further action. The CPWD has a very systematic procedure for handling requests for information. Each RTI application is opened as a separate file and all correspondence including the original application, letter forwarding the request, reply of the PIO, and any further correspondence such as first appeal to the AA or second appeal to the CIC is recorded in the file.

⁶³ Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, Office Memorandum No. 2/10/2010-CR, July 9, 2010.

⁶⁴ For example, the Ministry of Personnel, Public Grievances, and Pensions has been sanctioned additional funds for setting up the CIC. See Government of India, Ministry of Personnel, Public Grievances and Pensions and Union Public Services Commission, "Detailed Demands for Grants 2010–11." www.persmin.nic.in/.

⁶⁵ Centrally sponsored schemes (CSSs) are special-purpose grants extended by the central government to states to encourage and motivate state governments to plan and implement programmes that help attain national goals and objectives.

⁶⁶ Specifically, the scheme aims at strengthening state information commissions and state administrative training institutes, training various stakeholders, and spreading greater awareness about the RTI Act. See Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, "Guidelines on Implementing Centrally Sponsored Schemes," 2007. http://persmin.gov.in/WriteReadData/RTI/1_38_2007-IR.pdf.

⁶⁷ Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, Office Memorandum F. No. 1/4/2006-IR, 2006. http://persmin.gov.in/WriteReadData/RTI/1_4_2006-IR.pdf.

⁶⁸ Interviews with J. J. Meena, CPWD, September 3, 2010; Uday Morey, Department of Rural Development, September 7, 2010; and H. C. Bhatia, Department of School Education and Literacy, August 31, 2010.

⁶⁹ Report of the National Subcommittee of Central Information Commission 2008: 45–46.

⁷⁰ PwC 2009: 8; RAAG: 31.

⁷¹ Section 5 (1) and 5 (1) (2), RTI Act 2005.

⁷² Government of India, Ministry of Personnel Public Grievances and Pensions, Department of Personnel and Training, Office Memorandum No. 34012/13(S)/2005-Estt. (B), 2005. http://persmin.gov.in/WriteReadData/CircularPortal/D2/D02rti/OM-e-mail_RTI_13oct2005.pdf.

⁷³ See, for example, Government of India, Ministry of Rural Development, Department of Rural Development, Gazette Notification No. K-11018/03/2005-RTI, 2008. <http://rural.nic.in/rightinfo/division.htm>.

⁷⁴ PwC 2009: 49; Subcommittee of CIC (2009): 14.

⁷⁵ In the Government of India, the post of under secretary is a junior post, followed in ascending order by the posts of deputy secretary, director, joint secretary, additional secretary, secretary, and cabinet secretary.

⁷⁶ Interviews with Anjali Bhardwaj, SNS, October 21, 2010; and Aheli Chaudhry, JOSH, September 20, 2010.

⁷⁷ RAAG 2009.

⁷⁸ PwC 2009: 48–49.

⁷⁹ Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, 2007, http://persmin.gov.in/WriteReadData/RTI/1_32_2007_IR.pdf.

⁸⁰ Section 26 (1) (d), RTI Act 2005.

⁸¹ The training division of the DOPT is responsible for coordinating and implementing the Government of India's National Training Policy 1996. Specifically, the department conducts induction training for new recruits to the Indian Administrative Service and other all-India and central services. In addition, the department also sponsors training programs on a range of subjects for central and state government employees. For more information, see the department's Web site:

http://persmin.nic.in/otraining/AboutUS/Activites_Trgdiv.pdf.

⁸² See, for example, ISTM 2011. <http://istm.nic.in/CourseCirculars/2011-12/Circular19012011.pdf>.

⁸³ See United Nations Development Programme 2009. <http://data.undp.org.in/factsheets/dg/CBAL.pdf>.

⁸⁴ Ministry of Personnel, Pensions and Public Grievances, "Huge Response to DOPT On-Line Training Course on RTI," PIB Press Release, September 7, 2009. <http://pib.nic.in/release/release.asp?relid=52442>.

⁸⁵ RTI Online Certification Course (RTI OCC). <http://rtiocc.cgg.gov.in/login.do;jsessionid=D71EC0DB1B1F9AC5A7740C444D604DBA>.

⁸⁶ RTI Online Certification Course, Batch Results. <http://rtiocc.cgg.gov.in/login.do?mode=showResults&actionMode=showbatchlist>.

⁸⁷ RAAG 2009: 23–25.

⁸⁸ RAAG 2009: 25.

⁸⁹ Interview with Aheli Chaudhury, JOSH, September 20, 2010.

⁹⁰ Interview with Manish Sisodia, Kabir, September 16, 2010.

⁹¹ PwC 2009: 49.

⁹² RAAG 2009: 24.

⁹³ Second Administrative Reforms Commission 2006: 31–33.

⁹⁴ PwC 2009: 47–48. The Government of India in its response to the Commission's report. <http://darpn.nic.in/darpnwebsite/cms/Document/file/decision1.pdf>.

⁹⁵ RAAG 2009: 25.

⁹⁶ See, for example, Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, Office Memorandum No. 1/18/2007/-IR, 2007. http://persmin.gov.in/WriteReadData/CircularPortal/D2/D02rti/1_18_2007_IR.pdf.

Other circulars regarding records management are available on the department's Web site: <http://www.persmin.nic.in/>.

⁹⁷ PwC 2009: 47.

⁹⁸ Interviews with H. C. Bhatia, Department of School Education and Literacy, August 31, 2010; and Anuradha Chagti, DOPT, August 17, 2010.

⁹⁹ PwC 2009: 48.

¹⁰⁰ Official Web site of the Office of Advisor to the PM, Public Information Infrastructure and Innovations. www.iii.gov.in/.

¹⁰¹ PwC 2009: 47–48.

¹⁰² Section 25, RTI Act 2005.

¹⁰³ The CIC has not published an annual report since 2007–08.

¹⁰⁴ CIC (Central Information Commission), Annual Report, 2007–08, p. 65. www.cic.gov.in/AnnualReports/AR-2007-08/MainReport.pdf.

¹⁰⁵ Chapter III, IV, and V; RTI Act 2005.

¹⁰⁶ Chapter V, RTI Act 2005.

¹⁰⁷ Section 20, RTI Act 2005.

¹⁰⁸ PM Manmohan Singh, "Lok Sabha Debates," 14th Series, Vol. X, 4th Session, Parliament of India, 2005/1927 (Saka). <http://164.100.47.132/LssNew/Debates/textofdebatedetail.aspx?sdate=05/11/2005>.

¹⁰⁹ A more extensive study of information commissions across the country has been undertaken by the RAAG study, and this case study draws upon that data set.

¹¹⁰ See Government of India, Gazette Notification, Constitution of the Central Information Commission: http://persmin.gov.in/WriteReadData/RTI/Notification_CIC.pdf and Central Information Commission (Appeal Procedure) Rules, 2005: <http://persmin.gov.in/WriteReadData/RTI/appealrules.pdf>.

¹¹¹ Section 13(6) and Section 16(6), RTI Act 2005.

¹¹² Information on the training and capacity building of staff in the CIC was sought as part of an RTI application filed with the CIC. The official response received from the Commission was "that no such information is available" (Reply No.CIC/CPIO/2010/1057).

¹¹³ Rediff News, "Lack of Staff Reason for CIC's Under-Performance," February 24, 2009. www.rediff.com/news/2009/feb/24cic-poor-show-lack-of-staff-says-cic.htm.

¹¹⁴ Such concerns were raised as early as 2005, when the information commissions were first set up. On the eve of the RTI Act coming into force, the NCPRI issued a press statement questioning the Government of India's decision to fill CIC positions entirely with former bureaucrats. This was also to be the case with information commissions in other states. See Padmaparna Ghosh, "Employment Exchange," Down to Earth Magazine, December 31, 2005. www.downtoearth.org.in/node/10596.

¹¹⁵ Section 12 (4) and Section 15 (4), RTI Act 2005.

¹¹⁶ RaaG 2009: 21–22.

¹¹⁷ Central Information Commission 2005 Annual Report 2005–2006, p. 65. www.cic.gov.in/AnnualReports/AR-200506/MainReport.pdf.

¹¹⁸ RaaG 2009: 42.

¹¹⁹ The calculation is based on an assessment of RaaG (2009: 17).

¹²⁰ RaaG 2009: 44.

¹²¹ RaaG 2009: 44.

¹²² Ruhi Tiwari, "Study Findings—RTI Penalties for Delay in Information Are Rarely Imposed," Live Mint, January 13, 2010, www.livemint.com/2011/01/13225141/RTI-penalties-for-delay-in-inf.html.

¹²³ See, for example, "NGOs Getting Public Funds Come under RTI Purview," *Outlook India*, April 20, 2010, <http://news.outlookindia.com/item.aspx?679883>; "Private Schools Come under RTI Too, Rules CIC," *The Times of India*, August 5, 2010, <http://timesofindia.indiatimes.com/India/Pvt-schools-come-under-RTI-too-rules-CIC/articleshow/6257780.cms>.

¹²⁴ Nivedita Khandekar, "Activists Lament Courts Going Soft on RTI Offenders," *The Hindustan Times*, November 2, 2010, www.hindustantimes.com/Activists-lament-courts-going-soft-on-RTI-offenders/Article1-620907.aspx.

¹²⁵ PRIA 2007, 2008; RAAG 2009; PCRF 2009, 2010.

¹²⁶ PRIA 2007: 21.

¹²⁷ RaaG 2009: 21–22.

¹²⁸ RaaG 2009; PCRF 2009.

¹²⁹ Press Trust of India, "Courts Will Take 320 Years to Clear Backlog Cases: Justice Rao," *The Times of India*, March 6, 2010, <http://timesofindia.indiatimes.com/India/Courts-will-take-320-years-to-clear-backlog-cases-Justice-Rao/articleshow/5651782.cms>.

¹³⁰ Nandita Rao, "The Courts Not in Order," *The Asian Age*, December 29, 2010, www.asianage.com/columnists/court%E2%80%99s-not-order-755.

¹³¹ Aiyar and Posani 2009.

¹³² Das 2005: 134–147.

¹³³ Das 2005: 146.

¹³⁴ RaaG 2009: 11–12.

¹³⁵ PwC 2009: 8, 49–50.

A study conducted by the Public Affairs Centre analyzed the Web sites of 500 public authorities. In total the assessment covered 12 central government ministries, 16 departments of each state government (except Jammu and Kashmir), 16 departments of the Union Territories, and Web sites of the CIC and state information commissions (PAC 2009).

¹³⁶ In total the study assessed 95 offices at the *taluka* (local) and district levels in Panchmahal's district in Gujarat. See CHRI (2009: 4–5, 49–51).

¹³⁷ STM 2009.

¹³⁸ Official Web site, Ministry of Rural Development, Department of Rural Development, <http://rural.nic.in/rightinfo/division.htm>. Click on individual program divisions to view Section 4 information.

¹³⁹ Ministry of Human Resource Development, Department of School Education and Literacy, RTI response, September 7, 2010.

¹⁴⁰ Interview with Anuradha Chagti, DOPT, August 17, 2010.

- ¹⁴¹ PAC 2009: 8.
- ¹⁴² Interview with AheliChaudhry, JOSH.
- ¹⁴³ RAAG 2009: 7–8.
- ¹⁴⁴ Roberts 2010: 6.
- ¹⁴⁵ RAAG 2009: 8.
- ¹⁴⁶ PwC 2009: 38.
- ¹⁴⁷ PwC 2009: 38–42; RAAG 2009: 10–11; PRIA 2008: 73–91; Roberts 2010: 8–12.
- ¹⁴⁸ PwC 2009: 6.
- ¹⁴⁹ Ibid.
- ¹⁵⁰ RAAG 2009: 10.
- ¹⁵¹ PwC 2009: 44.
- ¹⁵² Roberts 2010: 12.
- ¹⁵³ PwC 2009: 7.
- ¹⁵⁴ Roberts 2010: 6.
- ¹⁵⁵ PRIA 2008: 74–91; PwC 2009: 30; Roberts 2010: 7; RAAG 2009: 14–15.
- ¹⁵⁶ Pande 2008.
- ¹⁵⁷ Aiyar and Samji 2009; Aiyar and Posani 2009. See also MKSS (undated), “Transparency and Accountability; Using Peoples Right to Information for Proper Implementation of NREGA,” www.righttofoodindia.org.
- ¹⁵⁸ RAAG 2009: 7–14.
- ¹⁵⁹ RAAG 2009: 13.
- ¹⁶⁰ These statistics refer only to the requests received directly by the DOPT and do not include statistics for affiliated bodies/organizations.
- ¹⁶¹ Interview with Giridhar, PIO, DOPT, August 17, 2010.
- ¹⁶² These data refer only to the RTI requests received directly by the Department of Rural Development and not the public authorities affiliated with it for which returns are also filed by the department.
- ¹⁶³ Interviews with Uday Morey, Director, IEC Division; S. P. Arya, Under Secretary, IEC Division; S. B. Pandey, Section Officer, IEC and RTI; and Dwarka Prasad Yadav, RTI Counter, September 7, 2010.
- ¹⁶⁴ These data refer only to the RTI requests received by the Department of School Education and Literacy and not the public authorities affiliated with it for which returns are also filed by the department.
- ¹⁶⁵ Interviews could not be secured with officials in the department, and so information on the kinds of requests processed has been ascertained from secondary sources and interviews.
- ¹⁶⁶ Interview with Manish Sisodia, Kabir, September 16, 2010.
- ¹⁶⁷ Interview with J. J. Meena, PIO Coordination, CPWD, September 3, 2010.
- ¹⁶⁸ Interviews with J. J. Meena, CPWD, and Uday Morey and others, Department of Rural Development.
- ¹⁶⁹ Minister of State for Personnel, Public Grievances and Pensions, ShriPrithvirajChavan speaking at the Third Annual RTI Convention, November 2008, cited in CIC 2010: 30.
- ¹⁷⁰ Singh 2010: 21.
- ¹⁷¹ Interviews with AheliChaudhry, JOSH; ManojRai, PRIA; and ShivaniChaudhry, HLRN.
- ¹⁷² PwC 2009: 29.
- ¹⁷³ Singh 2007: 19–20.
- ¹⁷⁴ See, for example, PwC 2009: 29–34; RAAG 2009: 14–15; Naib 2011: 33–38.
- ¹⁷⁵ Naib 2011: 33.
- ¹⁷⁶ Aiyar and Samji 2009. www.accountabilityindia.in/article/working-paper/787-transparency-and-accountability-nrega-case-study-andhra-pradesh.
- ¹⁷⁷ Dreze 2005. <http://timesofindia.indiatimes.com/home/opinion/edit-page/Loot-For-Work-Programme/articleshow/1157838.cms>.
- ¹⁷⁸ Ministry of Rural Development 2008: 56–57.
- ¹⁷⁹ A social audit is “the process of reviewing official records and determining whether state reported expenditures reflect the actual monies spent on the ground” (see Aiyar and Samji 2009: 9).
- ¹⁸⁰ Roy and Udupa 2010. www.himalmag.com/The-mass-job-guarantee_nw4749.html.
- ¹⁸¹ Sulaimani 2006. www.indianexpress.com/news/paid-just-rs-4-per-day-under-rural-job-scheme-widow-moves-gujarat-hc/6515/.
- ¹⁸² See Pardarshita’s Web site, <http://pardarshita.blogspot.com/>.
- ¹⁸³ www.indiaedunews.net/Delhi/Now_queries_just_a_call_away_for_DU_students_10343/.
- ¹⁸⁴ Interview with AheliChaudhry, JOSH, September 20, 2010.
- ¹⁸⁵ Interview with AheliChaudhry, JOSH, September 20, 2010.
- ¹⁸⁶ Goetz and Jenkins 2005: 94–95; Singh 2007: 34–38.
- ¹⁸⁷ CHRI 2006: 4.
- ¹⁸⁸ *Indian Express*, “MCD Funds Drain: Police Told to File Report,” May 25, 2004, <http://cities.expressindia.com/fullstory.php?newsid=85526>.
- ¹⁸⁹ Singh 2007: 37–38, 50–51.
- ¹⁹⁰ McCall and Wilde 2007: 122–23.
- ¹⁹¹ SNS 2007.
- ¹⁹² Interview with Shabnam Sultana, Hazards Centre, August 26, 2010.
- ¹⁹³ Interview with ShivaniChaudhry, HLRN, August 31, 2010. See also HLRN (2010), *The 2010 Commonwealth Games: Whose Wealth? Whose Commons?* www.hic-sarp.org/documents/Whose%20Wealth%20Commons.pdf.
- ¹⁹⁴ Chris Morris, “India Diverts Funds for Poor for Delhi Games,” BBC News, May 14, 2010. <http://news.bbc.co.uk/2/hi/8683412.stm>.
- ¹⁹⁵ *Asian Age*, “No SC/ST Funds Diverted to CWG: Sheila,” August 3, 2010. www.asianage.com/india/no-scst-funds-diverted-cwg-sheila-dikshit-844.
- ¹⁹⁶ *Indian Express*, “Uproar in Parl over Diversion of SC/ST Funds for CWG,” August 3, 2010, www.expressindia.com/latest-news/Uproar-in-Parl-over-diversion-of-SC-ST-funds-for-CWG/655419/.
- ¹⁹⁷ www.parliament.uk/deposits/depositedpapers/2010/DEP2010-1585.pdf.
- ¹⁹⁸ Interview with ShyamalYadav, September 21, 2010.
- ¹⁹⁹ ShyamalYadav, “Flying Cabinet,” *India Today Magazine*, February 18, 2008.
- ²⁰⁰ Interview with ShyamalYadav, September 21, 2010.
- ²⁰¹ ShyamalYadav, “Babus Flights of Fancy,” *India Today Magazine*, September 15, 2008; *India Today*, “India Today’s ShyamalYadav Wins National RTI Award,” November 30, 2009. <http://indiatoday.intoday.in/site/Story/73001/Top%20Stories/India+Today%27s+Shyamal+Yadav+wins+National+RTI+Award.html>. Interview with ShyamalYadav, September 21, 2010.
- ²⁰² Interview with Manish Sisodia, September 16, 2010.
- ²⁰³ PwC 2009: 49.
- ²⁰⁴ RAAG 2009: 32.
- ²⁰⁵ PwC 2009; RAAG 2009.
- ²⁰⁶ Ajit Bhattarcharjea was the founder of the Press Institute of India and also a founder member of the NCPRI. During the campaign for RTI, the Press Institute published a number of pamphlets and bulletins on the campaign, including *Aar Paar* and the *Transparency Bulletin*. In addition, the press contacts of Aruna Roy and other NCPRI members ensured that the RTI campaign received frequent coverage in the newspapers.
- ²⁰⁷ The study found that, on average, English language publications printed up to two times more RTI articles than Hindi or vernacular language publications. At a national level, RTI coverage was found to be more focused on developments around the law, whereas state newspapers tended to highlight citizen efforts to access information. Of particular interest to the media were stories of how the RTI was being used by citizens to access information from the government. In addition, important decisions issued by the information commissions were highlighted in the papers from time to time.
- ²⁰⁸ RAAG 2009.
- ²⁰⁹ Second Administrative Reforms Commission 2006.
- ²¹⁰ Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Administrative Reforms (2010), *Civil Services—A Survey*, pp. 114, [www.cgg.gov.in/CIVIL/sogr/Civil%20Services%20-%20Final\(160410\).pdf](http://www.cgg.gov.in/CIVIL/sogr/Civil%20Services%20-%20Final(160410).pdf).

²¹¹ *The Times of India*, "Post-it Notes Help Babus Cover Their Tracks in Case of RTI Query," September 10, 2010, <http://timesofindia.indiatimes.com/city/hyderabad/Post-it-notes-help-babus-cover-tracks-in-case-of-RTI-query/articleshow/6482800.cms>.

²¹² Government of India, Ministry of Personnel, Public Grievances and Pensions (2010), *Civil Service – A Survey*, pp. 114.

²¹³ *The Times of India*, "Limit RTI Applications to 250 Words: DOPT," December 12, 2010, <http://timesofindia.indiatimes.com/india/Limit-RTI-applications-to-250-words-DoPT/articleshow/7087358.cms#ixzz18ABFnC3y>.

²¹⁴ *The Hindu*, "Eight RTI Activists Killed in Seven Months," July 25, 2010, www.thehindu.com/news/national/article532051.ece.

²¹⁵ Puddephatt 2009: 28.

²¹⁶ Second Administrative Reforms Commission 2006: 56.

²¹⁷ It has also been noted that in the late 1990s and early 2000s, the Congress Party took the lead in enacting RTI laws in the states where it was in power (Singh 2010: 9).

²¹⁸ Press Trust of India, "President's Office Claims Immunity," December 29, 2010, www.deccanherald.com/content/124642/presidents-office-claims-immunity-rti.html.

²¹⁹ Ironically, despite being an early supporter of the RTI movement, the judiciary has shown particular resistance to the RTI Act. A number of high courts across the country, most notably the Supreme Court, have resisted efforts to bring the judiciary under the purview of the law. In particular, there has been resistance to disclosing information pertaining to judges' assets. Most recently, the former Supreme Court chief justice has come out in support of amendments to the law, stating the need to "protect the independence of the judiciary." See V. Venkatesan 2009: www.hindu.com/fline/fl2624/stories/20091204262403300.htm.

²¹⁹ Press Trust of India, "RTI Act Needs Changes to Protect the Judiciary," *The Hindustan Times*, October 29, 2010, www.hindustanimes.com/RTI-Act-needs-changes-to-protect-judiciary-Balakrishnan/Article1-619412.aspx.

²²⁰ *Times of India*, "Sonia and Manmohan Differ on Amendments to the RTI Act," April 9, 2010, <http://timesofindia.indiatimes.com/india/Sonia-Manmohan-differ-on-amendments-to-RTI-Act/articleshow/5778377.cms>.