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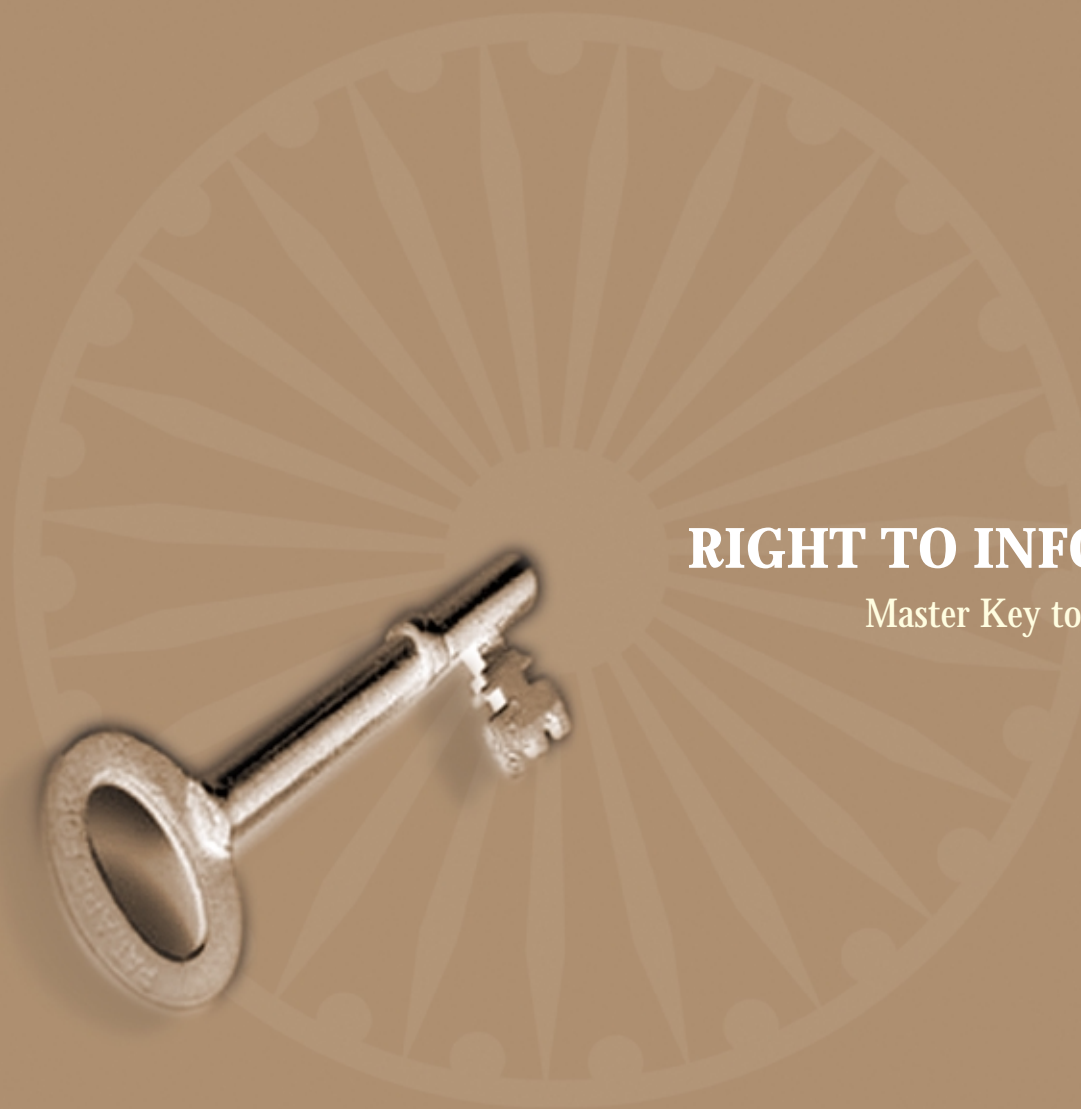
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FIRST REPORT



**SECOND ADMINISTRATIVE REFORMS COMMISSION**

SECOND ADMINISTRATIVE REFORMS COMMISSION



**RIGHT TO INFORMATION**

Master Key to Good Governance



**Second Administrative Reforms Commission**  
Government of India

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**JUNE 2006**

GOVERNMENT OF INDIA

**SECOND ADMINISTRATIVE REFORMS COMMISSION**

FIRST REPORT

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## PREFACE

The Second Administrative Reforms Commission has been constituted to prepare a detailed blueprint for revamping the public administration system. The Commission has been given wide terms of reference covering all aspects of public administration. The Commission in its first report decided to analyze and give recommendations on the freedom of information as the Right to Information Act has been enacted recently and is a paradigm shift in administration.

The Right to Information Act is a path-breaking legislation which signals the march from darkness of secrecy to dawn of transparency. It lights up the mindset of public authorities, which is clouded by suspicion and secrecy. Openness in the exercise of public power – Executive, Legislative or Judiciary – is a culture, which needs to be nurtured, with privacy and confidentiality being an exception. The right to information will also be a powerful means for fighting corruption. The effective implementation of the Right to Information Act will create an environment of vigilance which will help promote functioning of a more participatory democracy.

James Madison once said, “A people who mean to be their own governors must arm themselves with power that knowledge gives”. In India, the Official Secrets Act, 1923 was a convenient smokescreen to deny members of the public access to information. Public functioning has traditionally been shrouded in secrecy. But in a democracy in which people govern themselves, it is necessary to have more openness. In the maturing of our democracy, right to information is a major step forward; it enables citizens to participate fully in the decision-making process that affects their lives so profoundly.

It is in this context that the address of the Prime Minister in the Lok Sabha is significant. He said “I would only like to see that everyone, particularly our civil servants, should see the Bill in a positive spirit; not as a draconian law for paralyzing Government, but as an instrument for improving Government - citizen interface resulting in a friendly, caring and effective Government functioning for the good of our people”. He further said, “ This is an innovative Bill, where there will be scope to review its functioning as we gain experience. Therefore, this is a piece of legislation, whose working will be kept under constant reviews.”

The Commission, in its Report, has dealt with the application of the Right to Information in Executive, Legislature and Judiciary. The Judiciary could be a pioneer in implementing the Act in letter and spirit because much of the work that the Judiciary does is open to public scrutiny. Government of India has sanctioned an e-governance project in the Judiciary for about Rs.700 crore which would bring about systematic classification, standardization and categorization of records. This would help the Judiciary to fulfil its mandate under the Act. Similar capacity building would be required in all other public authorities. The transformation from non-transparency to transparency and public accountability is the responsibility of all three organs of State.

The Commission is benefited by the deliberations at the Colloquium organized by the National Judicial Academy and inputs from various stakeholders. The Commission studied various laws on the subject including of other countries; it studied relevant reports of various Commissions and Committees and held several rounds of deliberations with State Governments. This Report, which gives practical recommendations to bring in a regime of freedom of information, is an outcome of the above efforts. I am confident that the implementation of this Report will usher in a new era of accountable and transparent administration.

(M. Veerappa Moily)  
Chairman



**Government of India**  
**Ministry of Personnel, Public Grievances & Pensions**  
**Department of Administrative Reforms and Public Grievances**

**Resolution**

**New Delhi, the 31<sup>st</sup> August, 2005**

No. K-11022/9/2004-RC. — The President is pleased to set up a Commission of Inquiry to be called the second Administrative Reforms Commission (ARC) to prepare a detailed blueprint for revamping the public administration system.

2. The Commission will consist of the following :

- (i) Shri Veerappa Moily - Chairperson
- (ii) Shri V. Ramachandran - Member
- (iii) Dr. A.P. Mukherjee - Member
- (iv) Dr. A.H. Kalro - Member
- (v) Dr. Jayaprakash Narayan - Member
- (vi) Smt. Vineeta Rai - Member-Secretary

3. The Commission will suggest measures to achieve a proactive, responsive, accountable, sustainable and efficient administration for the country at all levels of the government. The Commission will, inter alia, consider the following :

- (i) Organisational structure of the Government of India
- (ii) Ethics in governance
- (iii) Refurbishing of Personnel Administration
- (iv) Strengthening of Financial Management Systems
- (v) Steps to ensure effective administration at the State level
- (vi) Steps to ensure effective District Administration
- (vii) Local Self-Government/Panchayati Raj Institutions
- (viii) Social Capital, Trust and Participative public service delivery
- (ix) Citizen-centric administration
- (x) Promoting e-governance
- (xi) Issues of Federal Polity
- (xii) Crisis Management
- (xiii) Public Order

Some of the issues to be examined under each head are given in the Terms of Reference attached as a Schedule to this Resolution

4. The Commission may exclude from its purview the detailed examination of administration of Defence, Railways, External Affairs, Security and Intelligence, as also subjects such as Centre-State relations, judicial reforms etc. which are already being examined by other bodies. The Commission will, however, be free to take the problems of these sectors into account in recommending re-organisation of the machinery of the Government or of any of its service agencies

Some of the issues to be examined under each head are given in the Terms of Reference attached as a Schedule to this Resolution

5. The Commission will give due consideration to the need for consultation with the State Governments.

6. The Commission will devise its own procedures (including for consultations with the State Government as may be considered appropriate by the Commission), and may appoint committees, consultants/advisers to assist it. The Commission may take into account the existing material and reports available on the subject and consider building upon the same rather than attempting to address all the issues ab initio.

7. The Ministries and Departments of the Government of India will furnish such information and documents and provide other assistance as may be required by the Commission. The Government of India trusts that the State Governments and all others concerned will extend their fullest cooperation and assistance to the Commission.

8. The Commission will furnish its report(s) to the Ministry of Personnel, Public Grievances & Pensions, Government of India, within one year of its constitution

**(P.I. Suvrathan)**  
**Additional Secretary to Government of India**

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## LIST OF ABBREVIATIONS USED

APIO	Assistant Public Information Officer
BSF	Border Security Force
CAG	Comptroller and Auditor General
CIC	Central Information Commission
CPIO	Central Public Information Officer
CRPF	Central Reserve Police Force
GOI	Government of India
NCRWC	National Commission to Review the Working of the Constitution
NIC	National Informatics Centre
NSA	National Security Act
OSA	Official Secrets Act
PGC	Public Grievances Commission
PIO	Public Information Officer
PRO	Public Records Office
RTI	Right to Information
SIC	State Information Commission

## INTRODUCTION

***“If liberty and equality, as is thought by some are chiefly to be found in democracy, they will be best attained when all persons alike share in the government to the utmost”.***

***Aristotle***

### 1.1 Introduction

1.1.1 Right to information has been seen as the key to strengthening participatory democracy and ushering in people centred governance. Access to information can empower the poor and the weaker sections of society to demand and get information about public policies and actions, thereby leading to their welfare. Without good governance, no amount of developmental schemes can bring improvements in the quality of life of the citizens. Good governance has four elements- transparency, accountability, predictability and participation. Transparency refers to availability of information to the general public and clarity about functioning of governmental institutions. Right to information opens up government's records to public scrutiny, thereby arming citizens with a vital tool to inform them about what the government does and how effectively, thus making the government more accountable. Transparency in government organisations makes them function more objectively thereby enhancing predictability. Information about functioning of government also enables citizens to participate in the governance process effectively. In a fundamental sense, right to information is a basic necessity of good governance.

1.1.2 In recognition of the need for transparency in public affairs, the Indian Parliament enacted the Right to Information Act (hereinafter referred to as the RTI Act or the Act) in 2005. It is a path breaking legislation empowering people and promoting transparency. While right to information is implicitly guaranteed by the Constitution, the Act sets out the practical regime for citizens to secure access to information on all matters of governance. In the words of the Prime Minister<sup>1</sup>.

***“Efficient and effective institutions are the key to rapid economic and social development, institutions which can translate promises into policies and actionable programmes with the least possible cost and with the maximum possible efficiency; institutions which can deliver on the promises made***

<sup>1</sup> Source: PM's intervention in the Lok Sabha on the Right to Information Bill debate, May, 11 2005

*and convert....., outlays into outcomes. For institutions to be effective they must function in a transparent, responsible and accountable manner.....The Right to Information Bill, will bring into force another right which will empower the citizen in this regard and ensure that our institutions and the functionaries discharge their duties in the desired manner. It will bring into effect a critical right for enforcing other rights and fill a vital gap in a citizen's framework of rights”.*

1.1.3 This law is very comprehensive and covers almost all matters of governance and has the widest possible reach, being applicable to government at all levels – Union, State and Local as well as recipients of government grants. Access to information under this Act is extensive with minimum exemptions. Even these exemptions are subject to strict safeguards.

1.1.4 As may be expected in a new legislation of this kind, permanently impacting on all agencies of government, there are bound to be implementation issues and problem areas, which need to be addressed. The Commission therefore decided to look at the implementation of this new legislation and make suitable recommendations to fulfil the objectives of the Act. While the Act applies to all branches of government – Executive, Legislative and Judicial, the Commission's study and recommendations largely pertain to the Executive branch at all levels. However, the Commission has also carefully examined some of the key issues which need to be addressed in the Legislative and Judicial branches for effective implementation of the Act. It is for the competent authorities of the Legislatures and Judiciary to examine these recommendations and adopt them with modifications to suit their requirements.

1.1.5 One of the terms of reference of the Administrative Reforms Commission pertains to the Freedom of Information, specifically the following aspects:-

- a. To review the confidentiality classification of government documents specially with reference to the Official Secrets Act.
- b. To encourage transparency and access to non-classified data.
- c. Disclosure of information and transparency as a supplement to the Right to Information of the citizens.

1.1.6 The Commission has examined the relevant laws, rules and manuals which have an impact on freedom of information. It has specifically examined the Official Secrets Act, the Indian Evidence Act, Manual of Departmental Security Instructions and those pertaining to office procedures and Conduct Rules and made recommendations in respect of these.

1.1.7 In order to elicit views from different stakeholders on Freedom of Information the Commission organized a National Colloquium at the National Judicial Academy, Bhopal in

December 2005. The list of participants in the National Colloquium organized by the Commission on the subject is in Annexure-I(1). The recommendations of the Colloquium are at Annexure-I(2). The questionnaire circulated to various stakeholders is in Annexure-I(3). The case studies conducted or relied on by the Commission are in Annexure-I(4). The comparative study of transparency laws in various States and other countries is in Annexure-I(5) and I(6) respectively.

1.1.8 This Report is in two parts: Part I focusses on Official Secrets and confidentiality issues and is divided into three chapters: Official Secrets; Rules and Procedures; and Confidentiality Classification. Part II focuses on the steps required for effective implementation of the Act and is divided into four chapters: Rights and Obligations, Issues in Implementation, Application of the Act to the Legislature and the Judiciary and Removal of Difficulties.

**2.1 Background:**

2.1.1 The most contentious issue in the implementation of the Right to Information Act relates to official secrets. In a democracy, people are sovereign and the elected government and its functionaries are public servants. Therefore by the very nature of things, transparency should be the norm in all matters of governance. However it is well recognised that public interest is best served if certain sensitive matters affecting national security are kept out of public gaze. Similarly, the collective responsibility of the Cabinet demands uninhibited debate on public issues in the Council of Ministers, free from the pulls and pressures of day-to-day politics. People should have the unhindered right to know the decisions of the Cabinet and the reasons for these, but not what actually transpires within the confines of the 'Cabinet room'. The Act recognizes these confidentiality requirements in matters of State and Section 8 of the Act exempts all such matters from disclosure.

2.1.2 The Official Secrets Act, 1923 (hereinafter referred to as OSA), enacted during the colonial era, governs all matters of secrecy and confidentiality in governance. The law largely deals with matters of security and provides a framework for dealing with espionage, sedition and other assaults on the unity and integrity of the nation. However, given the colonial climate of mistrust of people and the primacy of public officials in dealing with the citizens, OSA created a culture of secrecy. Confidentiality became the norm and disclosure the exception. While Section 5 of OSA was obviously intended to deal with potential breaches of national security, the wording of the law and the colonial times in which it was implemented made it into a catch-all legal provision converting practically every issue of governance into a confidential matter. This tendency was buttressed by the Civil Service Conduct Rules, 1964 which prohibit communication of an official document to anyone without authorization. Not surprisingly, Section 123 of the Indian Evidence Act, enacted in 1872, prohibits the giving of evidence from unpublished official records without the permission of the Head of the Department, who has abundant discretion in the matter. Needless to say even the instructions issued for classification of documents for security purposes and the official procedures displayed this tendency of holding back information.

**2.2 The Official Secrets Act:**

2.2.1 The Right to Information Act has a non-obstante clause:

*"Sec. 8(2): Notwithstanding anything in the Official Secrets Act, 1923 nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests".*

2.2.2 The provisions of the Act which allow disclosure of information even where there is a clash with the exemption provisions of Sec.8(1) enjoy a general immunity from other Acts and instruments by virtue of Sec.22 of the Act :

*"Sec.22 The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or any instrument having effect by virtue of any law other than this Act".*

2.2.3 Thus OSA would not come in the way of disclosure of information if it is otherwise permissible under the RTI Act. But OSA along with other rules and instructions may impinge on the regime of freedom of information as they historically nurtured a culture of secrecy and non-disclosure, which is against the spirit of the Right to Information Act.

2.2.4 Section 5 of OSA, as stated earlier, is the catch all provision. As per this Section, any person having information about a prohibited place, or such information which may help an enemy state, or which has been entrusted to him in confidence, or which he has obtained owing to his official position, commits an offence if (s)he communicates it to an unauthorised person, uses it in a manner prejudicial to the interests of the State, retains it when (s)he has no right to do so, or fails to take reasonable care of such information. Any kind of information is covered by this Section if it is classified as 'secret'. The word "secret" or the phrase "official secrets" has not been defined in the Act. Therefore, public servants enjoy the discretion to classify anything as "secret".

2.2.5 The Supreme Court in *Sama Alana Abdulla vs. State of Gujarat* [(1996) 1 SCC 427] has held: (a) that the word 'secret' in clause (c) of sub-section (1) of Section 3 qualified official code or password and not any sketch, plan, model, article or note or other document or information and (b) when the accused was found in conscious possession of the material (map in that case) and no plausible explanation has been given for its possession, it has to be presumed as required by Section 3(2) of the Act that the same was obtained or collected by the appellant for a purpose prejudicial to the safety or interests of the State. Therefore, a sketch, plan, model, article, note or document need not necessarily be secret in order to be covered by the Act, provided it is classified



as an ‘Official Secret’. Similarly, even information which does not have a bearing on national security cannot be disclosed if the public servant obtained or has access to it by virtue of holding office. Such illiberal and draconian provisions clearly bred a culture of secrecy. Though the RTI Act now overrides these provisions in relation to matters not exempted by the Act itself from disclosure, the fact remains that OSA in its current form in the statute books is an anachronism.

2.2.6 The Law Commission in its 43<sup>rd</sup> Report (1971), summarised the difficulties encountered with the all inclusive nature of Section 5 of OSA, in the absence of a clear and concise definition of ‘official secret’, in the following words:

*“7.6.1 The wide language of section 5 (1) may lead to some controversy. It penalizes not only the communication of information useful to the enemy or any information which is vital to national security, but also includes the act of communicating in any unauthorized manner any kind of secret information which a Government servant has obtained by virtue of his office. Thus, every noting in the Secretariat file to which an officer of the Secretariat has access is intended to be kept secret. But it is notorious that such information is generally communicated not only to other Government servants but even to some of the non-official public in an unauthorized manner. Every such information will not necessarily be useful to the enemy or prejudicial to national security. A question arises whether the wide scope of section 5(1) should be narrowed down to unauthorized communication only of that class of information which is either useful to the enemy or which may prejudicially affect the national security leaving unauthorized communication of other classes of secret information to be a mere breach of departmental rules justifying disciplinary action. It may, however, be urged that all secret information accessible to a Government servant may have some connection with national security because the maintenance of secrecy in Government functions is essentially for the security of the State. In this view, it may be useful to retain the wide language of this section, leaving it to the Government not to sanction prosecution where leakage of such information is of a comparatively trivial nature not materially affecting the interests of the State*

*7.6.3 The language of sub-section (1) of section 5 is cumbersome and lacks clarity. Hence without any change in substance, we recommend the adoption of a drafting device separately defining “official secret” as including the enumerated classes of documents and information.”*

2.2.7 The Law Commission also recommended consolidation of all laws dealing with national security and suggested a “National Security Bill”. The observations made by the Law Commission reproduced below are pertinent:

*“1.6 The various enactments in force in India dealing with offences against the national security are:-*

- (i) chapters 6 and 7 of the Indian Penal Code ;
- (ii) the Foreign Recruiting Act, 1874;
- (iii) the Official Secrets Act, 1923;
- (iv) the Criminal Law Amendment Act, 1938;
- (v) the Criminal Law Amendment Act, 1961; and
- (vi) the Unlawful Activities (Prevention) Act, 1967.

*Of these, chapters 6 and 7 of the Indian Penal Code have been fully considered by us in our Report on that Code. We have recommended therein that the Criminal Law Amendment Act, 1938, should be included in chapter 7 of the Code. A brief summary of the other statutes on the subject will be useful.*

*1.7 The Foreign Recruiting Act, 1874 deals mainly with recruitment in India for service in a foreign state. The definition of “foreign state” is very wide and will include all countries beyond the limits of India, including not only de jure Governments but also de facto Governments. Recruitment for service in such foreign states has an indirect but close bearing on national security and hence should find a place in the proposed law.*

*1.8 Reference should also be made to the Foreign Enlistment Act, 1870, an Act of the British Parliament which, though not formally repealed, is of doubtful application to India since the Constitution. This Act regulates the conduct of British subjects throughout Her Majesty’s dominions during the existence of hostilities between foreign States with which the British Crown is at peace. It is obvious that similar legislation should find place in our statute book. Like recruitment for a foreign State, enlistment for service in a foreign State has also an indirect but close bearing on national security.*

*1.9 The Official Secrets Act, 1923 is the main statute for fighting espionage activities which vitally affect the national security. The main offences created by this Act are as follows:-*

- (i) “spying”, or entry into a prohibited place etc., transmission or collection of secret information, and the like ;
- (ii) wrongful communication of, or receiving secret information of the specified type;
- (iii) harbouring spies;
- (iv) unauthorized use of uniforms, falsification of reports etc., in order to enter a prohibited place, or for a purpose prejudicial to the safety of the State ;
- (v) interference with the police or military, near a prohibited place.

*1.10 The primary object of the Criminal Law Amendment Act, 1961 is to punish persons who question the territorial integrity or frontiers of India in a manner prejudicial to the safety and security of the country. Though there is undoubtedly necessity for retaining some of these provisions*

which have a direct bearing on national security and integrity, in view of the passing of the Unlawful Activities (Prevention) Act, 1967, some of the provisions of the earlier Act may not be necessary. This question will be considered at the appropriate place.

1.11 The Unlawful Activities (Prevention) Act, 1967 was passed for the effective prevention of disruptive activities, whether they are in support of secession of a part of the territory of India, or in support of the secession of a part of the territory of India from the Union, or otherwise disclaim, question or disrupt the sovereignty and territorial integrity of India. It deals with such activities of individuals and also of associations. Its provisions as to unlawful associations are detailed and elaborate.

1.12 That this Act constitutes a vital link in the chain of enactments of importance to national security, cannot be doubted. Activities intended to “detach a part of the territory of a country” (as described in some of the foreign Penal Codes) stand at the apex of treasonable activities. They go much beyond the formation of a parallel Government or acts of overthrowing the Government, which are the subject matter of some of the provisions in Chapter 6 of the Indian Penal Code. Such activities, if successful, would bring into existence a parallel nation with its own “sovereignty and territorial integrity” which will be a rival to the country from which the territory is “detached”.

There is, therefore, enough justification for bringing the offences covered by this Act within the fold of legislation on national security.

1.13 Apart from the aforesaid statutes, there are provisions in other Acts mainly of a procedural nature which have a bearing on national security and integrity but as they form part of special statutes, dealing with other subjects also, we would not recommend their incorporation in the new law.

1.14 The first question we have to consider is whether there is a really necessity for a separate consolidated law on the subject, or else whether the aforesaid statutes may be allowed to remain as before. The main advantages of consolidation of statutes are these :-

- (1) Consolidation diminishes the bulk of the statute book and makes the law easier for those who have to administer it (including Judges, administrators, the Bar and the litigant public); for they have only one document to consult instead of two or more.
- (2) The consolidated Act speaks from one and the same time, and thus the convenience arising from the interpretations of sections of various Acts speaking from different times is avoided. The art of legislative drafting has altered very much during the last century and the language used, the length of the sentences, the arrangement of the clauses and the sections may have to be drastically altered to conform to modern style of drafting. This applies

specially to the Foreign Recruiting Act and the Official Secrets Act which will, in any case, require revision.

- (3) Some of the provisions of the earlier Acts may have to be omitted as unnecessary.

In addition to these advantages, there arises an opportunity of incorporating in the new Act some of the provisions of the foreign codes dealing with national security which may be suited for Indian conditions also. For these reasons, we are of the view that there should be a consolidated statute entitled the National Security Act.

1.16 Another question is whether the new law should be a separate enactment, or else, whether it could be inserted as a separate chapter in the revised Indian Penal Code. It is true that crimes affecting national security form an essential part of the criminal law of the country, and we find that in many foreign codes, these crimes are included in a separate chapter in the penal Code. But we consider it desirable to pass separate legislation on the subject, for the following reasons:-

- (1) A special rule of limitation may have to be provided for some offences affecting national security.
- (2) The necessity of obtaining sanction from the Government before initiating prosecutions for offences under the new law is a special feature, not found in respect of most of the offences under the Penal Code.
- (3) In some other respects also, the provisions of the Criminal Procedure Code may have to be modified in their application to offences under the new law.
- (4) The rules of evidence ordinarily applicable for trial of criminal cases will have to be very much modified in their application for the trial of some of the offences under the new law.

These reasons make the new law distinguishable from most of the provisions of the Indian Penal Code and it may, hence, be somewhat incongruous if the new law is introduced as a separate chapter in the Indian Penal Code. We therefore recommend separate legislation on the subject.”

2.2.8 The Commission agrees with the recommendation of the Law Commission that all laws relating to national security should be consolidated. The Law Commission’s recommendation was made in 1971. The National Security Act (NSA), subsequently enacted in 1980, essentially replaced the earlier Maintenance of Internal Security Act and deals only with preventive detention. Therefore, a new chapter needs to be added to the NSA incorporating relevant provisions of OSA and other laws dealing with national security.

2.2.9 The Commission studied the Report of the Working Group constituted under the Chairmanship of Shri H. D. Shourie on “Right to Information and Transparency, 1997” (hereinafter referred to as the ‘Shourie Committee’) which has provided valuable inputs in framing the recommendations on this issue. The Shourie Committee had the following to say about OSA:

*“ It is the Official Secrets Act that has been regarded in many quarters as being primarily responsible for the excessive secrecy in government. Its “Catch-all” nature has invited sustained criticism and demand for its amendment. Section 5 of this Act provides for punishment for unauthorized disclosure of Official secrets but omits to define secrets”.*

2.2.10 The Shourie Committee recommended a comprehensive amendment of Section 5(1) to make the penal provisions of OSA applicable only to violations affecting national security. However the Ministry of Home Affairs, on consultation expressed the view that there is no need to amend OSA as the RTI Act has overriding effect. The Ministry, quite understandably, is concerned about the need for a strong legal framework to deal with offences against the state. While recognizing the importance of keeping certain information secret in national interest, the Commission is of the view that the disclosure of information has to be the norm and keeping it secret should be an exception. OSA, in its present form is an obstacle for creation of a regime of freedom of information, and to that extent the provisions of OSA need to be amended. The Commission, on careful consideration agrees with the amendment proposed by the Shourie Committee, as it reconciles harmoniously the need for transparency and the imperatives of national security without in anyway compromising the latter. These can be incorporated in the proposed new chapter in the NSA relating to Official Secrets.

2.2.11 When there is more than one law - one old and the other new – on the same subject, there is always some ambiguity and consequent confusion in implementation. This has been the experience with a number of such laws including some constitutional amendments. Such duplication and ambiguity also leads to needless litigation. Despite ‘implied repeal’ and provisions like ‘notwithstanding anything contained in any other law’ the old subordinate legislation, notifications and executive instructions continue unaltered and govern actual implementation. In order to send a strong signal about the change and for the sake of effective implementation, the old law/s should be repealed or modified to the extent necessary. Basic change and lazy legislation do not go together.

### 2.2.12 Recommendations:

- a. **The Official Secrets Act, 1923 should be repealed, and substituted by a chapter in the National Security Act, containing provisions relating to official secrets.**
- b. **The equivalent of the existing Section 5, in the new law may be on the lines recommended by the Shourie Committee as quoted below.**

**“ 5(1) If any person, having in his possession or control any official secret which has come into his possession or control by virtue of:-**

- b1. his holding or having held an office with or under government, or**
- b2. a contract with the government, or**
- b3. it being entrusted to him in confidence by another person holding or having held an office under or with the government, or in any other manner,**
  - i. communicates, without due authority such official secret to another person or uses it for a purpose other than a purpose for which he is permitted to use it under any law for the time being in force; or**
  - ii. fails to take reasonable care of, or so conducts himself as to endanger the safety of the official secret; or**
  - iii. wilfully fails to return the official secret when it is his duty to return it,**

**shall be guilty of an offence under this section.**

**5(2) Any person voluntarily receiving any official secret knowing or having reasonable ground to believe, at the time he receives it, that the official secret is communicated in contravention of this Act, shall be guilty of an offence under this section.**

**5(3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.**

**Explanation: For the purpose of this section, ‘Official Secret’ means any information the disclosure of which is likely to prejudicially**

**affect the sovereignty and integrity of India, the security of State, friendly relations with foreign states, economic, commercial, scientific and technological matters relating to national security and includes: any secret code, password, sketch plan, model, article, note or document in relation to a prohibited place.”**

### 2.3 Governmental Privilege in Evidence:

2.3.1 Public Law in its procedural aspect is of as much interest as substantive law. Although the citizen may sue public bodies and the Government, it does not necessarily follow that the law and procedure applied by the courts in such suits will be the same as is applied in litigation between private citizens. Special procedural advantages and protections are enjoyed by the State. One such protection operates in the field of evidence and is in the nature of a privilege regarding the production of certain documents and disclosure of certain communications<sup>2</sup>.

2.3.2 The term “privilege” as used in Evidence law means freedom from compulsion to give evidence or to discover material, or a right to prevent or bar information from other sources during or in connection with litigation, but on grounds extrinsic to the goals of litigation.<sup>3</sup>

2.3.3 Section 123 of the Indian Evidence Act, 1872 prohibits the giving of evidence derived from unpublished official records relating to affairs of State except with the permission of the Head of the Department. This Section reads as follows:

*“No one shall be permitted to give any evidence derived from un-published official records relating to any affairs of State, except with the permission of the officer at the head of the department concerned, who shall give or withhold such permission as he thinks fit”.*

2.3.4 Further, Section 124 of the Act stipulates:

*“No public officer shall be compelled to disclose communications made to him in official confidence when he considers that the public interests would suffer by the disclosure”.*

2.3.5 The Law Commission in its 69<sup>th</sup> report (1977) on the Indian Evidence Act suggested that Section 123 should be revised on the following lines:

*“(1) No one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, unless the officer at the head of the department concerned has given permission for giving such evidence. (This proposition was intended to restate the position, to start with. It would operate primarily as between the witness and his superior. There was no change of substance).*

*(2) Such officer should not withhold such permission unless he is satisfied that the giving of such evidence would be injurious to the public interest. He should make an affidavit also in this regard. The Court, may if it thinks fit, call for a further affidavit from the head of the department. (This proposition was intended to amplify the section, by highlighting the test of “injury to the public interest” – a test discernible from the case law on the subject – and by codifying the procedure that had already been indicated judicially.*

*(3) Where such officer has withheld permission for the giving of such evidence, and the Court, after inspecting the unpublished official records concerned and after considering the affidavit, is of the opinion that the giving of such evidence would not be injurious to the public interest, the court should record its decision to that effect and thereupon the section will not apply to such evidence. [This proposition was intended to modify the existing section, in so far as the textual law was concerned. The change was an important one, as the decision as to injury to the public interest would be with the Court and not with the officer at the head of the Department.]”*

*Similarly it was recommended that Section 124 of the Indian Evidence Act should be amended as follows:*

*“(1) No public officer shall be compelled to disclose communications made to him in official confidence, other than communications contained in unpublished official records relating to any affairs of State, when the Court considers that the public interests would suffer by the disclosure.*

*(2) Where a public officer who is a witness is asked a question which might require the disclosure of any such communication, and he objects to answering the question on the ground that the public interests would suffer by its disclosure, the court shall, before rejecting his objection, ascertain from him, in chambers, the nature of his objection and reasons therefor”.*

2.3.6 The Law Commission once again examined Section 123 and 124 and gave its recommendations in its 88<sup>th</sup> report.(1983). It recommended that Sections 123 and 124 should be amended in the following manner:

*“123(1) Subject to the provisions of this section, no one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, unless the officer at the head of the department concerned has given permission for giving such evidence.*

*123(2) Such officer shall not withhold such permission, unless he is satisfied that the giving of such evidence would be injurious to the public interest; and where he withholds such permission, he shall make an affidavit containing a statement to that effect and setting forth his reasons therefore:*

*Provided that where the Court is of opinion that the affidavit so made does not state the facts or the reasons fully, the Court may require such officer or, in appropriate cases, the Minister concerned with the subject, to make a further affidavit on the subject.*

<sup>2</sup> 88<sup>th</sup> Report of Law Commission of India

<sup>3</sup> Paul F.Rothstein, Evidence : State and Federal Rules (1981), page 407

*123(3) where such officer has withheld permission for the giving of such evidence, the court, after considering the affidavit or further affidavit, and if it so thinks fit, after examining such officer or, in appropriate cases, the Minister, orally-*

*(a) shall issue a summons for the production of the unpublished official records concerned, if such summons has not already been issued ;*

*(b) shall inspect the records in chambers ; and*

*(c) shall determine the question whether the giving of such evidence would or would not be injurious to the public interest, recording its reasons therefor.*

*123 (4) Where, under sub section (3), the court decides that the giving of such evidence would not be injurious to the public interest, the provisions of sub-section (1) shall not apply to such evidence”.*

*“124(1) No public officer shall be compelled to disclose communications made to him in official confidence, when the court considers that the public interests would suffer by the disclosure.*

*124(2) Where a public officer who is a witness is asked a question which might require the disclosure of any such communication, and he objects to answering the question on the ground that the public interests would suffer by its disclosure, the court shall, before rejecting his objection, ascertain from him, in chambers, the nature of his objection and reasons therefor.*

*124 (3) Nothing in this section applies to communications contained in un-published official records relating to any affairs of State, which shall be dealt with under section 123”.*

2.3.7 The Shourie Committee also examined these sections of the Indian Evidence Act and recommended amendments as follows:

(1) Proposed Sections 123 & 124, Indian Evidence Act.

*“123.(1) Subject to the provisions of this section, no one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, unless the officer at the head of the department concerned has given permission for giving such evidence.*

*(2) Such officer shall not withhold such permission, unless he is reasonably satisfied that the giving of such evidence would be injurious to the public interest ; and where he withholds such permission, he shall make an affidavit containing a statement to that effect and setting forth his reasons therefore:*

*“ Provided that where the Court is of opinion that the affidavit so made does not state the facts or the reasons fully, the Court may require such officer or, in appropriate cases, the Minister concerned with the subject, to make a further affidavit on the subject.*

*(3) Where such officer has withheld permission for the giving of such evidence, the Court,*

*after considering the affidavit or further affidavit, and if it so thinks fit, after examining such officer or, in appropriate cases, the Minister, orally:-*

*(a) shall issue a summons for the production of the unpublished official records concerned, if such summons has not already been issued.*

*(b) shall inspect the records in chambers; and*

*(c) shall determine the question whether the giving of such evidence would or would not be injurious to public interest, recording its reasons therefor.*

*(4) Where, under sub-section (3), the Court decides that the giving of such evidence would not be injurious to public interest, the provisions of sub-section (1) shall not apply to such evidence.*

*“124.(1) No public officer shall be compelled to disclose communications made to him in official confidence, when the Court considers that the public interests would suffer by the disclosure.*

*(2) Where a public officer who is a witness is asked a question which might require the disclosure of any such communication, and he objects to answering the question on the ground that the public interests would suffer by its disclosure, the Court shall, before adjudicating upon his objection, ascertain from him, in chambers, the nature of his objection and reasons therefor.*

*(3) Nothing in this section applies to communications contained in unpublished official records relating to any affairs of State, which shall be dealt with under Section 123.”*

***Draft of proposed provision to be inserted at the appropriate place in the Code of Civil Procedure, 1908 and the Code of Criminal Procedure, 1973.***

*“ Any person aggrieved by the decision of any Court subordinate to the High Court rejecting a claim for privilege made under section 123 or section 124 of the Indian Evidence Act, 1872 shall have a right of appeal to the High Court against such decision, and such appeal may be filed notwithstanding the fact that the proceeding in which the decision was pronounced by the court is still pending”*

The Commission studied all these recommendations and is of the view that the existing provisions need amendment on the lines indicated below:

### **2.3.8 Recommendations:**

**a. Section 123 of the Indian Evidence Act, 1872 should be amended to read as follows:**

***“123. (1) Subject to the provisions of this section, no one shall be permitted to give any evidence derived from official records which are exempt from public disclosure under the RTI Act, 2005.***

***(2) Where he withholds such permission, he shall make an affidavit containing a statement to that effect and setting forth his reasons therefor.***

***(3) Where such officer has withheld permission for the giving of such evidence, the Court, after considering the affidavit or further affidavit, and if it so thinks fit, after examining such officer or, in appropriate cases, the Minister, orally:***

- a) shall issue a summons for the production of the unpublished official records concerned, if such summons has not already been issued***
- b) shall inspect the records in chambers; and***
- c) shall determine the question whether the giving of such evidence would or would not be injurious to public interest, recording its reasons therefor.***

***(4) Where, under sub-section (3), the Court decides that the giving of such evidence would not be injurious to public interest, the provisions of sub-section (1) shall not apply to such evidence.***

***Provided that in respect of information classified as Top Secret for reasons of national security, only the High Court shall have the power to order production of the records”***

**Section 124 of the Indian Evidence Act will become redundant on account of the above and will have to be repealed.**

**Accordingly, the following will have to be inserted at the appropriate place in the Code of Civil Procedure, 1908 and the Code of Criminal Procedure, 1973:**

***“Any person aggrieved by the decision of any Court subordinate to the High Court rejecting a claim for privilege made under section 123 of the Indian Evidence Act, 1872 shall have a right to appeal to the High Court against such decision, and such appeal may be filed notwithstanding the fact that the proceeding in which the decision was pronounced by the Court is still pending”***

## **2.4 The Oath of Secrecy:**

2.4.1 A Union Minister, while assuming office, is administered an oath of secrecy as follows:

***“I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister for the Union except as may be required for the due discharge of my duties as such Minister.”***

A Minister in the State Government takes a similar oath.

2.4.2 The National Commission to Review the Working of the Constitution (NCRWC), while examining the Right to Information had the following to say:

***“Government procedures and regulations shrouded in a veil of secrecy do not allow the clients to know how their cases are being handled. They shy away from questioning officers handling their cases.....In this regard, government must assume a major responsibility and mobilize skills to ensure flow of information to citizens. The traditional insistence on secrecy should be discarded. In fact, we should have an oath of transparency in place of an oath of secrecy”.***

2.4.3 A Minister is a bridge between the people and the Government and owes his primary allegiance to the people who elect him. The existence of this provision of oath of secrecy and its administration along with the oath of office appears to be a legacy of the colonial era where the public was subjugated to the government. However, national security and larger public interest considerations of the country's integrity and sovereignty may require a Minister or a public servant with sufficient justification not to disclose information. But a very public oath of secrecy at the time of assumption of office is both unnecessary and repugnant to the principles of democratic accountability, representative government and popular sovereignty. Therefore, the obligation not to disclose official secrets may be built in through an appropriate insertion of a clause in the national security law dealing with official secrets. If required, such an undertaking may be taken in writing, thus avoiding public display of propensity to secrecy. The Commission is therefore of the view that the Oath of Secrecy may be dispensed with and substituted by a statutory arrangement and a written undertaking. Further, keeping in view the spirit of the Act to promote transparency and as recommended by the NCRWC it would be appropriate if Ministers on assumption of office are administered an oath of transparency alongwith the oath of office.

### **2.4.4 Recommendations:**

- a. As an affirmation of the importance of transparency in public affairs, Ministers on assumption of office may take an oath of transparency alongwith the oath of office and the requirement of administering the**

**oath of secrecy should be dispensed with. Articles 75(4) and 164 (3), and the Third Schedule should be suitably amended.**

- b. Safeguard against disclosure of information against the national interest may be provided through written undertaking by incorporation of a clause in the national security law dealing with official secrets.**

### 2.5 Exempted Organizations:

2.5.1 Certain categories of organizations have been exempted from the provisions of the Act:

*“24. (1) Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government”.*

2.5.2 The list of organizations includes Border Security Force (BSF), Central Reserve Police force (CRPF), Assam Rifles etc., but the Armed Forces have been left outside the purview of the Act. When organizations such as BSF, CRPF, Assam Rifles are exempted, there is no rationale for not exempting the Armed Forces as well. The Second schedule needs to be periodically revised to include or exclude organizations in keeping with changing needs.

2.5.3 The Commission feels that the Armed Forces should be included in the list of exempted organization (Second Schedule of the Act), because almost all activities of the Armed Forces would be covered under the exemption 8(a) which states that there shall be no obligation to give to any citizen, information which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State.....”. The Commission is mindful of the fact that the Act provides for disclosure when allegations of corruption and human rights abuses are made even in respect of the organizations included in the Second Schedule {Section 24 (1)}. Also, Section 8 (2) makes disclosure mandatory in respect of exempted categories, if public interest in disclosure outweighs the harm to the protected interests. Therefore, by including Armed Forces in the Second Schedule, while national security is safeguarded, disclosure is still mandatory when public interest demands it.

2.5.4 Section 24 of the Act stipulates:

*24. (1) Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government:*

*Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:*

2.5.5 The organizations included in the Second Schedule need not appoint PIOs. A question arises that in case of request for information pertaining to allegations of corruption and human rights violation, how should a request be made? The Commission feels that even in cases of organizations listed in Second Schedule, PIO s should be appointed so that requests for applications may be filed with them. A person aggrieved by an order of the PIO may approach the CIC/SIC.

### 2.5.6 Recommendations:

- a. The Armed Forces should be included in the Second Schedule of the Act.**
- b. The Second Schedule of the Act may be reviewed periodically.**
- c. All organizations listed in the Second Schedule have to appoint PIOs. Appeals against orders of PIOs should lie with CIC/SICs. (This provision can be made by way of removal of difficulties under section 30).**

### 3.1 The Central Civil Services (Conduct) Rules:

3.1.1 The Central Civil Services (Conduct) Rules prohibit unauthorized communication of information (similar provisions exist for the state government employees under their respective Rules).

*“11. Unauthorised communication of information*

*No Government servant shall, except in accordance with any general or special order of the Government or in the performance in good faith of the duties assigned to him, communicate, directly or indirectly, any official document or any part thereof or information to any Government servant or any other person to whom he is not authorised to communicate such document or information.*

*EXPLANATION- Quotation by a Government servant (in his representation to the Head of Office, or Head of Department or President) of or from any letter, circular or office memorandum or from the notes on any file, to which he is not authorised to have access, or which he is not authorised to keep in his personal custody or for personal purposes, shall amount to unauthorised communication of information within the meaning of this rule”.*

3.1.2 The Shourie Committee examined this issue and stated as follows:

*“ There is a widespread feeling that the Central Civil Services (Conduct) Rules, 1964, and corresponding rules applicable to Railways, Foreign Services and All India Services, inhibit government servants from sharing information with public. The accent in these rules is on denial of information to public. This situation has obviously to change if freedom of Information Act is to serve its purpose and if transparency is to be brought about in the system”.*

3.1.3 The Commission agrees with the views of the Shourie Committee. The Central Civil Services (Conduct) Rules were formulated when the RTI Act did not exist. The spirit of these Rules is to hold back information. With the emergence of an era of freedom of information, these Rules would have to be recast so that dissemination of information is the rule and holding back information is an exception. The Department of Personnel and Training

has amended the Civil Services (Conduct) Rules on these lines in Oct. 2005. However all States need to amend rules in a similar manner in keeping with the letter and spirit of RTI Act.

#### 3.1.4 Recommendations:

a. **Civil Services Rules of all States may be reworded on the following lines:**

***“Communication of Official Information:***

***Every Government servant shall, in performance of his duties in good faith, communicate to a member of public or any organisation full and accurate information, which can be disclosed under the Right to Information Act, 2005.***

***Explanation – Nothing in this rule shall be construed as permitting communication of classified information in an unauthorised manner or for improper gains to a Government servant or others.”***

### 3.2 The Manual of Office Procedure

3.2.1 The relevant portions of the Manual which conflict with the RTI Act are reproduced below:

*“116. Unauthorised communication of official information - Unless authorised by general or specific orders, no official will communicate to another official or a non-official, any information or document(s) (including electronic document(s)) which has come into his possession in the course of his official duties.*

*118. Confidential character of notes/ files -*

*(1) The notes portion of a file referred by a department to another will be treated as confidential and will not be referred to any authority outside the secretariat and attached offices without the general or specific consent of the department to which the file belongs. If the information is in the electronic form it will be handled by authorized official only.*

3.2.2 The Manual of Office Procedure was prepared when the RTI Act was not in existence. These provisions are totally violative of the Act and hence need to be brought in conformity with the Act. The Act also defines “information” to mean any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, log books, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force. Thus notings and files per se will not



become confidential and inaccessible unless they are classified as such and are declared to be covered under exemption provisions of Section 8(1) of the Act. To bring it in conformity with the Act, the provisions regarding unauthorized communication of official information and confidential character of notes / files will have to be amended.

### 3.2.3 Recommendations:

- a. **Para 116 of the Manual of Office Procedure needs to be reworded as follows:**

*“Communication of Official Information: Every Government Servant shall, in performance of his duties in good faith, communicate to a member of public or any organization full and accurate information, which can be disclosed under the Right to Information Act. (Nothing stated above shall be construed as permitting communication of classified information in an unauthorized manner or for improper gains to a Government Servant or others).”*

- b. **Para 118 (1) should be deleted.**
- c. **The State Governments may be advised to carry out similar amendments in their Manuals, if such provisions exist therein.**

## CONFIDENTIALITY CLASSIFICATION

### 4.1 Classification of Information:

4.1.1. Apart from the somewhat indiscriminate application of OSA to information which was not intended to be secret, a major contributor to the culture of secrecy in the government is the tendency to classify information even where such classification is clearly unwarranted. The Government of India has issued detailed instructions pertaining to safeguarding information in its possession, the unauthorised disclosure of which would cause damage to national security or would cause embarrassment to the Government in its functioning or would be prejudicial to national interest. These instructions, which are contained in the Manual of Departmental Security Instructions and the Manual of Office Procedure, lay down guidelines to give a security classification to a record based on the degree of confidentiality required. They also describe the manner in which each of such classified information should be handled and the persons who can access such information.

4.1.2 The Shourie Committee considered the issue of classification of information and noted:

*“A major contributor to the lack of transparency is the tendency to classify information even where such classification is clearly unjustified. There is also the tendency to accord higher classification than is warranted. The Manual of Departmental Security Instructions, issued by the Ministry of Home Affairs, and the Manual of Office Procedure, which incorporates some of these instructions, do lay down the criteria and guidelines for classification and specify the authorities competent to authorise classification gradings viz. Top Secret, Secret and Confidential.*

*While the criteria for classification have perhaps necessarily to be broad, it is desirable, in the interest of a proper approach to classification that they should be backed up by a suitable illustrative list for guidance of officers. While drawing up such a list, the principle to be adhered to is that ordinarily only such information, as would qualify for exemption under the proposed Freedom of Information Act, should be classified.”*

4.1.3 The Manual of Departmental Security Instructions deals with classification of documents and records involving national security and sensitive matters. Once information gets a security classification it moves out of the public domain. Even the RTI Act respects the need to keep certain information outside the public domain. Section 8 of the Act lists out the exemptions

under which the PIO need not give information. However it is necessary to harmonise security classification with the provisions of the Act.

4.1.4 The task of classifying a document is vital in the larger national interest, and should be handled with great caution as any security classification denies access of information to public. Therefore only officers of sufficient seniority should be empowered to classify documents. Moreover under the existing instructions, information once classified continues to be so without any time limit. In other countries, even war secrets are brought into public domain after a lapse of a specified period, usually 30 years. It is therefore necessary to review such classified documents after a reasonable period of, say 30 years (the period can be even less in case of some documents). Those which do not merit classification should then be declassified and kept in the public domain.

4.1.5 Further, the hierarchy of security classification needs to be rationalised, reflecting the scheme of exemptions under the Act and emerging challenges. The Act has listed 11 categories (section 8 and 9) of exemption wherein information may not be given out. These range from “information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence; to “infringement of copyright subsisting in a person”. The Commission feels that the classification system should broadly cover each of these categories of information. It is quite possible that an information falls under two or more categories of exemptions. In that case the information should be given the classification of the higher order among the exemptions.

4.1.6 Although the 11 categories of information are fairly exhaustive and cover almost all possible situations for keeping information secret, some situations which demand secrecy seem to remain out of these exemptions like confidential reports of officials, and question papers of examinations. The Commission feels that information in these cases should also be covered by exemptions.

4.1.7 The Commission studied the recommendations of the Shourie Committee, and is in broad agreement with the recommendations made by it.

#### 4.1.8 Recommendations:

- a. **The GOI should amend the Manual of Departmental Security Instructions in the following manner:**
  - i. **Information Deserving Classification (Para 3)**  
It would be advisable for each Ministry/Department to identify

**the information which deserves to be given a security classification. Ordinarily, only such information should be given a security classification which would qualify for exemption from disclosure under the Right to Information Act, 2005. The Classification of documents should be done as per the following guidelines.**

Sl.No.	Section of the RTI Act to which information pertains	Classification
1	8(1)(a)	Top Secret
2	8(1)(b)	Confidential
3	8(1)(c)	Confidential
4	8(1)(d)	Secret
5	8(1)(e)	Confidential
6	8(1)(f)	Secret
7	8(1)(g)	Top Secret/Secret
8	8(1)(h)	Secret/Confidential
9	8(1)(i)	Confidential
10	8(1)(j)	Confidential/restricted
11	9	Confidential/restricted

**Explanation: The above mentioned classification should be generally followed. It is quite possible that information may be covered by more than one exemption; in that case the information should be given the classification of the higher category. Also if it is felt by the competent authority that circumstances of a case demand a higher classification than what is indicated above, then the same may be done by an authority, which is empowered to give such a classification. Provision should be made to include annual confidential reports of officers and examination question papers and related matters in**

the exemptions under the RTI Act. This may be done by way of removal of difficulties under Section 30.

ii. **Upgrading and Downgrading (Para 2.3)**

Documents once classified as “Top Secret” or “Secret”, should remain so classified as long as required but not exceeding 30 years. Documents classified as confidential and restricted should remain so for a period not exceeding 10 years. However, the competent classifying officer may, for reasons to be recorded in writing, authorise continued classification beyond the period prescribed above if information, the disclosure of which would cause damage to national security or national interest. A recipient officer of appropriate rank in a Ministry or Department may upgrade the security classification of a document received from outside, but this raised classification will be limited only to the Ministry or Department. (S)He will, however, have no authority to downgrade the security classification of a document received, without the concurrence of the originator. Within the same Department, an officer superior to the originator would have the authority to downgrade or upgrade the classification.

iii. **Officer Authorised to Accord the Grading:**

<i>Top Secret</i>	<i>Not below Joint Secretary</i>
<i>Secret</i>	<i>Not below Deputy Secretary</i>
<i>Confidential</i>	<i>Not below Under Secretary</i>

The State Governments may authorise officers of equivalent rank to accord the grading.

## Part-II - IMPLEMENTATION OF THE RIGHT TO INFORMATION ACT

### RIGHTS AND OBLIGATIONS

#### 5.1 Rights and Obligations Under the Act:

5.1.1 In order to enforce the rights and fulfil the obligations under the Act, building of institutions, organization of information and creation of an enabling environment are critical. Therefore, the Commission has as a first step reviewed the steps taken so far to implement the Act as follows:

- I. BUILDING INSTITUTIONS:
  - a. Information Commissions
  - b. Information Officers and Appellate Authorities.
- II. INFORMATION AND RECORD-KEEPING:
  - a. Suo motu declaration under Section 4.
  - b. Public Interest Disclosure.
  - c. Modernizing recordkeeping.
- III. CAPACITY BUILDING AND AWARENESS GENERATION:
- IV. CREATION OF MONITORING MECHANISMS:

#### 5.2 Building Institutions:

**5.2.1 Information Commissions:** Government of India (GOI) constituted the Central Information Commission (CIC) with a Chief Information Commissioner and four Information Commissioners (Section 12). The CIC has been hearing appeals under the Act. All the decisions of the CIC are being posted on the website (<http://cic.gov.in>). So far (as on 3-5-06) 21 States constituted the State Information Commissions (SICs) under Section 1(3). The provisions of Section 15 came into force at once, thereby meaning that all the State Governments were required to constitute their respective Commissions immediately on enactment of the RTI Act. This has been accomplished by most of the State Governments as brought out by the table in Annexure-V(1). The Commission also obtained information about the background of the State Chief Information Commissioners so as to ascertain whether all sections of society are being represented. This information is also summarized in Annexure-V(1).

The Act provides for selection of CIC and SICs in a bipartisan manner, and involves the Leader of the Opposition in the process. Since the Act is applicable to all three organs of the State, it would be appropriate to include in the selection committee the Chief Justice of the Supreme Court or High Court as the case may be. This will inspire public confidence and enhance the quality of the selection.

5.2.2 Despite a legal obligation to constitute Information Commissions, 6 States have failed to do so even 10 months after its enactment. The States, which have not constituted Information Commissions so far ( as on 3-5-06), are Bihar, Jharkhand, Manipur, Sikkim, Arunachal Pradesh and Mizoram. This needs to be rectified immediately.

5.2.3 The Act allows for dispersal of Information Commissions to provide easy access to citizens. {Section 12(7), 15(7)}. However neither the CIC nor the SICs have established offices at places other than the Capitals. For an overly citizen friendly law to be effectively implemented it is vital to have easy access in a vast country like ours. The Commission is therefore of the view that the CIC should be dispersed in atleast 4 regions. Similarly the SICs in larger States should be dispersed depending on population density and geographical area.

5.2.4 The Act visualizes a Commission wherein the Members represent different sections of the society. The State Governments are still in the process of appointing Information Commissioners, but an analysis of the background of the State Chief Information Commissioners indicates the preponderance of persons with civil service background. Members with civil services background no doubt bring with them wide experience and an intricate knowledge of government functioning; however to inspire public confidence and in the light of the provisions of the Act, it is desirable that the Commissions have a large proportion of members with non civil services background.

#### 5.2.5 Recommendations:

- a. **Section 12 of the Act may be amended to constitute the Selection Committee of CIC with the Prime Minister, Leader of the Opposition and the Chief Justice of India. Section 15 may be similarly amended to constitute the Selection Committee at the State level with the Chief Minister, Leader of the Opposition and the Chief Justice of the High Court.**
- b. **The GOI should ensure the constitution of SICs in all States within 3 months.**
- c. **The CIC should establish 4 regional offices of CIC with a Commissioner heading each. Similarly regional offices of SICs should be established in larger States.**

- d. **At least half of the members of the Information Commissions should be drawn from non civil services background. Such a provision may be made in the Rules under the Act, by the Union Government, applicable to both CIC and SICs.**

#### 5.3 Designating Information Officers and Appellate Authorities:

5.3.1 All Union Ministries/Departments have designated PIOs thus complying with the stipulation of designating PIOs. There is however a wide variation in the numbers of PIOs appointed, and the level of officers appointed {Annexure-V(2)}. Where more than one PIO is appointed for an office an applicant is likely to face difficulty in accessing the appropriate PIO. Thus it is desirable to designate a nodal PIO/APIO in such cases.

5.3.2 The Commission also noted that in GOI the level of PIOs varied from Joint Secretary to Under Secretary {Annexure-V(2)}. Ideally the PIO should be of a sufficiently senior rank to be able to access information and furnish it in an intelligible and useful manner. At the same time the PIO should be sufficiently accessible to the public. Therefore the Commission is of the view that in GOI there should be a uniform pattern of appointing an officer of the rank of Deputy Secretary/Director as PIO. In respect of attached and subordinate offices of GOI and State Governments, a uniform prescription of this kind is not possible because of wide variation in size and scope of functions. However the principle enunciated above may be adopted while designating PIOs.

5.3.3 While Section 19(1) read with Section 7(3) (b) implies designating an appellate authority for each PIO, the law does not specifically provide for designating of appellate authorities as it does in case of PIOs. As a result there is avoidable confusion about the identification of appellate authorities. A perusal of the websites of the Union Ministries/ Departments also shows that while PIOs are invariably notified, this is not the case with appellate authorities. This omission needs to be rectified.

#### 5.3.4 Recommendations:

- (i) **All Ministries/ Departments/Agencies/Offices with more than one PIO have to designate a nodal Assistant Public Information Officer with the authority to receive requests for information on behalf of all PIOs. Such a provision should be incorporated in the Rules by appropriate governments.**
- (ii) **PIOs in Central Secretariats should be of the level of atleast Deputy Secretary /Director. In State Secretariats, officers of similar rank should**

**be notified as PIOs. In all subordinate agencies and departments, officers sufficiently senior in rank and yet accessible to public may be designated as PIOs.**

- (iii) All public authorities may be advised by the Government of India that alongwith the Public Information Officers they should also designate the appellate authority and publish both, together.**
- (iv) The designation and notification of Appellate Authorities for each public authority may be made either under Rules or by invoking Section 30 of the Act.**

#### 5.4 Organising Information and Record Keeping:

5.4.1 Pro-active disclosure of important information by governmental agencies constitutes the essence of transparency in governance. Keeping in view this philosophy, the Act emphasises suo motu disclosure {Section 4(1)}, and stipulates publication of prescribed information by all public authorities. Ideally in a vast majority of cases, information sought should be available in these disclosures without recourse to an application under Section 6. A sample study of the disclosures shows that these are often perfunctory and lacking in substance. This underscores the need for devising protocols and effective monitoring of suo motu disclosures.

5.4.2 Even when the suo motu disclosure is of an acceptable quality the question of its access still remains. While the present practice of web publication should continue with regular up-dating, there are inherent limitations in electronic communication. The vast majority of people will not have access to computers in the foreseeable future. Also a large number of small public offices and village panchayats are unlikely to be able to use this mode of communication. Therefore, a printed priced publication in the local language, revised periodically (at least once a year) should be available in each public office and supplied on demand. Such a publication should be available for reference, free of charge. In respect of electronic disclosures, it is necessary to provide a single portal through which disclosures of all public authorities under appropriate governments could be accessed, to facilitate easy availability of information.

5.4.3 One important class of disclosures not covered under the Act is public interest disclosure. Interestingly, it is recognised in many democracies that an honest and conscientious public servant who is privy to information relating to gross corruption, abuse of authority or grave injustice should be encouraged to disclose it in public interest without fear of retribution. Therefore, confidentiality of the whistle blower in such

cases if s(he) seeks it as well as protection from harassment by superiors should be integral to the transparency regime. The Law Commission, in its 179<sup>th</sup> report (2001) recommended enactment of Public Interest Disclosure (Protection) Law. This Commission fully endorses the view and recommends a suitable legislation to protect whistle blowers. The Commission will make a detailed study of the subject and make a comprehensive recommendation in its later reports on civil service reforms and ethics in governance.

5.4.4 Perhaps the weakest link in our information system is the total neglect of record keeping. The Tenth Finance Commission took note of it and recommended special grants to the States for improving record keeping. Land records are probably the most important public documents in any governance system. A vast number of people need them as a proof of title; dispute resolution relies heavily on records; access to credit is usually dependent on land ownership, and the whole administration hinges on the accuracy and reliability of land records. Naturally, access to land records will constitute bulk of the requests for information under the Act at grass roots level. Unfortunately, land records updating and maintenance has suffered great neglect after Independence. In many states, significant proportions of land records no longer exist; they are often fragile when they exist; and comprehensive land surveys have not been carried out over the past 70 years anywhere in India. This vital area of administration, while it is a part of land management, also forms an important part of transparency in governance. A one-time effort to update all land records, and ensure proper storage and retrieval is necessary.

#### Box No. 1: BBC News story

“When Rakesh Shukla, a poor farmer from the central Indian state of Chhattisgarh, asked local authorities for information on paddy field purchases in his area, he was handed a bill for 182,000 rupees. Authorities told him that the bulk of the expenses-108,000 rupees had been spent photocopying over 90,000 copies of official papers relating to the purchases. The documents filled an entire room.”

5.4.5 The Commission noted that even in Union Ministries and Departments the status of recordkeeping is a problem area {Annexure-V(3)}. In many subordinate offices/agencies of GOI and State Governments, record keeping procedures often do not exist. And where they exist, they are rarely followed. In most cases record keeping procedures have not been revised for decades. Most significantly the practice of cataloguing, indexing and orderly storage is singularly absent. Even when records are stored, retrieval of intelligible information is virtually impossible. It is perhaps because of this situation that there is a tendency to give bulk unprocessed information rather than a relevant and intelligible summarization. An example of this was reported by BBC News<sup>4</sup> which succinctly puts across the irrelevance of such an exercise. (Box No.1).

<sup>4</sup> [http://news.bbc.co.uk/go/pr/fr/-/2/hi/south\\_asia/4739306.stm](http://news.bbc.co.uk/go/pr/fr/-/2/hi/south_asia/4739306.stm), published on 13.03.2006

5.4.6 While commendable efforts have been made by a few public authorities to digitize their records and store them in an easily retrievable manner, these are largely pilot projects limited to a few islands of excellence.

5.4.7 Right to Information would be honoured only if the information exists and when it exists, it is easily retrievable and intelligible. A combination of measures is required to achieve this: record keeping procedures need to be developed, reviewed and revised; cataloguing, indexing and orderly storage should be mandatory; all documents need to be converted into rational, intelligible, retrievable information modules. A road map needs to be made for digitizing of records.

5.4.8 Laying down meticulous procedures and creating required infrastructure by themselves would not suffice. A permanent mechanism with sufficient authority, expertise and responsibility needs to be created in each government to coordinate and supervise proper record-keeping. Therefore an independent Public Records Office (PRO) should be established in GOI and in each State Government. Several record keeping agencies already exist in GOI and most states have entrusted record keeping to State Archives, State Gazetteers and State Record Rooms. These could be restructured and integrated to constitute the Public Records Office.

5.4.9 The Public Records Office would have responsibility to oversee proper record keeping in all public offices including preparation and up-dating of manuals, modernization and digitization, monitoring, inspections and other relevant functions. The Public Records Office should function under the overall guidance and supervision of CIC or SIC, as the case may be.

5.4.10 The Public Records Office would be a repository of technical and professional expertise in management of public records. Adequate funding needs to be assured for these agencies. As a one-time measure, the GOI may allocate one per cent (1%) of funds of the 'Flagship Programmes'<sup>5</sup> for a period of five years for improving the infrastructure, creating manuals, providing technical support and establishing Public Records Offices. GOI may have to separately consider creating a special fund for survey and updating of land records.

#### 5.4.11 Recommendations:

- a. **Suo motu disclosures should also be available in the form of printed, priced publication in the official language, revised periodically (at least once a year). Such a publication should be available for reference, free of charge. In respect of electronic disclosures, NIC should provide a single**

**portal through which disclosures of all public authorities under appropriate governments could be accessed, to facilitate easy availability of information.**

- b. **Public Records Offices should be established as an independent authority in GOI and all States within 6 months by integrating and restructuring the multiple agencies currently involved in record keeping. This Office will be a repository of technical and professional expertise in management of public records. It will be responsible for supervision, monitoring, control and inspection of record keeping in all public offices.**
- c. **Public Records Office would function under the overall supervision and guidance of CIC/SIC.**
- d. **As a one time measure, GOI should earmark 1% of the funds of all Flagship Programmes for a period of five years for updating records, improving infrastructure, creating manuals and establishing the Public Records Offices. (An amount not exceeding 25% of this should be utilized for awareness generation.)**
- e. **As a one time measure, GOI may create a Land Records Modernisation Fund for survey and updation of all land records. The quantum of assistance for each State would be based on an assessment of the field situation.**
- f. **All organizations, which have jurisdiction over an area equal to or exceeding a district, should be funded and required to complete the process of digitization by the end of 2009. All sub-district level organizations should complete this task by the end of 2011. The controlling Ministries/Departments at Union and State level should lay down a detailed road map for this purpose with well-defined milestones within 6 months, so that this could be implemented as a priority item in the Eleventh Five Year Plan.**

#### 5.5 Capacity Building and Awareness Generation:

5.5.1 Training programmes: The enactment of Right to Information Act is only the first step in promoting transparency in governance. The real challenge lies in ensuring that the information sought is provided expeditiously, and in an intelligible form. The mindset of the government functionaries, wherein secrecy is the norm and disclosure the exception, would require a revolutionary change. Such a change would also be required in the mindset

<sup>5</sup> Eight flagship programmes are: Sarva Siksha Abhiyan, Mid-day Meal Scheme, Rajiv Gandhi Drinking Water Mission, Total Sanitation Campaign, National Rural Health Mission, Integrated Child Services, National Rural Employment Scheme and Jawaharlal Nehru National Urban Renewal Mission.

of citizens who traditionally have been reluctant to seek information. Bringing about this radical change would require sustained training and awareness generation programmes. The Commission's own experience in seeking information from select public authorities reveals that even some PIOs are not conversant with the key provisions of the Act. The Information Commissioner's Office in the United Kingdom has published an 'Awareness Guidance' series to assist public authorities and, in particular, staff who may not have access to specialist advice about some of the issues, especially exemption provisions. This practice may also be adopted in India.

5.5.2 Awareness generation: The enactment of the Right to Information Act has led to an intense debate in the media on various aspects of freedom of information. Despite this, enquiries reveal that level of awareness, particularly at the grass roots level, is surprisingly low. In order to achieve the objectives of the Act it would be necessary that citizens become aware of their entitlements and the processes required to use this right to improve the quality of governance. Awareness generation so far has been largely confined to government advertisement in print media. An effective awareness generation campaign should involve multi media efforts including street plays, television spots, radio jingles, and other mass communication techniques. These campaigns could be effectively implemented at low cost, once committed voluntary organizations and corporates with creativity, passion and professionalism are involved.

5.5.3 Section 26 of the Act states that the appropriate government may develop and organize educational programmes to advance the understanding of the public, in particular of disadvantaged communities as to how to exercise the rights contemplated under the Act. It has also been mandated that the appropriate governments shall within 18 months from the commencement of the Act, compile a guide containing such information in a simple and comprehensible manner. The Commission feels that this should be done at the earliest as non availability of such guide is proving to be a hurdle in generation of awareness about the Act.

5.5.4 The Commission sent a questionnaire to various Union Ministries and Departments seeking information on the arrangements/efforts made by them to create awareness among citizens. The responses of the Ministries range from "information has been posted on the website" to "issues will be examined and necessary instructions issued". Some departments have conceded that no arrangements have been made so far. During field visits conducted by the Commission it was noted that awareness level about this Act among both members of the public and public authorities, particularly at the sub-district and panchayat levels is very low.

#### 5.5.5 Recommendations:

- a. **Training programmes should not be confined to merely PIOs and APIOs. All government functionaries should be imparted atleast one day training on Right to Information within a year. These training programmes have to be organized in a decentralized manner in every block. A cascading model could be adopted with a batch of master trainers in each district.**
- b. **In all general or specialized training programmes, of more than 3 days duration, a half-day module on Right to Information should be compulsory.**
- c. **Awareness campaigns may be entrusted to credible non profit organizations at the State level. They should design a multi media campaign best suited to the needs, in the local language. The funds earmarked (as mentioned in para 5.4.11.d) could be utilized for this purpose.**
- d. **Appropriate governments should bring out guides and comprehensible information material within the prescribed time.**
- e. **The CIC and the SICs may issue guidelines for the benefit of public authorities and public officials in particular and public in general about key concepts in the Act and approach to be taken in response to information requests on the lines of the Awareness Guidance Series referred to above (para 5.5.1).**

#### 5.6 Monitoring Mechanism:

5.6.1 A strong monitoring mechanism is a basic necessity for ensuring successful implementation of the Act. The monitoring mechanism apart from exercising a supervisory role, should be able to detect problems in the process of implementation and trigger corrective measures. This monitoring should be done at several levels –within the public authority, for a group of authorities in a territory, for a whole state and the country. Normally monitoring is an inhouse function where the implementing authority itself monitors the operations. For each department/agency, the head of the organization will be responsible for monitoring. A question arises as to which agency should be at the apex of the monitoring process. An option could be to assign this task to the nodal department in case of States and the nodal Ministry in case of GOI. However given their existing functions, no Ministry /Department would be able to devote full attention to this complex and onerous task.

5.6.2 The Act has created independent institutions of CIC and SICs, which are of high stature. However under the law their functions are largely limited to hearing complaints and appeals, and submitting annual reports. When an independent, full time authority exists under the Act it would be most appropriate to entrust it with the important responsibility of monitoring the implementation of the Act. The authority and public confidence these bodies command, the expertise and insights they acquire, and their propensity to expand citizens rights for better governance make them ideal institutions to discharge this responsibility.

5.6.3 Need for a coordination mechanism: Although the Act is applicable to both the Union and state governments, the field situation varies from state to state. Moreover the State Information Commissions are independent of the Central Information Commission. It is likely that many similar issues crop up before various Information Commissions. It would be advisable in public interest if all the Information Commissions can share perspectives and experiences. This would avoid duplication of efforts, minimize litigation and ensure uniform application of the Act throughout the country. Similarly, various public authorities are evolving their own methodology for implementing the Act. Some of the good practices in a state or public authority could be adapted for use in other public authorities/states also. Also, for a nationwide web based information dissemination system to work effectively it is necessary to have a strong coordination mechanism. For the reasons stated above, the CIC would be the ideal institution to head such a coordinating agency.

#### 5.6.4 Recommendations:

- a. **The CIC and the SICs may be entrusted with the task of monitoring effective implementation of the Right to Information Act in all public authorities. (An appropriate provision could be made under Section 30 by way of removal of difficulties).**
- b. **As a large number of Public Authorities exist at regional, state, district and sub district level, a nodal officer should be identified wherever necessary by the appropriate monitoring authority (CIC/SIC) to monitor implementation of the Act.**
- c. **Each public authority should be responsible for compliance of provisions of the Act in its own office as well as that of the subordinate public authorities.**

- d. **A National Coordination Committee (NCC) may be set up under the chairpersonship of the Chief Information Commissioner with the nodal Union Ministry, the SICs and representatives of States as members. A provision to this effect may be made under Section 30 of the Act by way of removing difficulties. The National Coordination Committee would:**
  - i. **serve as a national platform for effective implementation of the Act,**
  - ii. **document and disseminate best practices in India and elsewhere,**
  - iii. **monitor the creation and functioning of the national portal for Right to Information,**
  - iv. **review the Rules and Executive orders issued by the appropriate governments under the Act,**
  - v. **carry out impact evaluation of the implementation of the Act; and**
  - vi. **perform such other relevant functions as may be deemed necessary.**



### 6.1 Implementation of the Act

6.1.1 The implementation of the RTI Act is an administrative challenge which has thrown up various structural, procedural and logistical issues and problems, which need to be addressed in the early stages. The Commission has identified some of the problem areas in implementation and these are discussed and recommendations made for their redressal in the following paras.

#### 6.2 Facilitating Access:

6.2.1 For seeking information, a process as prescribed under the Act has to be set in motion. The trigger is filing of a request. Once the request is filed the onus of responding to it shifts to the government agency. The steps involved in processing a request for information are given in the chart in Fig.-1.

6.2.2 Based on the case studies conducted by the Commission, responses of various Ministries to a questionnaire, and interactions with the stakeholders, a number of difficulties /impediments were noted:

- Complicated system of accepting requests.
- Insistence on demand drafts.

#### Box-2-Difficulty in filing application

Application requesting for information in three parts was made under Right to Information Act 2005 to the Ministry of Water Resources on 20.01.2006 at Shram Shakti Bhawan, New Delhi. The application fee of Rs.10/- (in cash) was enclosed with the application. The CPIO's Office informed the applicant that there was no arrangement for receipt of cash at his office. He directed the applicant to the Pay and Accounts Office of the Ministry at Shastri Bhawan, New Delhi, where the fee was finally deposited. The CPIO's Office at Shram Shakti Bhawan accepted the application on the basis of payment of fee (the applicant had an official pass so he had no problem in entering the building).

#### Box-3-Cost of a bank draft

Information was sought from Department of Industrial Policy & Promotion. Application was made on 23.1.2006. The applicant went to Udyog Bhawan, which houses this Department. At the Reception, there was a board, which displayed the name of the CPIO. His office informed that the requisite fee is not acceptable in cash and a demand draft in favour of Pay and Accounts Officer, Department of Industrial Policy & Promotion will have to be made. A service charge of Rs.35/- had to be paid to the bank for issuing a demand draft of Rs.10/-. Thus, for a fee of Rs.10/-, the applicant had to incur a cost of Rs.45/-. On the basis of the demand draft the Office of the concerned CPIO accepted the application

### Issues in Implementation

- Difficulties in filing applications by post.
- Varying and often higher rates of application fee.
- Large number of PIOs.

6.2.3 Complicated system of accepting requests : While accepting applications, Departments insist that cash be paid at the accounts office. In Ministries, the accounts office and the PIOs office are different and at times in different locations. The Rules also prescribe that for each extra page of information, Rs. 2 has to be paid, for which the applicant has to go through

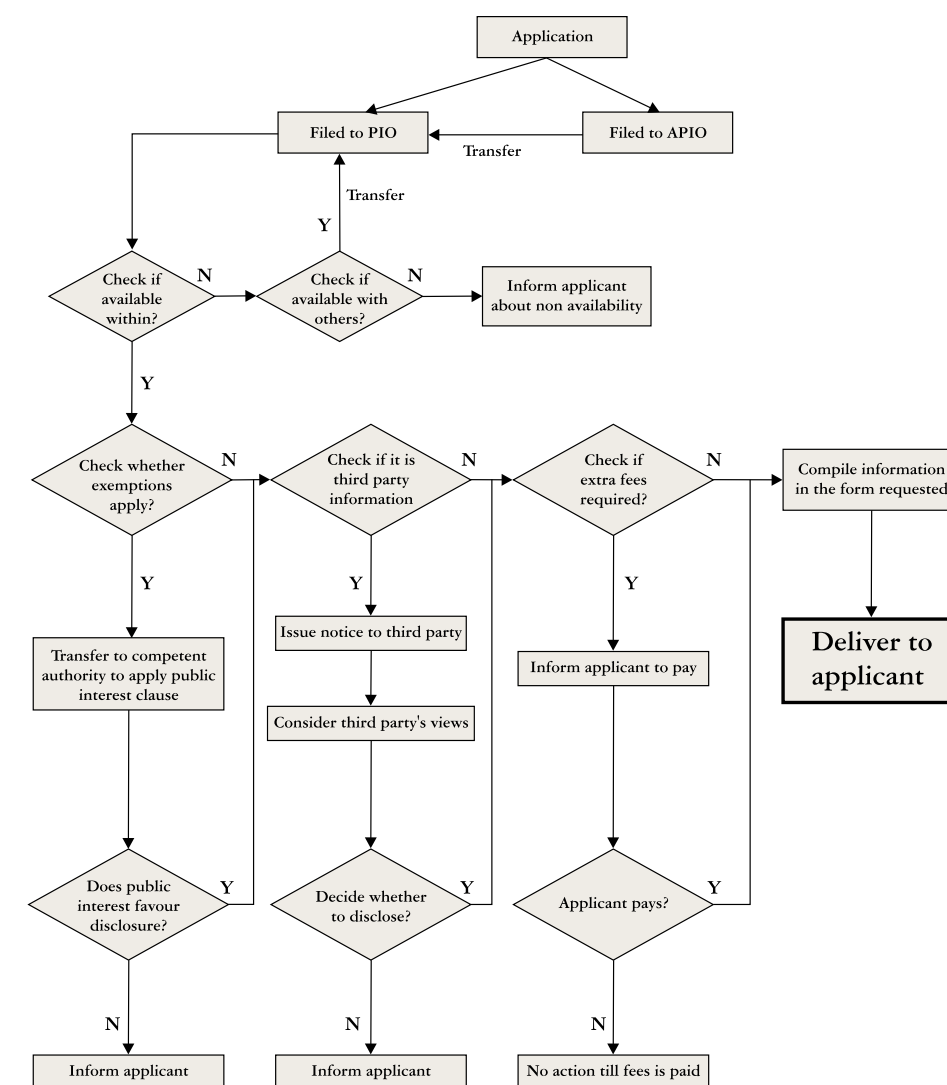


FIG. 1 FLOWCHART OF THE PROCESSES INVOLVED IN GIVING INFORMATION UNDER RTI ACT

the same process. The difficulty would get further pronounced in field offices, many of which do not have provision to collect cash. Moreover, getting a visitor's pass to enter a government building results in unwarranted wait times (especially, when the PIO responsible might not be available owing to a number of other responsibilities which (s)he handles). Therefore, the process of filing requests for information needs to be simplified.

6.2.4 Insistence on demand drafts: Though there is a provision to pay fees through bank drafts, this poses another problem, as the bank charges Rs 35 to prepare a demand draft of Rs 10. Therefore the insistence by some departments to receive fees only through demand drafts and not in cash needs to be dispensed with.

6.2.5 Difficulties in filing applications by post: Under the existing dispensation, filing applications by post would necessarily involve payment of the application fee by way of demand draft or Banker's cheque. Therefore there has to be a mechanism by which requests for information are made possible through post.

6.2.6 Varying and often higher rates of application fee: Different States have prescribed different fees in this regard. The Tamil Nadu Right to Information (Fees) Rules provides that an application fee of Rs 50 has to be paid for each request. During its public hearing in Chennai, the Commission was informed that this high rate of fees discouraged filing of applications under the Act. Therefore there is a need to harmonise the fee structure.

#### 6.2.7 Recommendations:

- a. **In addition to the existing modes of payment, appropriate governments should amend the Rules to include payment through postal orders.**
- b. **States may be required to frame Rules regarding application fee which are in harmony with the Central Rules. It needs to be ensured that the fee itself does not become a disincentive.**
- c. **Appropriate governments may restructure the fees (including additional fees) in multiples of Rs 5. {e.g. instead of prescribing a fee of Rs. 2 per additional page it may be desirable to have a fee of Rs. 5 for every 3 pages or part thereof}.**
- d. **State Governments may issue appropriate stamps in suitable denominations as a mode of payment of fees. Such stamps would be used for making applications before public authorities coming within the purview of State Governments.**
- e. **As all the post offices in the country have already been authorized to function as APIOs on behalf of Union Ministries/Departments, they may also be authorized to collect the fees in cash and forward a receipt along with the application.**

### 6.3. Inventory of Public Authorities:

**6.3.1** The Act defines public authorities to include a vast array of institutions and agencies. For people to access information, a catalogued and indexed list of all public authorities is necessary. In a vast and diverse country with a federal structure, listing out all the public authorities is a Herculean task. Therefore an inverted tree concept could be followed to have an inventory of all public authorities. Starting from Ministries of GOI, each Ministry should have details of all public authorities immediately under its control. Similarly each public authority should have an exhaustive list of agencies and offices under its immediate control. This should be followed till the lowest public authority in the hierarchy is reached. This concept is explained in Annexure VI(1).

#### 6.3.2 Recommendations:

- a. **At the Government of India level the Department of Personnel and Training has been identified as the nodal department for implementation of the RTI Act. This nodal department should have a complete list of all Union Ministries/ Departments which function as public authorities.**
- b. **Each Union Ministry/ Department should also have an exhaustive list of all public authorities, which come within its purview. The public authorities coming under each ministry/ department should be classified into (i) constitutional bodies, (ii) line agencies, (iii) statutory bodies, (iv) public sector undertakings, (v) bodies created under executive orders, (vi) bodies owned, controlled or substantially financed, and (vii) NGOs substantially financed by government. Within each category an up-to-date list of all public authorities has to be maintained.**
- c. **Each public authority should have the details of all public authorities subordinate to it at the immediately next level. This should continue till the last level is reached. All these details should be made available on the websites of the respective public authorities, in a hierarchical form.**
- d. **A similar system should also be adopted by the States.**

### 6.4 Single Window Agency at District Level:

6.4.1 After sufficient awareness generation, it is expected that a large number of requests for information would come to the field level Public Authorities. Presently almost all departments and agencies of the State Government are represented at the District level. All these offices are often dispersed and most citizens would be unaware of their location. Under such circumstances it becomes difficult for an applicant to identify the Public Authority and to locate it. Therefore it is necessary to have a Single Window Agency, which could receive

requests for information on behalf of the public authorities/PIOs which have jurisdiction over the district and then forward them to the respective public authority/PIO. This, apart from helping the public would also help in keeping track of the applications.

#### 6.4.2 Recommendation:

- a. **A Single Window Agency should be set up in each District. This could be achieved by creating a cell in a district-level office, and designating an officer as the Assistant Public Information Officer for all public authorities served by the Single Window Agency. The office of the District Collector/ Deputy Commissioner, or the Zilla Parishad is well suited for location of the cell. This should be completed by all States within 6 months.**

#### 6.5. Subordinate Field Offices and Public Authorities

6.5.1 'Public authority' has been defined as any authority or body or institution of self-government established or constituted by or under the Constitution, by any other law made by Parliament, by State Legislatures, and by any notification issued by the appropriate Government, including institutions substantially funded by the appropriate Government. This would extend the spread of public authorities to the level of panchayats and village patwaris across the country.

6.5.2 Under Section 5 of the Act, public authorities have to appoint Public Information Officers/Assistant Public Information Officers (PIOs/ APIOs). Different public authorities have adopted different approaches towards discharge of these responsibilities. For example, the Central Silk Board has appointed one PIO for the entire organization and a number of APIOs for its Head Quarters as well as various Field Units. The Income Tax Department has appointed a large number of CPIOs, mainly at the level of Commissioners at the field level, leaving the Range offices generally unattended. Similarly, PIOs are often conspicuous by their absence at the Block and Taluka levels in the States. In other words, the experience so far suggests that lower tiers of the Government have neither been considered as Public Authorities nor have PIOs been designated.

6.5.3 Even a literal interpretation of the law indicates a considerable overlap between PIOs/ APIOs and public authorities. According to the definition in the Act, lower tiers of field formations should be treated as Public Authorities. While these tiers of administration may be appointed as APIOs by the higher authorities of their respective organizations, these tiers per se would also qualify as Public Authorities for their own internal functioning. This would in turn cast on them the responsibility of making suo motu disclosure of information under Section 4 of the Act. Currently, this is not being done. However, the intention of the

Act is to reach a stage where suo motu disclosure of information by institutions in itself takes care of citizens' need for information. Therefore public authorities at the lower end of the administrative and/or functional hierarchies need to be identified to discharge responsibilities under Section 4 of the Act, as they are closest to the people both physically and functionally.

#### 6.5.4 Recommendation:

- a. **The lowest office in any organization which has decision making power or is a custodian of records should be recognized as a public authority.**

#### 6.6 Application to Non Governmental Bodies:

6.6.1 Under the Act, a non-governmental body needs to be substantially financed by government to be categorized as a public authority under the Act. There is however no definition of "substantially financed."

6.6.2 A comparison with laws of other countries reveals interesting facts. Section 5 of the FOI Act (UK) gives the Secretary of State, power to designate private organisations as public authorities if either they appear to him to be performing functions of a public nature; or they are carrying out functions under contract with a public authority which would otherwise be up to the authority to provide. In case of charities, the UK Act applies only when they are set up by the Crown, statute or a government department and have at least one nominee of the Crown or the government department. A small number of 'wholly publicly-owned' companies are subject to the Freedom of Information Act in UK but the vast majority of private companies are not.

6.6.3 The Promotion of Access to Information Act, South Africa, goes a step further.

*"Public body" means—*

- (a) *any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government; or*
- (b) *any other functionary or institution when—*
  - (i) *exercising a power or performing a duty in terms of the Constitution or a provincial constitution; or*
  - (ii) *exercising a public power or performing a public function in terms of any legislation;*

6.6.4 Besides, under Section 50 of the South African Act, it is provided that:

- "50. (1) A requester must be given access to any record of a private body if*
- (a) *that record is required for the exercise or protection of any rights;"*

6.6.5 In the wake of outsourcing of functions which traditionally were performed by government agencies, it is desirable that institutions that enjoy a natural monopoly, or whose functions impinge on citizens' lives substantially, must come under the provisions of the RTI Act. Also it may be desirable to define what 'substantially financed' would mean, otherwise different authorities may interpret this in different ways.

#### 6.6.6 Recommendations:

- a. **Organisations which perform functions of a public nature that are ordinarily performed by government or its agencies, and those which enjoy natural monopoly may be brought within the purview of the Act.**
- b. **Norms should be laid down that any institution or body that has received 50% of its annual operating costs, or a sum equal to or greater than Rs.1 crore during any of the preceding 3 years should be understood to have obtained 'substantial funding' from the government for the period and purpose of such funding.**
- c. **Any information which, if it were held by the government, would be subject to disclosure under the law, must remain subject to such disclosure even when it is transferred to a non-government body or institution.**
- d. **This could be achieved by way of removal of difficulties under section 30 of the Act.**

#### 6.7 Time Limit for Information Beyond 20 Years:

6.7.1 RTI Act stipulates that:

*"(3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section."*

6.7.2 A uniform limit of 20 years may on a few occasions pose problems for the Public Authorities as well as the applicants. There is a significant percentage of records which is permanent in nature. These include the records of rights maintained by the State Land Revenue Department, the Registrars and Sub Registrars of Lands, important Court Rulings, important files regarding policy decisions in various Public Authorities, Birth and Death Registrations etc. In such cases requests are received for events which may be well beyond 20 years.

6.7.3 On the other hand most public records are not maintained for 20 years. This is prescribed by the Manual of Office Procedure in the Government of India. Similar Manuals also exist in the State Governments.

6.7.4 The Manual of Office Procedure of Central Secretariat prescribes that:

*"111 Record Retention Schedule -*

- (1) *To ensure that files are neither prematurely destroyed, nor kept for periods longer than necessary, every department will:*
  - (a) *in respect of records connected with accounts, observe the instructions contained in Appendix 13 to the General Financial Rules;*
  - (b) *in respect of records, relating to establishment, personnel and housekeeping matters common to all departments, follow the 'schedule of periods of retention for records common to all departments' issued by the Department of Administrative Reforms and Public Grievances;*
  - (c) *in respect of records prescribed in this Manual, observe the retention periods specified in Appendix 28; and*
  - (d) *in respect of records connected with its substantive functions, issue a departmental retention schedule prescribing the periods for which files dealing with specified subjects should be preserved in consultation with the National Archives of India.*
- (2) *The above schedules should be reviewed at least once in 5 years."*

*Under Appendix 28, retention period has been prescribed ranging from 1 year to permanent retention, for different categories of documents.*

6.7.5 The need for harmony between the recordkeeping procedures and the stipulations under the Act is obvious.

#### 6.7.6 Recommendations:

- a. **The stipulation of making available 20-year old records on request should be applicable only to those public records which need to be preserved for such a period. In respect of all other records, the period of availability will be limited to the period for which they should be preserved under the record keeping procedures.**
- b. **If any public authority intends to reduce the period upto which any category of record is to be kept, it shall do so after taking concurrence of the Public Records Office as suggested in para 5.4.11.**

**c. These recommendations could be implemented by way of removal of difficulties under Section 30 of the Act.**

**6.8 Mechanism for Redressal of Public Grievances:**

6.8.1 In a large number of cases information sought to be accessed stems from a grievance against a department/ agency. Information is the starting point in a citizen's quest for justice and is not an end in itself. Information thus becomes a means to fight corruption and misgovernance or obtain better services.

6.8.2 Experience has shown that functionaries/departments tend to be defensive rather than proactive in redressing a grievance (or even in disclosing information) particularly when it directly pertains to their conduct (or misconduct). This proclivity underlines the need for an independent forum to hear complaints into acts of omission and commission, harassment, corruption etc. which emerge either through information collected under the Right to Information Act or otherwise. Such an independent body should hear the citizen and the public authority, come to an early conclusion about how the complaint can be best redressed, and where dereliction of duty is established, recommend initiation of disciplinary actions, and also suggest systemic reforms where required.

6.8.3 A successful example of this mechanism is the Public Grievances Commission (PGC) set up by the Delhi Government in 1997. When the Delhi Right to Information Act came into force in 2001, the PGC was made the appellate authority to decide appeals under the Act. Because of this arrangement the PGC has become an effective "single window" authority which facilitates access to information and when required provides a platform for redressing the citizen's grievances as well. The PGC has also effectively used its statutory status and authority under Delhi RTI Act combined with its non-statutory grievance redressal powers to foster systemic reforms.<sup>6</sup>

**Box-4—Public Grievances Commission**

An appeal involving a request for information as to why the Registration Department continued to use antiquated rules to register land transactions led to the PGC commissioning an independent report on the working of the Registration Department, with recommendations for its reforms.

6.8.4 Taking note of this successful administrative arrangement, the Commission is of the view that similar arrangements could be replicated (with suitable modifications) by other states. A beginning could be made with bigger cities. This can be either a single authority like the PGC or a separate independent public grievance redressal authority, which works in close coordination with SIC or district Single Window Agency.

**6.8.3 Recommendations:**

- (i) **States may be advised to set up independent public grievances redressal authorities to deal with complaints of delay, harassment or corruption. These authorities should work in close coordination with the SICs/District Single Window Agencies, and help citizens use information as a tool to fight against corruption and misgovernance, or for better services.**

**6.9 Frivolous and Vexatious Requests:**

6.9.1 The highlight of the Act is that the information seeker "shall not be required to give any reason for requesting the information ..... or any other personal details....". This salutary provision is important to ensure that there is no subjective evaluation of the request, or denial on specious grounds. However certain instances have been brought to the notice of the Commission in which the requests were patently frivolous or vexatious (or mala fide). There are also cases in which public servants under a cloud and facing grave disciplinary charges have repeatedly attempted to use the Act to intimidate, harass or at times even humiliate seniors with requests that have been vexatious. If safeguards are not provided in such situations, there could be three dangers. First, such frivolous or vexatious requests may overwhelm the system and defeat the very purpose of the Act. Second, the even tenor of the administration may be paralysed, seriously undermining delivery of services. Third, if public servants facing serious charges successfully resort to such tactics directly or through proxies it may lead to breakdown of discipline, insubordination and disharmony in public institutions. The Commission therefore feels that adequate safeguards should be provided against vexatious and malicious requests, even as no fetters are imposed on citizens seeking information in accordance with the letter and spirit of section 6(2).

The Commission examined the relevant legal provisions and practices in other countries. Section 14 of Freedom of Information Act (UK) reads as follows:

*"14. (1) Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.*

*(2) Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request."*

The South African Act also has a similar provision. Section 45 of the Act reads as follows:

*"45. The information officer of a public body may refuse a request for access to a record of the body if—*

<sup>6</sup> Based on Reforming Public Services in India-A World Bank Report

- (a) *the request is manifestly frivolous or vexatious: or*  
 (b) *the work involved in processing the request would substantially and unreasonably divert the resources of the public body.”*

After careful examination of these provisions the Commission is of the view that the South African law addresses the problem effectively, even as the citizen’s right to information is fully protected.

6.9.4 It has also been brought to the notice of the Commission that there may be cases where the efforts in compiling information may not be commensurate with the results achieved. Even in case of furnishing information to Parliament there is a stipulation that a question which clearly relates to day-to-day administration and asks for collection of facts pertaining to the Ministries entailing prolonged labour and time not commensurate with results achieved is ordinarily disallowed<sup>7</sup>. The Commission feels that requests for information, the collection and compilation of which would require effort not commensurate with the output may be disallowed.

However all precautions must be taken to ensure that genuine requests for information are not branded as ‘frivolous’ or ‘vexatious’. Nor should information be denied casually on the ground that “the work involved in processing the request would substantially and unreasonably divert the resources of the public body”. Therefore a safeguard needs to be inserted in all such cases of refusal, so that there is greater scrutiny by a higher authority and a mandatory reference to CIC/SIC, as the case may be.

#### **6.9.5 Recommendations:**

- a. Section 7 may be amended to insert sub section (10) as follows:**  
*“The PIO may refuse a request for information if the request is manifestly frivolous or vexatious*  
*Provided that such a refusal shall be communicated within 15 days of receipt of application, with the prior approval of the appellate authority.*
- Provided further that all such refusals shall stand transferred to CIC/SIC, as the case may be and the CIC/SIC shall dispose the case as if it is an appeal under section 19(3) of the RTI Act”.*

- b. It may be provided that information can be denied if the work involved in processing the request would substantially and unreasonably divert the resources of the public body.**  
**Provided that such a refusal shall be communicated within 15 days of receipt of application, with the prior approval of the appellate authority.**

**Provided further that all such refusals shall stand transferred to CIC/SIC, as the case may be and the CIC/SIC shall dispose the case as if it is an appeal under section 19(3) of the RTI Act.**

**This may be accomplished by way of removal of difficulties or framing of appropriate Rules.**

## 7 APPLICATION OF THE ACT TO THE LEGISLATURE AND THE JUDICIARY

7.1 Most of the observations and recommendations of the Commission in this Report apply largely to the Executive branch of government. The Legislature and Judiciary are also covered by the Act. The definition of public authority {Section 2(b)} includes any authority, or body, or institutions of self government, established or constituted by or under the Constitution, or any law made by Parliament or State Legislature, or by a notification or order of the appropriate government. Section 2(e) therefore includes, the presiding officers of the Legislature at the Union and State levels as well as the Chief Justices of the Supreme Court and High Courts. The intent of the Parliament to make the law applicable to all public institutions including the Legislatures and Judiciary is clearly evident.

7.2 In the Executive branch, traditionally secrecy has been the norm throughout the world, so also in India. The Legislatures and the Judiciary in India already operate within the public eye to a far greater extent than the Executive. The proceedings of the Legislatures are open to public and media and even telecast live in recent years. The meetings of Legislative Committees, however are generally not open to the public and media. Nevertheless, most of the functioning of the Legislature is in full public gaze. Similarly, all judicial processes are in the public domain and hence totally transparent. But administrative processes within the courts would have to be brought within the ambit of this law, at the same time, without compromising with the independence and the dignity of the courts. There is need to bring uniformity in the information recording systems, introduce standard forms and a better system of classification of cases. The Act may be used as an instrument to build capacity to evolve efficient systems of information dissemination.

7.3 The Commission carefully studied the application of the Act to the Legislature and the Judiciary. The Commission also interacted with experts and jurists. Most of the recommendations pertaining to the implementation of the Act apply to both the Legislatures and the Judiciary. The respective Competent Authorities may adopt them with appropriate modifications to suit institutional requirements. However, a few issues especially applicable to these two organs of State need to be highlighted.

7.4 Legislatures are storehouses of enormous amount of information on public policies and executive actions. However, there are two problems. First the information is disaggregated and not adequately synthesised. Thus, on the same subject there are several separate documents, often chronologically arranged, without sectoral linkages. Second, while information is available to legislators, it is very hard for citizens to access it. In order to address these issues, all information with the legislatures needs to be indexed, catalogued and computerised, with online access to all citizens and supply on demand. This access should be provided as part of the proactive disclosure requirement under Section 4 of the Act.

7.5 Apart from law making, the Legislature exercises oversight function over the Executive branch. Parliamentary (Legislative) questions, proceedings of various committees, follow up action on the reports of CAG, action taken reports submitted by the government are a few vital mechanisms for such legislative oversight. However, except through media reports, the citizens rarely have direct access to such information. This lacuna needs to be addressed by making all such information available to the public both online (electronic) and on demand (print).

7.6 Equally important is a computerised tracking mechanism, so that the legislators as well as the general public can trace the sequence of events and compliance by the executive agencies on matters like petitions, CAG reports and action taken on reports of enquiry commissions or House committees.

7.7 In most democracies, a major part of the legislative work is conducted in Committees. As Woodrow Wilson once observed, "Congress in session is Congress on exhibition; Congress in Committees is Congress at work". In India too, most of the important legislative work is conducted in the Committees, away from partisan influences and transient emotions. However, the work of legislative committees in India has generally been away from the public and media gaze. With the regime of transparency being institutionalised, such seclusion of legislative committees is unsustainable. The spirit of democracy as well as the letter of law demands that all work of legislative committees, save on matters exempted from public gaze under the Act for reasons of state or privacy, should be thrown open to public and media. But there are genuine concerns relating to public transaction of legislative committees business. At times, in the full house of a legislature, members tend to play to the galleries to capture media attention, or take a partisan line or extreme position. The debates in legislatures thus tend to be on predictable lines, and often polarise society instead of bringing sobriety and moderation. Such moderation and ability to reconcile conflicting interests are the essential functions of democratic politics. In Committees, away from the heat of passion, legislators usually act with great moderation and bring depth and substance to discussion on public

policy. Bipartisan consensus and balanced consideration of issues is the hallmark of a Committee's work. There could be the risk of this advantage being jeopardised by throwing open the Committee's work to public and media.

7.8 The Commission has carefully examined these competing considerations. It is of the considered view that on balance the dictates of democracy and transparency should prevail. The legislative parties should evolve a consensus in order to retain the best features of the Committee system even as the work of Committees is opened to public gaze.

7.9 As mentioned earlier the judicial processes are transparent. Even on the administrative front, the last decade has seen major strides made by judiciary in use of information technology for better court management and providing information to the litigants. In the Supreme Court of India and all High Courts, fresh cases are filed only before the computerized filing counters; cause lists are generated automatically by the computer and manual intervention has been eliminated resulting in generation of Cause List in time without any hurdles; a software (COURTNIC)<sup>8</sup> provides Supreme Courts' pending case status information to litigants/advocates on any node of NICNET; The Supreme Court of India and all the 18 High Courts and their Benches are fully computerised, and all these courts generate daily and weekly causelists from the computer servers installed by NIC. The Government of India has approved a proposal for computerisation of the district and subordinate courts.

7.10 A prerequisite for making the administrative processes in the district and the subordinate courts totally transparent is their computerisation. This is necessitated because of the sheer volume of records handled. Furthermore, the records of these courts require scientific storage, indexing and cataloguing thereby facilitating easy access.

#### **7.11 Recommendations:**

- a. A system of indexing and cataloguing of records of the legislatures, which facilitates easy access should be put in place. This could be best achieved by digitising all the records and providing access to citizens with facilities for retrieving records based on intelligible searches.**
- b. A tracking mechanism needs to be developed so that the action taken by the executive branch on various reports like CAG, Commissions of Enquiry and House Committees is available to legislators and public, online.**
- c. The working of the legislative committees should be thrown open to the public. The presiding officer of the committee, if required in the interest of State or privacy, may hold proceedings in camera.**

- d. The records at the district court and the subordinate courts should be stored in a scientific way, by adopting uniform norms for indexing and cataloguing.**
- e. The administrative processes in the district and the subordinate courts should be computerised in a time bound manner. These processes should be totally in the public domain.**

<sup>8</sup> <http://indiancourts.nic.in/courtnicmore.htm>



## 8 REMOVAL OF DIFFICULTIES

### 8.1 Power to Remove Difficulties:

8.1.1 Section 30 of the Act stipulates as follows:

*“30 (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty:*

*Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act”*

8.1.2 The implementation of the Act is yet to stabilize and it is perhaps too early to identify difficulties that may be encountered. The Commission however has identified some initial difficulties which could impede smooth implementation of the Act. These have been highlighted in the preceding chapters of this Report. Some of these would require taking recourse to Section 30 of the Act. These are reproduced below for ready reference:

- (i) **All organisations listed in the Second Schedule have to appoint PIOs. Appeals against orders of PIOs should lie with CIC/SICs. (para 2.5.6.c)**
- (ii) **Provision should be made to include annual confidential reports, examination question papers and related matters in the exemptions under the RTI Act. (para 4.1.8.a.i)**
- (iii) **Provision has to be made for designation and notification of Appellate Authority for each public authority. (para 5.3.4.iv)**
- (iv) **The CIC and the SICs should be entrusted with the task of monitoring effective implementation of Right to Information in all public authorities. (para 5.6.4.a)**
- (v) **A National Coordination Committee (NCC) may be set up under the chairpersonship of the Chief Information Commissioner with the nodal Union Ministry, the SICs and representatives of States as members. A provision to this effect may be made under Section 30 of the Act by way of removing difficulties. (para 5.6.4.d)**

- (vi) **The following norms should be followed for determining applicability of the Act to non governmental organizations.**
  - a. **Organisations which perform functions that are ordinarily performed by government or its agencies, and those which enjoy natural monopoly should be brought within the purview of the Act.**
  - b. **Norms should be laid that any institution or body that has received 50% of its annual operating costs, or a sum equal to or greater than Rs.1 crore, during any of the preceding 3 years should be understood to have obtained ‘substantial funding’ from the government for the period and purpose of such funding.**
  - c. **Any information which, if it were held by the government, would be subject to disclosure under the law, must remain subject to such disclosure even when it is transferred to a non-government body or institution. (para 6.6.6. a, b &c)**
- (vii) **The stipulation of making available 20-year old records on request should be applicable only to those public records which need to be preserved for such a period. In respect of all other records, the period of availability will be limited to the period for which they should be preserved under the record keeping procedures.**

**If any public authority intends to reduce the period upto which any category of record is to be kept, it shall do so after taking concurrence of the CIC/SIC as the case may be. (para 6.7.6.a & b)**

- (viii) **It may be provided that information can be denied if the work involved in processing the request would substantially and unreasonably divert the resources of the public authority.**

**Provided that such a refusal shall be communicated within 15 days of receipt of application, with the prior approval of the appellate authority.**

**Provided further that all such refusals shall stand transferred to CIC/SIC, as the case may be and the CIC/SIC shall dispose the case as if it is an appeal under section 19(3) of the RTI Act. (para 6.9.5.b)**

9.1 The Right to Information law of 2005 signals a radical shift in our governance culture and permanently impacts all agencies of state. The effective implementation of this law depends on three fundamental shifts: from the prevailing culture of secrecy to a new culture of openness; from personalized despotism to authority coupled with accountability; and from unilateral decision making to participative governance. Obviously one single law cannot change everything. But this fine legislation is an important beginning. Its effective application depends largely on the institutions created, early traditions and practices, attendant changes in laws and procedures, and adequate participation of people and the public servants. The Commission, therefore, focused on two broad categories of issues:

9.2 The first set of issues relates to changes in other laws and practices involving state secrets, civil service conduct rules and classification of documents. The Commission firmly believes that the Official Secrets Act, 1923 in the current form is antiquated and unsuitable to emerging needs. The second set of issues relates to implementation of the RTI Act itself, in particular process engineering, record keeping, disclosures, access and monitoring. In respect of the second category of issues, the Commission's recommendations are largely within the framework of the present law.

9.3 It is well recognized that right to information is necessary, but not sufficient, to improve governance. A lot more needs to be done to usher in accountability in governance, including protection of whistle blowers, decentralization of power and fusion of authority with accountability at all levels. Nevertheless, this law provides us a priceless opportunity to redesign the processes of governance, particularly at the grass roots level where the citizens' interface is maximum. Now that the romance of the struggle for transparency is over, the tedious process of system-building has to take over. It is in this spirit that the Commission made specific recommendations and attempted to provide a road map for their time-bound implementation.

## SUMMARY OF RECOMMENDATIONS:

### 1. The Official Secrets Act (Para 2.2.12) :

- a. **The Official Secrets Act, 1923 should be repealed, and substituted by a chapter in the National Security Act, containing provisions relating to official secrets.**
- b. **The equivalent of the existing Section 5, in the new law may be on the lines recommended by the Shourie Committee as quoted below.**

**“ 5(1) If any person, having in his possession or control any official secret which has come into his possession or control by virtue of:-**

- b1. his holding or having held an office with or under government, or**
- b2. a contract with the government, or**
- b3. it being entrusted to him in confidence by another person holding or having held an office under or with the government, or in any other manner,**
  - i. communicates, without due authority such official secret to another person or uses it for a purpose other than a purpose for which he is permitted to use it under any law for the time being in force; or**
  - ii. fails to take reasonable care of, or so conducts himself as to endanger the safety of the official secret; or**
  - iii. wilfully fails to return the official secret when it is his duty to return it,**

**shall be guilty of an offence under this section.**

**5(2) Any person voluntarily receiving any official secret knowing or having reasonable ground to believe, at the time he receives it, that the official secret is communicated in contravention of this Act, he shall be guilty of an offence under this section.**

5(3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

**Explanation:** For the purpose of this section, ‘Official Secret’ means any information the disclosure of which is likely to prejudicially affect the sovereignty and integrity of India, the security of State, friendly relations with foreign states, economic, commercial, scientific and technological matters relating to national security and includes: any secret code, password, sketch plan, model, article, note or document in relation to a prohibited place.”

## 2. Governmental Privilege in Evidence (Para 2.3.8) :

- a. Section 123 of the Indian Evidence Act, 1872 should be amended to read as follows:

*“123. (1) Subject to the provisions of this section, no one shall be permitted to give any evidence derived from official records which are exempt from public disclosure under the RTI Act, 2005.*

*(2) Where he withholds such permission, he shall make an affidavit containing a statement to that effect and setting forth his reasons therefor.*

*(3) Where such officer has withheld permission for the giving of such evidence, the Court, after considering the affidavit or further affidavit, and if it so thinks fit, after examining such officer or, in appropriate cases, the Minister, orally:*

- a) shall issue a summons for the production of the unpublished official records concerned, if such summons has not already been issued*
- b) shall inspect the records in chambers; and*
- c) shall determine the question whether the giving of such evidence would or would not be injurious to public interest, recording its reasons therefor.*

*(4) Where, under sub-section (3), the Court decides that the giving of such evidence would not be injurious to public interest, the provisions of sub-section (1) shall not apply to such evidence.*

*Provided that in respect of information classified as Top Secret for reasons of national security, only the High Court shall have the power to order production of the records.”*

Section 124 of the Indian Evidence Act will become redundant on account of the above and will have to be repealed.

Accordingly, the following will have to be inserted at the appropriate place in the Code of Civil Procedure, 1908 and the Code of Criminal Procedure, 1973:

*“Any person aggrieved by the decision of any Court subordinate to the High Court rejecting a claim for privilege made under section 123 of the Indian Evidence Act, 1872 shall have a right to appeal to the High Court against such decision, and such appeal may be filed notwithstanding the fact that the proceeding in which the decision was pronounced by the Court is still pending.”*

## 3. The Oath of Secrecy (Para 2.4.4):

- a. As an affirmation of the importance of transparency in public affairs, Ministers on assumption of office may take an oath of transparency along with the oath of office and the requirement of administering the oath of secrecy should be dispensed with. Articles 75(4) and 164 (3), and the Third Schedule should be suitably amended.
- b. Safeguard against disclosure of information against the national interest may be provided through written undertaking by incorporation of a clause in the national security law dealing with official secrets.

## 4. Exempted organizations (Para 2.5.6) :

- a. The Armed Forces should be included in the Second Schedule of the Act.
- b. The Second Schedule of the Act may be reviewed periodically.
- c. All organizations listed in the Second Schedule have to appoint PIOs. Appeals against orders of PIOs should lie with CIC/SICs. (This provision can be made by way of removal of difficulties under section 30)

## 5. The Central Civil Services (Conduct) Rules (Para 3.1.4) :

- a. Civil Services Rules of all States may be reworded on the following lines:

*“Communication of Official Information:*

*Every Government servant shall, in performance of his duties in good faith, communicate to a member of public or any organisation full and accurate information, which can be disclosed under the Right to Information Act, 2005.*

***Explanation – Nothing in this rule shall be construed as permitting communication of classified information in an unauthorised manner or for improper gains to a Government servant or others.”***

**6. The Manual of Office Procedure (Para 3.2.3) :**

- a. Para 116 of the Manual of Office Procedure needs to be reworded as follows:  
***“Communication of Official Information: Every Government Servant shall, in performance of his duties in good faith, communicate to a member of public or any organization full and accurate information, which can be disclosed under the Right to Information Act. (Nothing stated above shall be construed as permitting communication of classified information in an unauthorized manner or for improper gains to a Government Servant or others).”***
- b. Para 118 (1) should be deleted.
- c. The State Governments may be advised to carry out similar amendments in their Manuals, if such provisions exist therein.

**7. Classification of Information (Para 4.1.8) :**

- a. The GOI should amend the Manual of Departmental Security Instructions in the following manner:
  - i. **Information Deserving Classification (Para 3)**  
 It would be advisable for each Ministry/Department to identify the information which deserves to be given a security classification. Ordinarily, only such information should be given a security classification which would qualify for exemption from disclosure under the Right to Information Act, 2005. The Classification of documents should be done as per the following guidelines.

Sl.No.	Section of the RTI Act to which information pertains	Classification
1	8(1)(a)	Top Secret
2	8(1)(b)	Confidential
3	8(1)(c)	Confidential
4	8(1)(d)	Secret
5	8(1)(e)	Confidential
6	8(1)(f)	Secret
7	8(1)(g)	Top Secret/Secret
8	8(1)(h)	Secret/Confidential
9	8(1)(i)	Confidential
10	8(1)(j)	Confidential/restricted
11	9	Confidential/restricted

**Explanation:** The above mentioned classification should be generally followed. It is quite possible that information may be covered by more than one exemption; in that case the information should be given the classification of the higher category. Also if it is felt by the competent authority that circumstances of a case demand a higher classification than what is indicated above, then the same may be done by an authority, which is empowered to give such a classification.

Provision should be made to include annual confidential reports of officers and examination question papers and related matters in the exemptions under the RTI Act. This may be done by way of removal of difficulties under Section 30.

**ii. Upgrading and Downgrading (Para 2.3)**

Documents once classified as “Top Secret” or “Secret”, should remain so classified as long as required but not exceeding 30 years. Documents classified as confidential and restricted should remain so for a period not exceeding 10 years. However, the competent classifying officer may, for reasons to be recorded in writing,

authorise continued classification beyond the period prescribed above if information, the disclosure of which would cause damage to national security or national interest. A recipient officer of appropriate rank in a Ministry or Department may upgrade the security classification of a document received from outside, but this raised classification will be limited only to the Ministry or Department. (S)He will, however, have no authority to downgrade the security classification of a document received, without the concurrence of the originator. Within the same Department, an officer superior to the originator would have the authority to downgrade or upgrade the classification.

iii. Officer Authorised to Accord the Grading:

<i>Top Secret</i>	<i>Not below Joint Secretary</i>
<i>Secret</i>	<i>Not below Deputy Secretary</i>
<i>Confidential</i>	<i>Not below Under Secretary</i>

The State Governments may authorise officers of equivalent rank to accord the grading.

**8. Building Institutions (Para 5.2.5):**

- a. Section 12 of the Act may be amended to constitute the Selection Committee of CIC with the Prime Minister, Leader of the Opposition and the Chief Justice of India. Section 15 may be similarly amended to constitute the Selection Committee at the State level with the Chief Minister, Leader of the Opposition and the Chief Justice of the High Court.
- b. The GOI should ensure the constitution of SICs in all States within 3 months.
- c. The CIC should establish 4 regional offices of CIC with a Commissioner heading each. Similarly regional offices of SICs should be established in larger States.
- d. At least half of the members of the Information Commissions should be drawn from non civil services background. Such a provision may be made in the Rules under the Act, by the Union Government, applicable to both CIC and SICs.

**9. Designating Information Officers and Appellate Authorities (Para 5.3.4) :**

- (i) All Ministries/ Departments/Agencies/Offices with more than one PIO have to designate a nodal Assistant Public Information Officer with the authority to receive requests for information on behalf of all PIOs. Such a provision should be incorporated in the Rules by appropriate governments.
- (ii) PIOs in Central Secretariats should be of the level of atleast Deputy Secretary /Director. In State Secretariats officers of similar rank should be notified as PIOs. In all subordinate agencies and departments officers sufficiently senior in rank and yet accessible to public may be designated as PIOs.
- (iii) All public authorities may be advised by the Government of India that alongwith the Public Information Officers they should also designate the appellate authority and publish both, together.
- (iv) The designation and notification of Appellate Authorities for each public authority may be made either under Rules or by invoking Section 30 of the Act.

**10. Organising Information and Recordkeeping (Para 5.4.11):**

- a. Suo motu disclosures should also be available in the form of printed, priced publication in the official language, revised periodically (at least once a year). Such a publication should be available for reference, free of charge. In respect of electronic disclosures, NIC should provide a single portal through which disclosures of all public authorities under appropriate governments could be accessed, to facilitate easy availability of information.
- b. Public Records Offices should be established as an independent authority in GOI and all States within 6 months by integrating and restructuring the multiple agencies currently involved in record keeping. This Office will be a repository of technical and professional expertise in management of public records. It will be responsible for supervision, monitoring, control and inspection of record keeping in all public offices.
- c. Public Records Office would function under the overall supervision and guidance of CIC/SIC.

- d. As a one time measure, GOI should earmark 1% of the funds of all Flagship Programmes for a period of five years for updating records, improving infrastructure, creating manuals and establishing the Public Records Offices. (An amount not exceeding 25% of this should be utilized for awareness generation.)
- e. As a one time measure, GOI may create a Land Records Modernisation Fund for survey and updation of all land records. The quantum of assistance for each State would be based on an assessment of the field situation.
- f. All organizations, which have jurisdiction over an area equal to or exceeding a district, should be funded and required to complete the process of digitization by the end of 2009. All sub-district level organizations should complete this task by the end of 2011. The controlling Ministries/Departments at Union and State level should lay down a detailed road map for this purpose with well-defined milestones within 6 months, so that this could be implemented as a priority item in the Eleventh Five Year Plan.

#### 11. Capacity Building and Awareness Generation (Para 5.5.5.):

- a. Training programmes should not be confined to merely PIOs and APIOs. All government functionaries should be imparted atleast one day training on Right to Information within a year. These training programmes have to be organized in a decentralized manner in every block. A cascading model could be adopted with a batch of master trainers in each district.
- b. In all general or specialized training programmes, of more than 3 days duration, a half-day module on Right to Information should be compulsory.
- c. Awareness campaigns should be entrusted to credible non profit organizations at the State level. They should design a multi media campaign best suited to the needs, in the local language. The funds earmarked (as mentioned in para 5.4.11.d) could be utilized for this purpose.
- d. Appropriate governments should bring out guides and comprehensible information material within the prescribed time.

- e. The CIC and the SICs may issue guidelines for the benefit of public authorities and public officials in particular and public in general about key concepts in the Act and approach to be taken in response to information requests on the lines of the Awareness Guidance Series referred to above (para 5.5.1).

#### 12. Monitoring Mechanism (Para 5.6.4):

- a. The CIC and the SICs may be entrusted with the task of monitoring effective implementation of Right to Information Act in all public authorities. (An appropriate provision could be made under Section 30 by way of removal of difficulties).
- b. As a large number of Public Authorities exist at regional, state, district and sub district level, a nodal officer should be identified wherever necessary by the appropriate monitoring authority (CIC/SIC) to monitor implementation of the Act.
- c. Each public authority should be responsible for compliance of provisions of the Act in its own office as well as that of the subordinate public authorities.
- d. A National Coordination Committee (NCC) may be set up under the chairpersonship of the Chief Information Commissioner with the nodal Union Ministry, the SICs and representatives of States as members. A provision to this effect may be made under Section 30 of the Act by way of removing difficulties. The National Coordination Committee would:
  - i. serve as a national platform for effective implementation of the Act,
  - ii. document and disseminate best practices in India and elsewhere,
  - iii. monitor the creation and functioning of the national portal for Right to Information,
  - iv. review the Rules and Executive orders issued by the appropriate governments under the Act,
  - v. carry out impact evaluation of the implementation of the Act and
  - vi. perform such other relevant functions as may be deemed necessary.

**13. Facilitating Access (Para 6.2.7):**

- a. In addition to the existing modes of payment, appropriate governments should amend the Rules to include payment through postal orders.
- b. States may be required to frame Rules regarding application fee which are in harmony with the Central Rules. It needs to be ensured that the fee itself does not become a disincentive.
- c. Appropriate governments may restructure the fees (including additional fees) in multiples of Rs 5. {e.g. instead of prescribing a fee of Rs. 2 per additional page it may be desirable to have a fee of Rs. 5 for every 3 pages or part thereof}.
- d. State Governments may issue appropriate stamps in suitable denominations as a mode of payment of fees. Such stamps would be used for making applications before public authorities coming within the purview of State Governments.
- e. As all the post offices in the country have already been authorized to function as APIOs on behalf of Union Ministries/Departments, they may also be authorized to collect the fees in cash and forward a receipt along with the application.

**14. Inventory of Public Authorities (Para 6.3.2):**

- a. At the Government of India level the Department of Personnel and Training has been identified as the nodal department for implementation of the RTI Act. This nodal department should have a complete list of all Union Ministries/Departments which function as public authorities.
- b. Each Union Ministry/Department should also have an exhaustive list of all public authorities, which come within its purview. The public authorities coming under each ministry/ department should be classified into (i) constitutional bodies, (ii) line agencies, (iii) statutory bodies, (iv) public sector undertakings, (v) bodies created under executive orders, (vi) bodies owned, controlled or substantially financed, and (vii) NGOs substantially financed by government. Within each category an up-to-date list of all public authorities has to be maintained.
- c. Each public authority should have the details of all public authorities subordinate to it at the immediately next level. This should continue till

the last level is reached. All these details should be made available on the websites of the respective public authorities, in a hierarchical form.

- d. A similar system should also be adopted by the States.

**15. Single Window Agency at District Level (Para 6.4.2):**

- a. A Single Window Agency should be set up in each District. This could be achieved by creating a cell in a district-level office, and designating an officer as the Assistant Public Information Officer for all public authorities served by the Single Window Agency. The office of the District Collector/Deputy Commissioner, or the Zilla Parishad is well suited for location of the cell. This should be completed by all States within 6 months.

**16. Subordinate Field Offices and Public Authorities (Para 6.5.4):**

- a. The lowest office in any organization which has decision making power or is a custodian of records should be recognized as a public authority.

**17. Application to Non Governmental Bodies (Para 6.6.6):**

- a. Organisations which perform functions of a public nature that are ordinarily performed by government or its agencies, and those which enjoy natural monopoly may be brought within the purview of the Act.
- b. Norms should be laid down that any institution or body that has received 50% of its annual operating costs, or a sum equal to or greater than Rs.1 crore during any of the preceding 3 years should be understood to have obtained 'substantial funding' from the government for the period and purpose of such funding.
- c. Any information which, if it were held by the government, would be subject to disclosure under the law, must remain subject to such disclosure even when it is transferred to a non-government body or institution.
- d. This could be achieved by way of removal of difficulties under section 30 of the Act.

**18. Time Limit for Information Beyond 20 Years (Para 6.7.6):**

- a. The stipulation of making available 20-year old records on request should be applicable only to those public records which need to be preserved for such a period. In respect of all other records, the period of availability

will be limited to the period for which they should be preserved under the record keeping procedures.

- b. If any public authority intends to reduce the period upto which any category of record is to be kept, it shall do so after taking concurrence of the Public Records Office as suggested in para 5.4.11.
- c. These recommendations could be implemented by way of removal of difficulties under Section 30 of the Act.

#### 19. Mechanism for Redressal of Public Grievances (Para 6.8.3):

- a. States may be advised to set up independent public grievances redressal authorities to deal with complaints of delay, harassment or corruption. These authorities should work in close coordination with the SICs/District Single Window Agencies, and help citizens use information as a tool to fight against corruption and misgovernance, or for better services.

#### 20. Frivolous and Vexatious Requests (Para 6.9.5):

- a. Section 7 may be amended to insert sub section (10) as follows:  
*“The PIO may refuse a request for information if the request is manifestly frivolous or vexatious*  
*Provided that such a refusal shall be communicated within 15 days of receipt of application, with the prior approval of the appellate authority.*  
*Provided further that all such refusals shall stand transferred to CIC/SIC, as the case may be and the CIC/SIC shall dispose the case as if it is an appeal under section 19(3) of the RTI Act”.*
- b. It may be provided that information can be denied if the work involved in processing the request would substantially and unreasonably divert the resources of the public body.  
**Provided that such a refusal shall be communicated within 15 days of receipt of application, with the prior approval of the appellate authority.**  
**Provided further that all such refusals shall stand transferred to CIC/SIC, as the case may be and the CIC/SIC shall dispose the case as if it is an appeal under section 19(3) of the RTI Act.**

This may be accomplished by way of removal of difficulties or framing of appropriate Rules.

#### 21. Application of the Act to the Legislature and the Judiciary (Para 7.11):

- a. A system of indexing and cataloguing of records of the legislatures, which facilitates easy access should be put in place. This could be best achieved by digitising all the records and providing access to citizens with facilities for retrieving records based on intelligible searches.
- b. A tracking mechanism needs to be developed so that the action taken by the executive branch on various reports like CAG, Commissions of Enquiry and House Committees is available to legislators and public, online.
- c. The working of the legislative committees should be thrown open to the public. The presiding officer of the committee, if required in the interest of State or privacy, may hold proceedings in camera.
- d. The records at the district court and the subordinate courts should be stored in a scientific way, by adopting uniform norms for indexing and cataloguing.
- e. The administrative processes in the district and the subordinate courts should be computerized in a time bound manner. These processes should be totally in the public domain.



**Annexure-I(1)****NATIONAL COLLOQUIUM ON RIGHT TO INFORMATION ACT**

**National Judicial Academy, Bhopal  
11<sup>th</sup> & 12<sup>th</sup> December, 2005.**

**LIST OF PARTICIPANT DIGNITARIES**

Sl.No.	NAME	DESIGNATION
1.	Justice Y.K.Sabharwal	Chief Justice of India
2.	Justice K.G.Balakrishnan	Judge, Supreme Court
3.	Justice R.C.Lahoti	Former Chief Justice of India
4.	Justice S.Rajendra Babu	Former Chief Justice of India
5.	Justice N.Santosh Hegde	Former Judge, Supreme Court and present Chairman, Telecom Disputes Settlement Appellate Tribunal (TDSAT)
6.	Justice Saleem Marsoof	Judge of the Supreme Court, Sri Lanka
7.	Justice A.K.Patnaik	Chief Justice, Madhya Pradesh High Court
8	Shri Wajahat Habibullah	Chief Information Commissioner, Central Information Commission
9	Shri V.Radhakrishnan	Member of Parliament
10	Mr Justice Sunil Ambwani	Allahabad High Court
11	Mr Justice Ashok Bhushan	Allahabad High Court
12	Mr Justice Arun Mishra	Allahabad High Court
13	Mr Justice C.Y.Somayajulu	Andhra Pradesh High Court
14	Mr Justice B.H.Marlapalle	Bombay High Court
15	Mrs Justice V.K.Tahilramani	Bombay High Court

*Annexure-I(1) Contd.*

16	Mr Justice Jayanta Kr.Biswas	Calcutta High Court
17	Mr Justice Aniruddha Bose	Calcutta High Court
18	Mr Justice Dharendra Mishra	Chhattisgarh High Court
19	Mr Justice Satish Kumar Agnihotri	Chhattisgarh High Court
20	Mrs Justice Manju Goel	Delhi High Court
21	Mr Justice A.H.Saikia	Gauhati High Court
22	Mr Justice B.J.Shethna	Gujarat High Court
23	Mr Justice A.R.Dave	Gujarat High Court
24	Mr Justice N.N.Tiwari	Jharkhand High Court
25	Mr Justice S.A.Nazeer	Karnataka High Court
26	Mr Justice Ram Mohan Reddy	Karnataka High Court
27	Mr Justice K.K.Denesan	Kerala High Court
28	Mr Justice K.Balakrishnan Nair	Kerala High Court
29	Mr Justice K.K.Lahoti	Madhya Pradesh High Court
30	Mr Justice Rajendra Menon	Madhya Pradesh High Court
31	Mr Justice R.N.Biswal	Orissa High Court
32	Mr Justice S.K.Katriar	Patna High Court
33	Mr Justice S.Nayer Hussain	Patna High Court
34	Mr Justice A.P.Subba	Sikkim High Court
35	Mr Justice P.C.Pant	Uttaranchal High Court
36.	Smt Shailaja Chandra	Chairman, Public Grievances Commission, Government of Delhi.
37.	Shri Parthasarathy Shome	Advisor to Finance Minister
38.	Shri P.K.Sharma	Joint Secretary, Research & Analysis Wing.
39	Shri Prashant Bhushan	Advocate, Supreme Court of India
40.	Shri K.K.Misra	Chief Information Commissioner, Karnataka
41.	Shri Balwinder Singh	Additional Secretary, Central Vigilance Commission.

## Annexure-I(1) Contd.

42.	Dr C.V.Madhukar	Parliamentary Research Service, Centre for Policy Research
43.	Shri T.N.Srivastava	Chief Information Commissioner, Government of Madhya Pradesh.
44.	Shri P.K.Mohanty	Director General, Centre for Good Governance, Hyderabad.
45.	Shri K.A.Thippeswamy	Information Commissioner, Karnataka.
46.	Shri Vinay Kohli	PROOF, Bangalore
47.	Prof Jose Verghese	Former Vice-Chancellor, HNLU
48.	Shri P.S.Bawa	Vice-Chairman, Transparency India
49.	Shri Venkatesh Nayak	CHRI, New Delhi.
50.	Dr P.K.Das	Chief Information Commissioner, Gujarat.
51.	Dr Ashwin Mahesh	E-Governments Foundation
52.	Shri Nikhil Dey	Member, NCPRI
53.	Dr B.Rajendar	District Magistrate, Patna, Bihar.
54.	Shri Neeraj Mandloi	Collector, Ujjain, Madhya Pradesh.
55.	Shri Manish Thakur	District Collector, Lakhimpur, Assam.
56.	Smt Mamta Kundra	Principal Director (Staff), Office of the Comptroller & Auditor General of India
57.	Smt J.R.Zanane	Secretary, MP State Information Commission, Bhopal
58.	Shri M.K.S.Sundaram	District Magistrate, Jhansi.
59.	Shri K.N.Keshavanarayana	Principal District & Sessions Judge Mysore
60.	Shri K.Govindarajulu	Principal District & Sessions Judge Mandya
61.	Shri Babu Mathew P.Joseph	Special Additional Sessions Judge (Marad cases), Kozhikode

## Annexure-I(1) Contd.

62.	Shri Manik Mohan Sarkar	Judge, City Civil Court, Calcutta
63.	Shri R.N.Banerjee	Registrar (Vigilance & Protocol) High Court of Calcutta
64.	Shri D.Appa Rao	Chief Judge, City Civil Court, Hyderabad
65.	Shri P.Devadoss	Sessions Judge, Sessions Court for Exclusive Trial of Bomb Blast cases, Chennai.
66.	Shri K.G.Shanker	I Addl.Chief Judge, City Civil Court, Secunderabad.
<b>ADMINISTRATIVE REFORMS COMMISSION (ARC):</b>		
No.	NAME	DESIGNATION
1.	Shri M.Veerappa Moily	Chairman, ARC and former Chief Minister of Karnataka
2.	Shri V.Ramachandran	Member, ARC
3.	Dr A.P.Mukherjee	Member, ARC
4.	Dr A.H.Kalro	Member, ARC
5.	Dr Jayaprakash Narayan	Member, ARC
6.	Smt Vineeta Rai	Member-Secretary, ARC

**Annexure-I(2)****INTRODUCTION TO THE REPORT ON THE COLLOQUIUM ON RIGHT TO INFORMATION ACT**

The enactment of the Right to Information Act, 2005 is indeed one of outstanding legislative accomplishment in the democratic evolution of the Indian Republic. Yes, the transition is not going to be either smooth or simple. An entrenched mindset of denial of information on the part of the bureaucracy coupled with justifiable apprehension of the consequences of such disclosure might tend to distort procedures and delay full implementation of the provisions of the Act. The capacity of the common man to access the information is today very limited because of socio-economic and historical reasons. Therefore, there is no possibility of a discernible change in the quality of governance in the immediate future. Nevertheless, the mandate of the law and the commitment on the part of a section of the intelligentsia to make common cause with the people who for long have been at the receiving end of maladministration and corruption, might increasingly create a climate for transparency and influence a change in the desired direction. In that process of change, the National colloquium at NJA sponsored by the Administrative Reforms Commission is a small, yet important step.

The importance of the NJA Colloquium lies in the largest ever participation of sitting and retired judges of the higher judiciary (nearly 50 judges of High Courts and Supreme Court including the present and three former Chief Justices of India) with the Senior Civil Servants in-charge of the implementation of the Act. Judicial proceeding has been the most transparent of the entire functioning of the State apparatus. Furthermore, it is through judicial interpretation of basic rights, that right to information assumed the character and status of a Fundamental Right long before Parliament legislated on the subject. Now since the Legislature and Judiciary are one in the matter of public disclosure of matters relating to governmental functioning, the Executive has no option, but to fall in line to empower the people with information. This is significant for Rule of Law and Constitutional Governance.

**Outcome of the Colloquium:**

It is difficult to capture the outcome of deliberations in a few sentences. That is why we decided to compile a summary of the proceedings highlighting the major ideas and perceptions. A few key presentations made at the Colloquium are also included in the Report as part of the Appendix.

*Annexure-I(2) Contd.*

Among the key outcomes of the Colloquium, one would highlight, inter alia, the following observations:

- (a) There is widespread realization at the higher echelons of administration that the implementation of the Act pre-supposes the classification, organization and documentation of information in the various departments under their supervision. The delay in accomplishing this task will impede the discharge of obligations under the Act.
- (b) An expansive interpretation of obligations under section 4 is the immediate need and they have to be collected and disseminated forthwith which will satisfy a large section of people who are closely watching the response of the bureaucracy.
- (c) There may be some items of exemptions and exceptions under section 8 still to be settled and perhaps getting advance ruling from the Central Information Commission may be one of the strategies to facilitate uniform implementation of the excluded categories of information. This will avoid inconvenience to the public as well.
- (d) Dissemination of the rights and entitlements under the Act to the common citizens of the country particularly in the rural sector is a priority for reaching the benefits of good governance to the masses. With the Panchayat Raj system in place, this can make a difference in their life and access to basic needs.
- (e) The United Kingdom which adopted a similar law in 2000 came out with a series of Awareness Guidance Notes on key steps to be followed by public authorities in order to facilitate its implementation. There is need for such functional tips to be prepared and circulated to get the huge Indian bureaucracy at the Central, State and Local levels operate the new law in letter and spirit.
- (f) Openness in the exercise of public power is a culture and a mind-set which has to be cultivated among the officials and the citizen for which the civil society has to work with the Government on a planned programme of action. The privacy exception, the confidentiality exception, the national security exception etc. have to be articulated in the socio-political context of our country for the implementation process to succeed according to the intention of the Parliament.
- (g) There is a role for a whistle blower legislation on the lines suggested by the Law Commission.
- (h) Finally, there is need for a constant review at different levels to make a success of this extra-ordinarily promising law. The alienation of people from administration and

unchecked corruption in the system are danger signals which the Information Law stands help to be arrested.

The Administrative Reforms Commission established by the Government of India under the able leadership of an experienced administrator and statesman has a challenging task in hand. Most of the desirable reform in administration will naturally follow if only the Information Act gets fully implemented. It must therefore be a priority for ARC to put it on mission mode in partnership with the Information Commissioners, the media and the civil society.

2<sup>nd</sup> January, 2006

Prof. (Dr.) N.R. Madhava Menon  
Director, National Judicial Academy  
Co-ordinator, National Colloquium on RTIA

Recommendations of the Technical Groups formed at the National Colloquium are as under:

### **GROUP I**

#### **Structure of the Act-Issues.**

1. Does the Official Secrets Act needs any amendments for proper implementation of RTI Act?  
Sections 8(2) and 22, RTI Act take care of. There is no need to amend Official Secrets Act.  
Let the Official Secrets Act stand as it is and let us not meddle with either Act for the present.
2. Is it desirable to repeal/amend the State Information Laws? How to harmonise the RTI Act and the State Laws?  
The state law to the extent it is repugnant to the RTI Act is bad. Therefore it is for the state Government to continue or repeal the State Act.
3. What arrangements are required to give protection to the whistleblowers, as a part of RTI Act?  
Whistle Blower's Act is said to be under consideration. So far as the RTI act is concerned the question of Whistler Blower does not rise.
4. Is it desirable to have a grievance redressal mechanism? If so, what should be the modalities? Should the Information Commission be entrusted with this task?  
The redressal mechanism under the RTI Act for refusing to give information is elaborate. It needs no change. If information is received and a redressal is needed on the basis of received information general laws and rules apply. (There cannot be two authorities, one under RTI Act and other under general laws.)
5. How to address various fiscal, taxation and monetary policy related issues?  
This is exhaustively covered under RTI Act. Audit reports and CAG reports are already public documents.
6. Is there a need to rationalize exemptions?  
There is no need as the exemptions are quiet rational.

7. Section 30 provides for 'removal of difficulties'. What steps are required to be taken under this section for effective implementation of the Act?  
There is no need for considering this issue for the time being.
8. Could we have 'awareness guidance notes' on the lines of what has been done in U.K.?  
We shall definitely have guidelines. Appropriate governments and commissions should widely make awareness to the public about the act.
- 9 Any other issue?  
RTI involves fundamental rights, Official Secrets Act, Law of defamation Law of Contempt etc. Hence, persons who are competent to appreciate the issues addressed should be appointed as Information Officers. RTI Act is silent on this.

## GROUPS II & III

### Creation, Maintenance and Dissemination of Information

The goal is to ensure that information is available to the citizens in compliance with RTI requirements. To this end, the recommendations deal with

- information creation
- information maintenance
- information dissemination

#### 1. Creation

Act provides for putting some information in public domain mandatorily. Each department will decide what the suo moto list for itself is.

The information in suo moto lists needs to be computerized and standardized to facilitate retrieval by government as well as citizens. Storage and retrieval of data should be in a format that permits national-level aggregation and dissemination for schemes implemented across state boundaries. Suitable systems should be developed to monitor, detect, and respond to information needs across administrative units.

The State and Central ICs will ensure that complete information as required under the Act is provided by the departments. Wherever required, administrative and business processes should be reengineered to collect and provide information in an accessible manner. The ARC may consider priority areas for such reengineering.

For example, in PDS, data should be collected to provide disaggregated as well as aggregate information on the procurement, movement and stock of grains, supply-chain management, cost of transport, the list of agencies managing the stocks, stock positions at ration shops, price of commodities, schedule of delivery, timings of shops, details of beneficiaries attached to each shop, etc.

Stakeholders will be consulted regarding the nature, extent, and means of dissemination of the information in each area.

Data should be created in standards that anticipate future needs for information in addition to current needs. Standards should preferably be open, but where they are not there should be bridge processes to bring non-open-standards into open standards over time.

The full life cycle (from birth to death) of citizens' interface with government should be identified, and information systems specific to each stage should be created.

A national database of existing information should be created. As an interim measure, aggregation of district-level data into geographical, functional and hierarchical systems should be taken up. An existing national-level organization like the NIC could be entrusted with this responsibility, or a new organization could be considered.

#### 2 Maintenance

All government resolutions, orders, should be consolidated in specific orders for specific activities, so that no previous orders need be referred to, i.e. each provision of information should be self-contained.

Systems and standards should be developed for single-window clearance of citizens' requests for information.

### 3 Dissemination

The Information Commissions should have the list of all PIOs in their jurisdictions.

Each Information Commission should identify appropriate modes of dissemination of information.

Detailed information on the utilization of funds under various schemes of States and Centre should be a part of proactive disclosure in each department.

Information Commissions should in particular ensure regularity and accuracy of information in the public domain in areas identified as corruption-prone.

The potential for private sector/NGO/citizens participation in the dissemination of information in the public domain should be encouraged.

All application forms, or other forms which a citizen/business requires for interface with government, shall be available online in a downloadable form. If any fee is to be charged, it should be charged at the time of submission of the form.

Government departments should maintain answers to frequently asked questions (FAQ) on their websites.

All proactively disclosed information should also be in the local language.

Information that is generally sought from a department, as well as information that is proactively disclosed, should be available in most of the offices of the department.

Data should be disseminated in the form most appropriate to meet the information need.

For all of the areas, best practices from national and international experiences should be studied and adopted where appropriate. Programs that have proven successful in one jurisdiction should be considered for adoption elsewhere too.

A wide-spread training programme for PIOs for effective compliance with RTI legislation should be undertaken, and Central funds may be utilised to sustain the program.

## GROUP IV

### Application of the Act to the Legislature, the Judiciary and the Local Self Governments

#### 1 Legislature

- a. standardisation of information relating to legislative business such as questions, committee reports, bills etc. Computerisation of legislative business

- b. networking of legislative secretariat with secretariat departments
- c. network facilities for legislators, specially Petitions Committees.
- d. relooking at privileges vs transparency and right to information
- e. CAG recommendations to be put on auto-pilot for implementation by the executive and monitoring by the PAC, other committees and legislatures
- f. action taken on the CAG reports by the executive and the legislature to be published as part of section 4 disclosure
- g. standardisation of public authorities and PIOs across legislatures
- h. indexing, cataloging and computerisation of records in common formats
- i. developing legislature MIS covering legislative business, committees, information about legislators etc.
- j. wealth of information through questions, business of proceedings of committees, reports of committees including Estimates Committee, Ethics Committee, Standing Committees on subjects, Privileges Committee etc. to be published as part of disclosure under section 4
- k. action taking reports to be published from time to time and made available online
- l. reports of Enquiry Commissions, House Committees and Special Committees to be put in the public domain online
- m. capacity building for legislators, PIOs, APIOs, functionaries of public authorities etc. to be given priority
- n. virtual deliberations of committees rather than calling a large number of officers using video conferencing facilities and e-enabled repository of information
- o. backward and forward linkages for legislatures to be clearly mapped out to facilitate easy flow of information and e-enablement
- p. awareness campaign on legislative business, privileges, committees, law making procedures and facilities for Right to Information with people and civil society groups
- q. restructuring of business rules and legislative secretarial practices to respond to the requirements of RTI Act
- r. e-legislature as a part of national e-governance action plan

- s. e-enablement of entire legislature management system for classification, storage filtering, retrieval and supply of information

## 2 Judiciary

- a. standardisation of formats for the purpose of section 4 disclosure
- b. networking between the subordinate courts, tribunals and the high court
- c. web-housing of judgements – facilities to district, high courts and supreme court
- d. standardisation of public authorities and pios across different levels of judiciary
- e. standardised formats for indexing and cataloguing of records, cases across superior courts, subordinate courts and tribunals
- f. computerisation of records and case flow management
- g. spate of litigation related to RTI Act – work load in high courts – resources required at all levels
- h. e-judiciary as a part of national e-governance action plan

## 3 Local self governments

- a. standardisation of formats for record keeping with appropriate indexing and cataloguing for rural local bodies in three tiers, municipal corporations, municipalities and nagar pancharyats with the involvement of civic groups and local bodies
- b. development of local bodies information management system following the national manual
- c. audio visual publicity at the gramsabha and ward committee level and mass awareness campaign
- d. grading of local bodies with respect to mandatory disclosure
- e. standardisation of formats for disclosure under section 4
- f. directory of PIOs, APIOs and appellate officers to be widely disseminated
- g. training of councillors, sarpanches, zila parishad presidents etc in right to information
- h. networking of local bodies with information commission

## 1. Questionnaire for State Governments which already had a State RTI Act

1. How is the RTI Act of 2005, an improvement over the State Act? Please highlight the essential differences between the two.
2. When did the State Act come into force?
3. After the coming into force of the Central RTI Act what does the State plan to do with the State Act? {A copy of the State Act may please be furnished}
4. Was any evaluation of the impact of the State Act done? What were the major findings? {A copy of the report may be furnished}
5. What was the monitoring mechanism under the State Act?
6. Have the details of all applications received under the State Act been compiled showing types of application received, how they were disposed off, in how many cases the information could not be furnished, and what were the reasons?
7. What were the main challenges faced by the State in implementing the State Act? And how were these overcome?
8. What are the arrangements made by the State Government under section 4 of the RTI Act, to provide suo-motu information to citizens? Have some guidelines been issued? Would issuing guidelines help in dissemination of information, as there is a tendency to hide unpleasant information? If so what all aspects should these guidelines cover?
9. What are the arrangements made in the offices of the State Government functionaries at the District level under section 4 of the RTI Act, to provide suo motu information to citizens?
10. Does the State Government think that the state of record-keeping is good enough to provide all the required information as stipulated under the RTI Act? What changes are required?
11. Is it possible to identify some offices /departments where it could be said that all the required information, subject to availability, would be provided to the citizens?
12. Has the State Government made any arrangements for creating awareness about the enactment of the Act pertaining to Right to Information among the citizens? If yes, does it extend to awareness at the village/ Gram Panchayat level? What are the modes adopted by the State Government for this purpose?

13. What are the arrangements made by the State Government for spreading awareness about the RTI Act among people who are illiterate or in areas where illiteracy is high?
14. Has the State Government made any arrangements for storing, disclosure and dissemination of information using electronic means i.e. applying the modes of e-governance? What would be major difficulties in this?
15. What are the arrangements made by the State Government for helping people who are illiterate and/or who live below the poverty line to make an application for disclosure of information at all levels?
16. Does the State Government think that a separate resource allocation is needed for implementing the RTI Act? Would the existing staff be able to cater to the anticipated demand at all levels?
17. What monitoring mechanism has the State Government put in place to keep track of all applications received and how they were disposed off?
18. Has the State Government initiated any training programme for the benefit of its officers on norms of disclosure of information and implementation of the RTI Act?
19. Does the State Government think that the Official Secrets Act will come in the way of implementation of the RTI Act? If yes, how? Does the State Government recommend any amendment in the Official Secrets Act?
20. Is it possible/desirable to have a citizens committee to monitor the implementation of this Act at the District and the State levels?
21. What arrangements have been made by the State Government for accepting information requests from remote areas?
22. Would it be desirable to have a system of grading of important offices based on their performance in disseminating information?
23. Is it possible to involve private sector which can be given the raw data periodically by some offices, it then processes this raw data and makes the desired information available to the public on demand? {The concept of privately operated information kiosks}.
24. Which are the areas/sectors/offices where effective implementation of RTI Act could lead to curbing corruption? Should these offices be monitored more closely for effective implementation? {ABC Analysis}
25. Would it be possible/desirable to have a Single Window agency at the District/Block levels which receives all information pertaining to the District/Taluka and then processes them further?

26. Many offices especially the District Collectors office, Zilla Panchayat offices have their own web-sites. But the information available is quite generic. How could these web-sites be enriched? Could there be some guidelines on making these website content rich?
27. What arrangements have been made for acceptance of fees for seeking information?
28. The Act stipulates that there no fees is to be paid by persons living below poverty line? What guidelines have been issued for proper implementation of this provision?
29. What should be done to handle frivolous demand for information?

## 2. Questionnaire for State Governments which did not have State RTI Act

1. Before the RTI Act coming into force, what was the mechanism by which the State Government, its agencies and functionaries were providing information to the public? There must have been a system of providing copies of some documents? What were the instructions/guidelines issued by the State Governments in this regard?
2. Was there a system for monitoring this system? If a study was done for evaluation of this system, a copy of the same may be furnished?
3. What are the arrangements made by the State Government under section 4 of the RTI Act, to provide suo-motu information to citizens? Have some guidelines been issued? Would issuing guidelines help in dissemination of information, as there is a tendency to hide unpleasant information? If so what all aspects should these guidelines cover?
4. What are the arrangements made in the offices of the State Government functionaries at the District level under section 4 of the RTI Act, to provide suo motu information to citizens?
5. Does the State Government think that the state of record-keeping is good enough to provide all the required information as stipulated under the RTI Act? What changes are required?
6. Is it possible to identify some offices /departments where it could be said that all the required information, subject to availability, would be provided to the citizens?
7. Has the State Government made any arrangements for creating awareness about the enactment of the Act pertaining to Right to Information among the citizens? If yes, does it extend to awareness at the village/ Gram Panchayat level? What are the modes adopted by the State Government for this purpose?



8. What are the arrangements made by the State Government for spreading awareness about the RTI Act among people who are illiterate or in areas where illiteracy is high?
9. Has the State Government made any arrangements for storing, disclosure and dissemination of information using electronic means i.e. applying the modes of e-governance? What would be major difficulties in this?
10. What are the arrangements made by the State Government for helping people who are illiterate and/or who live below the poverty line to make an application for disclosure of information at all levels?
11. Does the State Government think that a separate resource allocation is needed for implementing the RTI Act? Would the existing staff be able to cater to the anticipated demand at all levels?
12. What monitoring mechanism has the State Government put in place to keep track of all applications received and how were they disposed off?
13. Has the State Government initiated any training programme for the benefit of its officers on norms of disclosure of information and implementation of the RTI Act?
14. Does the State Government think that the Official Secrets Act will come in the way of implementation of the RTI Act? If yes, how? Does the State Government recommend any amendment in the Official Secrets Act?
15. Is it possible/desirable to have a citizens committee to monitor the implementation of this Act at the District and the State levels?
16. What arrangements have been made by the State Government for accepting information requests from remote areas?
17. Would it be desirable to have a system of grading of important offices based on their performance in disseminating information?
18. Is it possible to involve private sector which can be given the raw data periodically by some offices, it then processes this raw data and makes the desired information available to the public on demand? {The concept of privately operated information kiosks}.
19. Which are the areas/sectors/offices where effective implementation of RTI Act could lead to curbing corruption? Should these offices be monitored more closely for effective implementation? {ABC Analysis}

20. Would it be possible/desirable to have a Single Window agency at the District/Block levels which receives all information pertaining to the District/Taluka and then processes them further?
21. Many offices especially the District Collectors office, Zilla Panchayat offices have their own web-sites. But the information available is quite generic. How could these web-sites be enriched? Could there be some guidelines on making these website content rich?
22. What arrangements have been made for acceptance of fees for seeking information?
23. The Act stipulates that there no fees is to be paid by persons living below poverty line? What guidelines have been issued for proper implementation of this provision?
24. What should be done to handle frivolous demand for information?

### 3. Questionnaire for Citizens

1. Please indicate the type of settlement where you reside (a)village(b)town having population below one lakh(c)town having population between one and ten lakh(d)city having population above ten lakhs(e)four metros
2. Please indicate your occupation(a)farming(b)agricultural labourer(c)craftsman(d)private business(e)industrial labourer(f)Govt. Servant(g)salaried employee in private sector(h)professional
3. Have you ever desired to seek information from any Ministry/department/agency of the Central/State Government before the RTI Act coming into force?
4. If yes, then did it pertain to (a)status of any application made by you (b)reasons of rejection of any application made by you(c) inadequate delay in processing of any application(d)faulty processing of any application(e)issue pertaining to any public/community interest
5. Did you actually write to the officials concerned for the relevant information?
6. If yes, then did you receive any information from the official concerned?
7. If yes, then were you satisfied with the information provided to you?
8. Are you aware that the Indian Parliament has passed the RTI Act in 2005, providing every citizen with the Right to Information?

9. Are you aware of the provisions of the RTI Act?
10. Are you aware that you are not required to disclose any reason for asking the desired information under the RTI Act?
11. Are you aware about the fees which are to be charged for the disclosure of information under the RTI Act?
12. Are you aware that there are no fees for any citizen who is below the poverty line?
13. Are you aware that all Ministries/Departments/agencies of the Central/State Government are statutorily required to provide the requisite information within 30 days of making the application, which can not exceed 40 days in any case?
14. Have you made any application under the RTI Act to any Government official?
15. If yes, then have you received the information within 30 days of making the application?
16. Are you satisfied with the quality of information disclosed to you?
17. Do you think the information which has been disclosed to you quite vague, incomplete or evasive in nature ?
18. Has the information been provided in the format you had sought?
19. Whether the official has used standardized computer generated format for providing the information which was sought for?
20. Has the concerned authorities denied you the information which you had sought?
21. If yes, has the reason for the same been communicated to you?
22. Are you satisfied with the reasons so communicated?
23. If no, have you preferred an appeal against the said order?
24. Which provision of the RTI Act was invoked by the concerned authority to deny the disclosure of information to you (give the specific provision of the RTI Act).
25. What are the arrangements made in the area of your field work by the State Government for helping people who are illiterate and/or who live below the poverty line in making an application for disclosure of information at all levels?
26. What should be done to handle frivolous demand of information?

#### 4. Questionnaire for NGOs

- 1 Name of the NGO?
- 2 Please specify the region/area of your field work (village/taluka/district/state).
- 3 Is your organization also carrying out the work of spreading awareness about the provisions of the RTI Act in the area of your field work?
- 4 Whether your organization had tried to elicit information from government officials prior to the enactment of the RTI Act?
- 5 If yes, whether you had received the information you had sought ?
- 6 If yes, whether the information provided to you was as per your requirements?
- 7 Whether any Government authority has made any attempts to make the people aware of the provisions of the RTI Act in your field area?
- 8 What will be the nature of information likely to be sought by people residing in your field work area?
- 9 Do you think that the concerned government authorities have made suitable arrangements for providing such information to citizens?
- 10 Have you made any request for disclosure of information to any Government official under the RTI Act, in the area of your field work?
- 11 If yes, whether the information sought for has been received by you within the stipulated time?
- 12 If yes, then have you received the information within 30 days of making the application?
- 13 Are you satisfied with the quality of information disclosed to you?
- 14 Do you think the information which has been disclosed to you quite vague, incomplete or evasive in nature ?
- 15 Has the information been provided in the format you had sought?
- 16 Has the concerned authorities denied you the information which you had sought?
- 17 What are your suggestions for effective implementation of the RTI Act?
- 18 What in your view would be the major impediments in the effective implementation of the RTI Act?
- 19 What are your suggestions for ensuring that the maximum amount of information

gets disseminated through voluntary disclosure under section 4 of the Act so that the work of providing information gets reduced?

- 20 Do you think that the Official Secrets Act would come in the way of effective implementation of RTI Act? If yes. Why?
- 21 How to generate awareness among the people? Please give your suggestions.
- 22 How to change the mindset of officialdom which is basically inclined towards maintaining secrecy?
- 23 What would be the easiest mode of payment of fees for seeking information? Should there be stamps of fixed value like the revenue stamps to be circulated through all post offices?
- 24 What should be done to avoid demand for frivolous information?

#### 5. Questionnaire for District Collectors

- 1 Name of the District?
- 2 What was the system of providing information on demand to citizens prior to the coming into force of the RTI Act? What type of information could be furnished?
- 3 What are the arrangements made on part of the District Administration under section 4 of the RTI Act, to provide suo motu information to citizens?
- 4 What are the arrangements made in the offices at the Taluka/Block level under section 4 of the RTI Act, to provide suo motu information to citizens?
- 5 Do you think that the state of record-keeping is good enough to provide all the required information as stipulated under the RTI Act? What needs to be done to improve the standard of record keeping?
- 6 Is it possible to identify some offices where it could be said that all the required information, subject to availability, would be provided to the citizens?
- 7 Has the District Administration made any arrangements for creating awareness about the enactment of the Act pertaining to Right to Information among the citizens?
- 8 If yes, does it extend to awareness at the village/ Gram Panchayat level?
- 9 Has the District Administration made any arrangements for storing, disclosure and dissemination of information using electronic means i.e. applying the modes of e-governance?

- 10 If yes, then has the District Administration prepared any standard format for storing, disclosure and dissemination of information at various levels?
- 11 What are the arrangements made by the District Administration for spreading awareness about the RTI Act among people who are illiterate or in areas where illiteracy is high?
- 12 What are the arrangements made by the District Administration for helping people who are illiterate and/or who live below the poverty line to make an application for disclosure of information at all levels?
- 13 Has the District Administration initiated any training programme for the benefit of its officers on norms of disclosure of information and implementation of the RTI Act?
- 14 Is the District Administration asking for verification of citizenship status in general and economic status for people lying below the poverty line in particular from persons making applications under the RTI Act?
- 15 Does the District Administration think that the Official Secrets Act will come in the way of implementation of the RTI Act?
- 16 If yes, how?
- 17 Do you think that a citizens' committee may be useful in implementation of this Act?
- 18 Is it possible/desirable to have a single window agency to receive and then process all applications? If yes what steps are needed to be taken for this?
- 19 What should be done to handle frivolous demand of information?

#### 6. Questionnaire for Union Ministries and Departments

1. What are the arrangements made by the Ministry/Department under section 4 of the RTI Act, to provide suo-motu information to citizens? Have some guidelines been issued? Would issuing guidelines help in dissemination of information, as there is a tendency to hide unpleasant information? If so what all aspects should these guidelines cover?
2. What are the arrangements made in the offices of the Ministry/Department at the District level under section 4 of the RTI Act, to provide suo motu information to citizens?

3. Does the Ministry/Department feel that the state of record-keeping is good enough to provide all the required information as stipulated under the RTI Act? What changes are required?
4. Is it possible to identify some offices /departments where it could be said that all the required information, subject to availability, would be provided to the citizens?
5. Has the Ministry/Department made any arrangements for creating awareness about the enactment of the Act pertaining to Right to Information among the citizens? If yes, does it extend to awareness at the village/ Gram Panchayat level? What are the modes adopted by the State Government for this purpose?
6. What are the arrangements made by the Ministry/Department for spreading awareness about the RTI Act among people who are illiterate or in areas where illiteracy is high?
7. Has the Ministry/Department made any arrangements for storing, disclosure and dissemination of information using electronic means i.e. applying the modes of e-governance? What would be major difficulties in this?
8. What are the arrangements made by the Ministry/Department for helping people who are illiterate and/or who live below the poverty line to make an application for disclosure of information at all levels?
9. Does the Ministry/Department think that a separate resource allocation is needed for implementing the RTI Act? Would the existing staff be able to cater to the anticipated demand at all levels?
10. What monitoring mechanism has the Ministry/Department put in place to keep track of all applications received and how they were disposed off?
11. Has the Ministry/Department initiated any training programme for the benefit of its officers on norms of disclosure of information and implementation of the RTI Act?
12. Does the Ministry/Department think that the Official Secrets Act will come in the way of implementation of the RTI Act? If yes, how? Should the Official Secrets Act be amended?
13. What arrangements have been made by the Ministry/Department for accepting information requests from remote areas?
14. Would it be desirable to have a system of grading of Ministry/Department based on their performance in disseminating information?
15. Is it possible to involve private sector which can be given the raw data periodically

Ministry/Department, it then processes this raw data and makes the desired information available to the public on demand? {The concept of privately operated information kiosks}.

16. Which are the areas/sectors/offices where effective implementation of RTI Act could lead to curbing corruption? Should these offices be monitored more closely for effective implementation? {ABC Analysis}
17. How many PIOs have been appointed in the Ministry/Department? Is it desirable/possible to have one PIO in each Ministry/Department at least in Delhi?
18. Have arrangements been made to seek information electronically? In such cases how the fees would be paid?
19. The Act stipulates that there no fees is to be paid by persons living below poverty line? What guidelines have been issued for proper implementation of this provision?
20. What should be done to handle frivolous demand of information?
21. What arrangements have been made to give information in the language requested by the applicant?

#### 7. Questionnaire for the media

1. Whether your organization had tried to elicit information from government officials prior to the enactment of the RTI Act?
2. If yes, whether you had received the information you had sought?
3. If yes, whether the information provided to you was as per your requirements?
4. What will be the nature of information likely to be sought by people?
5. Do you think that the concerned government authorities have made suitable arrangements for providing such information to citizens?
6. Have you made any request for disclosure of information to any Government official under the RTI Act, in the area of your field work?
7. If yes, whether the information sought for has been received by you within the stipulated time?
8. If yes, then have you received the information within 30 days of making the application?
9. Are you satisfied with the quality of information disclosed to you?

10. Do you think the information which has been disclosed to you is vague, incomplete or evasive in nature ?
11. Have the concerned authorities denied you the information which you had sought?
12. What are your suggestions for effective implementation of the RTI Act?
13. What in your view would be the major impediments in the effective implementation of the RTI Act?
14. What are your suggestions for ensuring that the maximum amount of information gets disseminated through voluntary disclosure under section 4 of the Act so that the work of demanding information gets reduced?
15. Do you think that the Official Secrets Act would come in the way of effective implementation of RTI Act? If yes. Why?
16. What amendments need to be carried out in the Official Secrets Act to ensure 'Freedom of Information'?
17. How to generate awareness among the people about freedom of information? Please give your suggestions.
18. How to change the mindset of officialdom which is basically inclined towards maintaining secrecy?
19. What should be done to avoid demand for frivolous information?

**Response to Questionnaire**  
(As on 11.05.2006)

**Highlights of the responses from Union Ministries and Departments are being given as under:**

Sl. No.	Question	Reply		
		Yes (affirmative)	No (negative)	No Comments/ Non Categorical response
1.	Whether arrangements made for suo motu disclosure?	27(100%)		
2.	Whether 'public authorities have been identified?	26(96.3%)		1(3.7%)
3.	Whether protocols and formats have been developed for uniform application in all public authorities for proactive disclosure?	8(29.6%)	12(44.44%)	7(26%)
4.	Whether state of record-keeping is considered good enough?	16(59.25%)	7(26%)	4(14.8%)
5.	Whether arrangements have been made for creating awareness about the Act among the citizens?	13(48.14%)	9(33.33%)	5(18.5%)
6.	Whether electronic means of storing and disseminating of information have been developed?	14(51.85%)	4(14.8%)	9(33.33%)
7.	Whether separate resource allocation is needed?	17(63%)	7(26%)	3(11%)
8.	Whether any amendment in the Official Secrets Act is required?	2(7.6%)	14(51.85%)	11(40.74%)
9.	Whether monitoring mechanism adopted for keeping track of applications?	27(100%)		
10.	Whether co-ordination between CIC and SICs is required for sharing of best practices, easy single window access etc.	16(59.25%)	4(14.8%)	7(26%)

**Annexure-I(4)****CASE STUDIES**

Information was sought from the following five Ministries/Departments under the RTI Act:

**Case Study 1: Department of Industrial Policy and Promotion**

- Date of filing the application: 20.1.2006
- Difficulty faced in filing the application: The application fee as per the Act is Rs 10/-. However since DIPP insisted only on Demand Draft, the Draft was prepared at a cost of Rs 35.
- Information sought: What is the basis of classifying durable and non-durable consumer goods in the industrial classification? What is the basis of data collection and the response percentage?
- Date on which response received: 2.2.2006

Nature of response: Information not available with the Department, “as this does not fall under the purview of this Department”. (There seems to be a tendency to hide information or to give minimum information, which reflects that attitudinal change has not taken place. It may be mentioned here that, DIPP is the source agency for collection of data in respect of Index of Industrial Production with a weight of 51% and brings out an internal report on 209 items compiled by it with sub classifications, including that of consumer durable and non-durables).

**Case Study 2: Department of Revenue (CBDT)**

- Date of filing the application: 14.2.2006
- Difficulty faced in filing the application: None
- Information sought: Whether Income Tax benefits under Equity Linked Saving Schemes (ELSS) are still available under the new provisions of Income Tax Act?
- Date on which response received: 1.3.2006
- Nature of response: The Department has informed that the “information asked for is not covered under the RTI Act”. However, copy of a Circular issued in regard of the tax benefit was enclosed.

*Annexure-I(4) Contd.***Case Study 3: Ministry of Panchayati Raj**

- Date of filing the application: 1.2.2006
- Difficulty faced in filing the application: None
- Information sought: What measures are being taken to strengthen and develop Panchayati Raj institutions in the State of Jharkhand?
- Date on which response received: 22.2.2006
- Nature of response: PRIs fall under the state subject and therefore the application forwarded to Jharkhand State for the desired information with a copy marked to the applicant. (Response from the state government was subsequently received and was satisfactory).

**Case Study 4: Central Statistical Organization**

- Date of filing the application: 1.2.2006
- Difficulty faced in filing the application: None
- Information sought: What is the sample size for collection of data on various sectors and the response rate? What is the basis of this sample size and is it as per international statistical standards?
- Date on which response received: Response awaited.
- Nature of response: (Response has not been received till 15.05.2006).

Annexure-I(4) Contd.

**Case Study 5: Ministry of Water Resources**

- Date of filing the application: 23.1.2006
- Difficulty faced in filing the application: Pay & Accounts Office of the Ministry is located in a different building.
- Information sought: Whether there are any ongoing projects to revive the Sone Canal System in Bihar, including its desiltation? Whether the Special River Commission for study of Sone River has been set up as envisaged while setting up the Bansagar Control Board, and whether its studies have been completed? What has been the discharge allowed to Bihar in the Sone River during May to October and December to March in F.Yrs.02-03/03-04?
- Date on which response received: On 31.1.06, it was informed that application has been forwarded to Water Resources Department, Govt. of Bihar and Central Water Commission. Reply received from Govt. of Bihar vide letter dated 27.2.06, and from CWC vide letter dated 16.3.06.
- Nature of response: Appropriate details have been provided.

Annexure-I(5)- A COMPARATIVE ANALYSIS OF THE RIGHT TO INFORMATION ACT OF DIFFERENT STATES (Based on the enactments and information provided on the website of Commonwealth Human Rights Initiative)	
	RAJASTHAN - 2000
OBJECTIVE	<p>To provide for Right to Information to the citizens about the affairs of the State and public bodies.</p>
SCOPE: DEFINITION OF INFORMATION	<p>Information not defined but "Right to Information" means the right to access to information relating to the affairs of the State or public bodies by means of-</p> <p>(a) obtaining certified copies of documents or records, or (b) inspection of accessible records and taking notes and extracts, or (c) inspection of public works, or (d) taking of samples of material from public works. [Sec.2(vii)]</p>
RIGHTS CREATED	<p>"Subject to the provisions of this Act, every citizen shall have right to obtain information from the incharge of office and such incharge shall be liable to provide information under and in accordance with the provisions of this Act." (Sec.3)</p>
	GOA -1997
OBJECTIVE	<p>Every Governmental action should be transparent to the public; and to achieve this object, every citizen should be able to get information from the Government.</p>
SCOPE: DEFINITION OF INFORMATION	<p>Information " means any material or information relating to affairs of the State or any local or other authorities constituted under any enactment passed by the Legislative Assembly of Goa for the time being in force or a Statutory Authority or a Company, Corporation, Trust, Firm, Society or a Co-operative Society or any Organization funded or controlled by the Government or executing any public work or service on behalf of or as authorized by the Government" [Sec.2(c)]</p>
RIGHTS CREATED	<p>"Subject to the provisions of this Act, every citizen shall have right to obtain information from a Competent Authority." (Sec3)</p>
	TAMIL NADU -1997
OBJECTIVE	<p>In order to provide the public the right of access to information, about the administration and to enable them to get details about the schemes of the Government implemented by various departments, the works executed by various departments, the quantity of rice and other essential commodities supplied to each of the shops under public distribution system of their stocks and to pave the way for the people to question irregularities in the system, the Government have decided to bring a legislation.</p>
SCOPE: DEFINITION OF INFORMATION	<p>Information given an inclusive definition- Information " includes copy of any document relating to the affairs of the State or any local or other authorities constituted under any act for the time being in force or a statutory authority or a company, corporation or a co-operative society or any organization owned or controlled by the Government." [Sec.2(3)]</p>
RIGHTS CREATED	<p>Every person bonafide requiring information may have access to such information in accordance with the procedure specified under this Act.[Sec.3(1)]</p>

	TAMIL NADU-1997	GOA-1997	RAJASTHAN- 2000	Contd..
APPLICABILITY TO NON GOVT./PVT. ORGANISATIONS	It applies to State and any statutory authority or a company, corporation or a co-operative society or any organization owned or controlled by the Government. <b>(Not applicable to private bodies)</b> [Sec.2(3)]	Applicable to State, any Statutory Authority or a Company, Corporation, Trust, Firm, Society or a Co-operative Society, or any Organisation funded or controlled by the Government or executing any public work or service on behalf of or as authorised by the Government; <b>(Partially applicable to some Pvt. Bodies)</b> [Sec.2(c)]	Applicable to State Govt. and Public Bodies. Public Body includes: 1. All local bodies and Statutory authorities. 2. Government Company/corporation in which not less than fifty one percent of the paid up share capital is held by the State Government. 3. A trust established by the State Government and controlled by it; or 4. Society or a Co-operative Society or any other organisation established under any law for the time- being in force, by the State Government and directly controlled or funded by it. 5. Any other body, which may be receiving substantial financial assistance from the State Government, as may be specified by notification in the Official Gazette for the purposes of this Act [Sec.2(v)]	
EXEMPTIONS	A number of exemptions have been listed. These are blanket exemptions. [Sec.3(2)]	Exemptions have been listed, but information which cannot be denied to the State Legislature shall not be denied to any person. (Sec.5)	Exemptions have been listed. (Sec.5) These are blanket exemptions, except in the case of refusal on the ground that the request is too general, where the officer in charge is duty bound to render help to the person seeking information in referring his request to facilitate supply of information. [Sec.5(x)(a)]	
CAN INFORMATION BE DENIED IN NON EXEMPT CATEGORIES	Yes. If in the opinion of the Competent Authority any information, if disclosed, is likely to cause breach of the peace or cause violence, or disharmony among the section of the people on the basis of religion, language, caste, creed, community or if it is prejudicial to public interest, the Competent Authority shall refuse to give information. shall refuse to give information.	There are no blanket exemptions. As per Sec. 5, the Competent Authority may withhold information in the cases listed under that section. For this the reasons have to be recorded in writing.	There are no blanket exemptions. As per Sec. 5, the Competent Authority may withhold information in the cases listed under that section. For this the reasons have to be recorded in writing.	
CAN INFORMATION BE OBTAINED IN EXEMPT CATEGORIES	No.	Theoretically yes. The exemptions are not blanket. As per Sec. 5, the Competent Authority may withhold	Theoretically yes. The exemptions are not blanket. As per Sec. 5, the Competent Authority may withhold information in the cases listed under that section.	

	TAMIL NADU-1997	GOA-1997	RAJASTHAN- 2000	Contd..
	No.	information in the cases listed under that section. For this the reasons have to be recorded in writing.	For this the reasons have to be recorded in writing.	
SUO MOTU DISCLOSURES	NO PROVISION.	NO PROVISION	No mandate. But The State Government and public bodies may suo motu exhibit or expose such information, from time to time, as it may consider appropriate in public interest, in the manner as may be prescribed. (Sec.12-A)	
STRUCTURE	Competent Authorities to be notified by Government. Competent Authority to receive requests and give information. [Sec.2(1), 3(3) & 3(4)]	Competent Authorities notified in the Act itself. Competent Authority to receive requests and give information. [Secs.2(a) & 4]	Person 'Incharge of office' to receive requests and give information. [Secs.2(iii) & 4]	
APPEALS	Appeal against Competent Authority lies to Govt. or an Authority notified by Govt. (Sec.4)	No departmental appeal mechanism. Appeal can be made to the Administrative Tribunal. (Sec.6)	First appeal lies to the 'Controlling Officer'. Second appeal lies to the District Vigilance Committee or the Rajasthan Civil Services Tribunal. (Sec.6 & 7) Legal proceeding can be initiated only after exhausting the remedies provided under the Act. (Sec.11)	
TIME LIMIT	30 working days.	30 working days. Provided that where such information relates to the life or liberty of an individual, the Competent Authority shall either furnish information or pass order refusing the request within 48 hours on receipt of the application.	30 working days.	
FEES	No separate provision. But the Government has power to make rules for carrying out the purposes of the Act. (Sec.7)	The Competent Authority shall charge fees for supply of information which shall not exceed the cost of processing and making available of information. (Sec.14)	The request for seeking information under this Act shall be accompanied by a proof of payment of such fee as may be prescribed for furnishing of information. (Sec.8)	
RECORDKEEPING	NO PROVISION	Proper recordkeeping mandated. (Sec.7)	Proper recordkeeping mandated. [Sec.9(1)&(2)]	
AWARENESS GENERATION	NO PROVISION	NO PROVISION	NO PROVISION	
HUMAN RESOURCE DEVELOPMENT	NO PROVISION	One of the tasks of the State Council created under the Act is to advice the Govt. on HRD. [Sec.11(3)(d)]	NO PROVISION	



	<b>TAMIL NADU-1997</b>	<b>GOA-1997</b>	<b>RAJASTHAN- 2000</b>
PENALTIES	NO PROVISION	Penalties under Service Rules and in addition a Fine of Rs 100 per day of delay.(Sec.8)	Penalties to be imposed as prescribed under the service rules.(Sec.10)
PROVISION OF FEE WAIVER	NO PROVISION	NO PROVISION	NO PROVISION
FRIVOLOUS/VEXATIOUS OR SUPERFLUOUS REQUESTS	NO PROVISION	NO PROVISION	NO PROVISION
SPECIAL PROVISION FOR GOVERNMENT SERVANTS	Nil.	Nil.	Nil.

Contd..

<b>Annexure-1(5)- A COMPARATIVE ANALYSIS OF THE RIGHT TO INFORMATION ACT OF DIFFERENT STATES</b> (Based on the enactments and information provided on the website of Commonwealth Human Rights Initiative)			
	<b>KARNATAKA 2000</b>	<b>DELHI2001</b>	<b>MAHARASHTRA 2002</b>
OBJECTIVE	Providing right of access to information to the citizens of the State promotes openness, transparency and accountability in administration and ensures effective participation of people in the administration and thus makes democracy meaningful.	Securing right to information in the National Capital Territory of Delhi	Right to information is the bed-rock of democracy and can pave the way for transparency, openness and accountability in governance of the affairs of the State and ensure effective participation of the people in a democratic society
SCOPE: DEFINITION OF INFORMATION	"Information" means information relating to any matter in respect of the affairs of the administration or decisions of a public authority. [Sec.2(b)]	"Information" means any material or information relating to the affairs of the National Capital Territory of Delhi. [Sec.2(d)]	" Information " means information relating to any matter in respect of the affairs of the Government and of any public authority and includes a copy of any record in the form of a document, diskettes, floppy or any other electronic mode. [Sec.2(5)]
RIGHTS CREATED	Subject to the provisions of this Act every citizen shall have the right to information. (Sec.4). "Right to Information" means right of access to information from any public authority. [Sec.2(d)]	Subject to the provisions of this Act, every citizen shall have right to obtain information from a competent authority. (Sec.3) "Right to information" means the right of access to information and includes the inspection of works, documents, records, taking notes and extracts and obtaining certified copies of documents or records or taking samples of material. [Sec.2(f)]	Subject to the provisions of this Act, every citizen shall have the right to get information. (Sec.3)
APPLICABILITY TO NON GOVT./PVT. ORGANISATIONS	Act applies to Public Authorities, Public Authority means the State Govt, the KPSC and all local authorities, all authorities constituted by or under any Act of the State Legislature for the time being in force, a company, Corporation, trust, society, any statutory or other authority, Co-operative society or any organisation or body funded, owned or controlled by the State. [Sec.2(c)]	Act applies to Public Authorities, Public Authority means any authority or body established or constituted - (i) by or under the Constitution; (ii) by any law made by the Government and includes any other body owned, controlled or substantially financed by funds provided directly or indirectly by the Government. [Sec.2(g)]	Act applies to Public Authorities. "Public Authority" means any authority or body established or constituted by any Central or State law and includes any other body owned and controlled by the State or which receives any aid directly or indirectly by the Government and shall include the bodies whose composition and administration are predominantly controlled by the Government or the functions of such body are of public nature or interest or on which office bearers are appointed by the Government. [Sec.2(6)]

KARNATAKA-2000			DELHI-2001			MAHARASHTRA-2002		
EXEMPTIONS	Blanket exemptions have been provided. [Sec.4(2)]	Blanket exemptions have been provided. {Sec.6}	Blanket exemptions have been provided (Sec.7)	Contd..				
CAN INFORMATION BE OBTAINED IN NON EXEMPT CATEGORIES	Yes, if the request relates to personal information the disclosure of which has no relationship to any public activity or which would cause unwarranted invasion of the privacy of an individual except where larger public interest is served by relates to personal information the disclosure of which has no relationship to any public activity or which would cause unwarranted invasion of the privacy of an individual except where larger public interest is served by disclosure, or if it is too general in nature.(Sec.6)	Yes, on the grounds mentioned in Section 6.	The Public Information Officer may also reject the request for supply of information, where - (a) The information is already published in the Official Gazette or otherwise, and is available to public or is of such a nature that the volume of information required to be retrieved or processed, would involve disproportionate diversion of the resources of a public Authority. (b) It relates to information that is required by law, rules, regulations or order to be published at a particular time. (Sec.8)					
CAN INFORMATION BE OBTAINED IN EXEMPT CATEGORIES	No these exemptions are blanket. Sec. 4(2)	No Sec. (6)	No Sec. (7)					
SUO MOTU DISCLOSURES	The Act mandates certain suo motu disclosures. (Sec.3)	The Act mandates certain suo motu disclosures. (Sec.4)	The Act mandates certain suo motu disclosures. (Sec.4)					
STRUCTURE	Competent authority to receive requests and give information. "Competent authority" means head of the office or any officer or person as may be notified by the State Government. Sec.5.	Competent Authority to receive request and give information. "Competent authority" means Authority notified by Govt.(Sec.5)	PIO is designated by Competent Authorities to receive requests and give information. (Sec.6).					
APPEALS	First appeal lies to the prescribed appellate authority. Second appeal lies to the Karnataka Appellate Tribunal. (Sec.7) There is a bar of jurisdiction of Courts. (Sec.10)	Appeal lies to the Public Grievances Commission. (Sec.7)	First appeal to internal appellate authority and second appeal to Lokayukta/Upa-lokayukta whose decision is final. (Sec.11) There is a bar of jurisdiction of courts. (Sec.16)					
TIME LIMIT	15 working days	30 working days	15 working days. Within 24 hours where the request involves life and liberty of a person					
FEES	A person desirous to obtain information shall make an application to the competent authority in the prescribed manner, along with such fee, in such form and with such particulars, as may be prescribed. [Sec.5(1)]	The competent authority shall charge such fees for supply of information as may be prescribed by rules, but which shall not exceed the cost of processing and making available of the information. (Sec.13)	A person desirous of obtaining information shall make an application to the Public Information Officer in the prescribed manner along with such fees, in such form and with such particulars, as may be prescribed. Where it is decided to provide the information on payment of any additional fees than the fees prescribed representing the cost of providing the necessary information, the Public Information Officer shall send an intimation to the applicant giving the details of the additional fees determined by him, requesting him to deposit the additional fees. [Sec.6(1) & (2)]					

KARNATAKA-2000			DELHI-2001			MAHARASHTRA-2002		
RECORD KEEPING	Proper record keeping mandated. {Sec. 3(a)}.	Proper record keeping mandated. {Sec. 4(a)}.	Proper record keeping mandated. {Sec. 4(a)}.	Contd..				
AWARENESS GENERATION	No Provision	No Provision	No Provision					
HUMAN RESOURCE DEVELOPMENT	No Provision	No Provision	No Provision					
PENALTIES	Where any competent authority, without any reasonable cause fails to supply information within the specified period or provides false information, the authority immediately superior to it may impose a penalty not exceeding Rs 2000, and he shall also be liable to disciplinary action under the Service Rules. (Sec.9)	Disciplinary action to be taken under relevant service rules. (Sec.9)	Where any Public Information Officer has without any reasonable cause, failed to supply information within the specified period, the appellate authority may impose a penalty of Rs 250 for each day's delay. Where it is found that the PIO has knowingly given incorrect/misleading or wrong/incomplete information, a penalty not exceeding Rs. 2000 may be imposed on such officer. Apart from this, the PIO shall also be liable to appropriate disciplinary action under the service rules. (Sec.12)					
PROVISION OF FEE WAIVER	No	No	No					
FRIVOLOUS/VEXATIOUS/SUPERFLUOUS REQUESTS	Competent Authority may reject a request for supply of information where such request: (a) is too general in nature and the information sought is of such nature that, it is not required to be ordinarily collected by the public authority. (b) Relates to information that is required by law, rules, regulations or orders to be published at a particular time; or (c) Relates to information that is contained in published material available to public. (d) Relates to personal information the disclosure of which has no relationship to any public activity or which would cause unwarranted invasion of the privacy of an individual except where larger public interest is served by disclosure. (Sec.6)	No Provision	The Public Information Officer may also reject therequest for supply of information, where - (a) the information is already published in the Official Gazette or otherwise, and is available to public or is of such a nature that the volume of information required to be retrieved or processed, would involve disproportionate diversion of the resources of a public Authority; (b) it relates to information that is required by law, rules, regulations or order to be published at a particular time. (Sec.8)					
SPECIAL PROVISIONS FOR GOVT. SERVANTS	Information relating to returns of assets and liabilities filed by any Government servant shall be made available to the public.	Nil	Nil					

<b>Annexure-I(5)- A COMPARATIVE ANALYSIS OF THE RIGHT TO INFORMATION ACT OF DIFFERENT STATES (Based on the enactments and information provided on the website of Commonwealth Human Rights Initiative)</b>			
	<b>ASSAM 2002</b>	<b>MADHYA PRADESH 2003</b>	<b>JAMMU &amp; KASHMIR 2004</b>
<b>OBJECTIVE</b>	To provide for right to information to the citizens so as to promote openness, transparency accountability in administration.	To provide for freedom to every citizen of the State to secure access to information under the control of public authorities consistent with public interest and as a right to promote openness and transparency in administration	To make provision for securing right to information and for matters connected therewith or incidental thereto.
<b>SCOPE: DEFINITION OF INFORMATION</b>	Information. means and includes information relating to any matter in respect of the affairs of the administration or decisions of the State Government or a Public Authority but does not include any such information the publication of which has been prohibited by any law for the time being in force or by any notification issued by the State Government from time to time under this Act. [Sec.2(c)]	The word information not defined. Scope limited to obtaining copies of records. [Sec.4(1)]	Information means any document or information relating to the affairs of the State or a public body. [Sec.2(e)]
<b>RIGHTS CREATED</b>	Subject to the provisions of this Act, and the Official Secrets Act, 1923 every citizen shall have the right to obtain information from the Incharge of the Office and such Incharge shall be liable to provide the information in accordance with the provisions of this Act. [Sec.4(1)] 'Right to information' means and includes the right of access to information relating to the affairs of the State Government or public authority. [Sec.2(f)]	Subject to the provisions of this Act every citizen shall have the freedom to inspect and obtain copies of any record created within three preceding calendar years which is in possession of a public body. [Sec.4(1)]	Subject to the provisions of this Act, every citizen shall have right to obtain information from the incharge of office and such incharge shall be liable to provide information under and in accordance with the provisions of this Act. (Sec.4)
<b>APPLICABILITY TO NON GOVT./PVT. ORGANISATIONS</b>	Public Authorities include Local Govts, Govt. companies, Govt. controlled cooperative societies, any other body, authority institution or organization receiving substantial financial	Act applicable to Public Bodies. 'Public body' means- (i) all offices of the State Government	Act applies to Departments of the State Government and public bodies. "Public body" includes (i) offices of all local bodies and other authorities

	<b>ASSAM 2002</b>	<b>MADHYA PRADESH 2003</b>	<b>JAMMU &amp; KASHMIR 2004</b>
<b>EXEMPTIONS</b>	Blanket exemptions are provided in Sec.4 (2) (a) to (k).	9 Blanket exemptions. [Sec.4(2)]	7 blanket exemptions. [Sec.6(1)]
<b>CAN INFORMATION BE DENIED IN NON EXEMPT CATEGORIES</b>	Information may be refused on the following grounds also : (i) the request is too general or is of such a nature that having regard to the volume of the information required to be retrieved or processed for fulfilling it, it would involve disproportionate diversion of the resources of the State Government or the Public Authority, as the case may be or would adversely interfere with the functioning of such Authority; provided that where access is being refused on the ground that the request is too general it would be the duty of the Incharge of the office concerned to render help as far as possible to the person seeking information to reframe his request in such a manner as may facilitate supply of information. (ii) the request relates to information that is required by law or convention to be published at a particular time; or (iii) the request relates to information that is contained in published material for sale. [Sec.4(2)(i)]	(i) all local authorities and statutory authorities constituted under any Act of the State Legislature for the time being in force and all Companies, Corporations and Cooperative Societies in which not less than fifty one percent of the paid up share capital is held by the State Government. [Sec.2(b)]	Contd.. <b>JAMMU &amp; KASHMIR 2004</b> constituted under any law for the time being in force; or (ii) any other statutory authority constituted by the Government under any law for the time being in force; or (iii) a Government Company/Corporation incorporated under the Companies Act, 1956 (Central Act No.1 of 1956) in which not less than fifty one per cent paid up share capital is held by the Government or a trust established by the Government under any law for the time being in force and controlled by it; or (iv) a Society or a Co-operative Society or any other organization established under any law for the time being in force, by the Government and directly controlled or funded by it; or (v) any other body, which may be receiving substantial financial assistance from the Government, as may be specified by notification, in the Government Gazette for the purposes of this Act [Sec.2(f)]
		The designated officer may also reject a request for supply of information where such request- (a) is too general in nature and the information sought is of such nature that, it is not required to be ordinarily collected by the public body; (b) relates to information that is required by law, rules, regulations or orders to be published at a particular time; (c) relates to information that is contained in published material available to public; (d) relates to personal information the disclosure of which has no relationship to any public activity or which would cause unwarranted invasion of the privacy of an individual; (e) relates to matters classified as 'Secret' or 'Confidential'. (f) is vague or meaningless; or too large in volume to prepare copies. (Sec.6)	Yes, as provided in section 6(2) of the Act.

	ASSAM 2002	MADHYA PRADESH 2003	JAMMU & KASHMIR 2004
CAN INFORMATION BE OBTAINED IN EXEMPT CATEGORIES	NO	NO	NO
SUO MOTU DISCLOSURES	NO	Mandated to a limited extent. [Sec.3(c)]	Yes, under sub-sections (b), (c), (d) & (e) of section 3 of the Act.
STRUCTURE	The Incharge of Office has to receive requests and give information.[Sec.5(1)]	A person desiring to inspect or obtain a copy of record under this Act may make an application in writing to the designated officer.[Sec.5(1)]	Any person seeking information shall make an application to the incharge of the office regarding particulars of the matter relating to which information is sought.(Sec.5)
APPEALS	Aggrieved persons can file first appeal to the Controlling Officer of the Incharge of Office. The Second Appeal lies to the Assam Administrative Tribunal.(Sec.6) There is a bar of jurisdiction of Courts(Sec.10)	Any person aggrieved by an order of the designated officer refusing to provide information may prefer an appeal within thirty days of the impugned order to the State Government or to such appellate authority as may be notified by the State Government subject to such rules as may be prescribed. (Sec.7)	Any person aggrieved by the order of the incharge of the office or any person who has not received required information within the time stipulated under section 5, may appeal to the controlling officer, within thirty days of the decision rejecting his request for information or the expiry of period stipulated under section 5 for furnishing such information. (Sec.9)There is a bar of jurisdiction of Courts(Sec.14)
TIME LIMIT	30 working days	30 working days	30 working days
FEES	Any person desirous of obtaining information shall make an application to the Incharge of the Office in the prescribed manner, along with such fee, in such form and with such particulars, as may be prescribed. [Sec.5(1)]	Every public body shall charge fees for the information supplied or inspection of document allowed at such rates as may be notified by the State Government.[Sec.5(4)]	The request for seeking information under this Act shall be accompanied by a proof of payment of such fee as may be prescribed for furnishing information.(Sec.10)
RECORDKEEPING	Proper recordkeeping mandated under the Act.(Sec.3)	Proper recordkeeping mandated under the Act.(Sec.3)	Proper recordkeeping mandated under the Act.[Sec.3(a), 11(1) & 11(2)]
AWARENESS GENERATION	No provision	No provision	No provision
HUMAN RESOURCE DEVELOPMENT	No provision	No provision	No provision
PENALTIES	Disciplinary action under relevant Rules.(Sec.9)	Where the head of a public body or designated officer fails to supply the desired information within a period of thirty days	Disciplinary action under relevant Rules.(Sec.12)

	ASSAM 2002	MADHYA PRADESH 2003	JAMMU & KASHMIR 2004
PROVISION OF FEE WAIVER	NIL	NIL	NIL
FRIVOLOUS/ VEXATIOUS/ SUPERFLUOUS REQUESTS	The Act stipulates certain grounds for refusal to furnish information. [Sec.4(f)]	from the date of receipt of the copy of the order of the appellate authority, the appellate authority may impose a penalty not exceeding two thousand rupees on the concerned head of the public body or designated officer. (Sec.8)	The Act stipulates certain grounds for refusal to furnish information. [Sec.6(2)]
SPECIAL PROVISIONS FOR GOVT. SERVANTS	Nil	Nil	Nil

Annexure-I(6)- COMPARATIVE ANALYSIS OF INTERNATIONAL LAWS ON FREEDOM OF INFORMATION (Based on the enactments and information provided on the website of Commonwealth Human Rights Initiative)					
S. No.	PARAMETER	UNITED KINGDOM	SOUTH AFRICA	CANADA	INDIA
1	NAME & YEAR OF ENACTMENT	FREEDOM OF INFORMATION ACT, 2000	PROMOTION OF ACCESS TO INFORMATION ACT, 2000	ACCESS TO INFORMATION ACT, 1985	RIGHT TO INFORMATION ACT, 2005
2	RIGHT CREATED	Any person making a request for information to a public authority is entitled- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and (b) if that is the case, to have that information communicated to him. [Sec.1(1)]	A requester must be given access to a record of a public body [Sec.11(1)] A requester must be given access to any record of a private body [Sec.50(1)]	Every person who is a Canadian citizen or a permanent resident (defined) has a right to and shall, on request, be given access to any record under the control of a government institution. [Sec.4(1)]	All citizens shall have the right to information. (Sec.3) "Right to information" means access to information which is held by or under the control of any 'public authority'. [Sec.2(f)]
3	COVERAGE	In this Act "public authority" means- (a) subject to section 4(4), any body which, any other person who, or the holder of any office which- (i) is listed in Schedule 1, or (ii) is designated by order under section 5, or (b) a publicly owned company as defined by section 6. [Sec.3(1)]	This Act applies to— (a) a record of a public body; and (b) the record came into existence. (Sec.3) "public body" means— (a) any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government; or (b) any other functionary or institution when— (i) exercising a power or performing a duty in terms of the Constitution or a provincial constitution; or (ii) exercising a public power or performing a public function in terms of any legislation; (Sec.1) "private body" means- (a) a natural person who carries or has carried on any trade, business or profession, but only in such capacity; (b) a partnership which carries or has carried on any trade, business or profession; or (c) any former or existing juristic person, but excludes a public body; (Sec.1)	"government institution" means any department or ministry of state of the Government of Canada listed in Schedule I or any body or office listed in Schedule I. (Sec.3)	"Public Authority" means any authority/body/institution of self government established or constituted: a) by or under the Constitution b) by any other law made by Parliament c) by any other law made by State Legislature d) by notification issued or order made by the appropriate Government and includes any i) body owned, controlled or substantially financed ii) non-Government organization substantially financed  directly or indirectly by funds provided by the appropriate Government. [Sec.2(b)]

Annexure-I(6)-					
S. No.	PARAMETER	UNITED KINGDOM	SOUTH AFRICA	CANADA	INDIA
4	APPLICABILITY TO LEGISLATURE AND JUDICIARY	Applicable to Legislature but not to Judiciary	NO	NO	YES
5	WHETHER PRIVATE BODIES COVERED	To some extent. The Secretary of State may by order designate as a public authority for the purposes of this Act any person who is neither listed in Schedule 1 nor capable of being added to that Schedule by an order under section 4(1), but who-(a) appears to the Secretary of State to exercise functions of a public nature, or (b) is providing under a contract made with a public authority any service whose provision is a function of that authority. [Sec.5(1)]	As per the provisions of Sec.50 (1), a requester must be given access to any record of a private body. As mentioned above, the term 'private body' has been defined in Sec.1 of the Act. The term "record" of, or in relation to, a public or private body, means any recorded information-(a) regardless of form or medium; (b) in the possession or under the control of that public or private body, respectively; and (c) whether or not it was created by that public or private body, respectively (Sec.1)	No.	To some extent as : 'information' has been defined to include information relating to any private body which can be accessed by a public authority under any other law for the time being in force. [Sec.2(f)] The term "public authority" has been defined to include any- i) body owned, controlled or substantially financed; ii) non - G o v e r n m e n t organization substantially financed, directly or indirectly by funds provided by the appropriate Government. [Sec.2(b)]
6	SUO-MOTU DISCLOSURE	It shall be the duty of every public authority- (a) to adopt and maintain a scheme which relates to the publication of information by the authority and is approved by the Commissioner (in this Act referred to as a "publication scheme"), (b) to publish information in accordance with its publication scheme, and (c) from time to time to review its publication scheme. [Sec.19(1)] A publication scheme must	Within six months after the commencement of this section or the coming into existence of a public body, the information officer of the public body concerned must compile in at least three official languages a manual containing information as prescribed in section 14(1), clauses (a) to (i). The manual must be updated at intervals of not more than one year [Sec.14(2)] Similarly, Private Bodies are also required to publish certain information suo motu. (Sec.52)	The designated Minister shall cause to be published, on a periodic basis not less frequently than once each year, a publication containing (a) a description of the organization and responsibilities of each government institution, including details on the programs and functions of each division or branch of each government institution; (b) a description of all classes of records under the control of each	Under Sec.4 (1) of the RTI Act, every public authority has to a) maintain all its records duly catalogued and indexed in a manner to facilitate right to information and ensure that appropriate records are computerized and have network accessibility as far as possible b) publish particulars within 120 days of enactment of the RTI Act particulars as specified in Sec.4 (1) (b), sub-clauses i) to (xvii).

Annexure-I(6) -					
S. No.	PARAMETER	UNITED KINGDOM	SOUTH AFRICA	CANADA	INDIA
7	<b>WHETHER ABSOLUTE EXEMPTIONS EXIST</b>	(a) specify classes of information which the public authority publishes or intends to publish. (b) specify the manner in which information of each class is, or is intended to be, published, and (c) specify whether the material is, or is intended to be, available to the public free of charge or on payment. [Sec.19(2)] The Commissioner may from time to time approve, in relation to public authorities falling within particular classes, model publication schemes prepared by him or by other persons. [Sec.20(1)] Yes. There are categories of absolute exemptions. [Sec.2(3)] In all these cases Right to Information does not exist.	Yes, there are absolute exemptions. In these categories of cases it has been prescribed that the information officer must refuse information. [Sec.33(1)(a)]	government institution in sufficient detail to facilitate the exercise of the right of access under this Act; (e) a description of all manuals used by employees of each government institution in administering or carrying out any of the programs or activities of the government institution; and (d) the title and address of the appropriate officer for each government institution to whom requests for access to records under this Act should be sent. [Sec.5(1)] Yes. There are absolute exemptions. In certain cases it has been prescribed that the head of a government institution shall refuse information.	(c) publish all relevant facts regarding policies or the time of their formulation or announcement. (d) provide reasons for administrative or quasi-judicial decisions to affected persons. Although exemptions under ten categories are provided under the Act, [Sec.8(1)], they may be overridden in 'public interest' [Sec.8(2)]. Only in the case of infringement of copyright vesting in a person other than the State there exists an absolute exemption [Sec.9].
8	<b>ARE THERE GOVERNMENT ORGANISATIONS WHICH HAVE BEEN EXEMPTED</b>	The Act is applicable only to a list of governmental agencies, so question of exempting Govt. agencies does not arise.	This Act does not apply to a record of— (a) the Cabinet and its committees; (b) the judicial functions of— (i) a court referred to in section 166 of the Constitution	This Act does not apply to confidences of the Queen's Privy Council for Canada, including, without restricting the generality of the foregoing, (a) memoranda the purpose of which is to present proposals or recommendations to Council; (b) discussion papers the purpose of which is to present background explanations, analyses of	Yes. As per section 24, the Act does not apply to intelligence and security agencies mentioned in the Second Schedule (18 organisations as of now), except in case of information pertaining to corruption and violation of human rights.

Annexure-I(6) -					
S. No.	PARAMETER	UNITED KINGDOM	SOUTH AFRICA	CANADA	INDIA
9	<b>CONDITIONAL EXEMPTIONS</b>	Part -II of the Act lists out several types of information which is exempt. Out of these there are 8 categories of absolute exemptions. In other cases of exemptions the information need not be given if the public interest in main taining the	(ii) a Special Tribunal established in terms of section 2 of the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996); or (iii) a judicial officer of such court or Special Tribunal; or (c) an individual member of Parliament of a provincial legislature in that capacity.(Sec.12) Yes, there are various categories of cases wherein the Information Officer may refuse information. [Sec.33 (1) (b)] In these cases the Information Officer must grant access to information if:	problems or policy options to Council for consideration by agenda of Council or records recording deliberations or decisions of Council; (d) records used for or reflecting communications or discussions between ministers of the Crown on matters relating to the making of government decisions or the formulation of government policy; (e) records the purpose of which is to brief ministers of the Crown in relation to matters that are brought before, Council or that are the subject of communications or discussions referred to in paragraph (d); (f) draft legislation; and (g) records that contain information about the contents of any record within a class of records referred to in paragraphs (a) to (f). [Sec. 69(1)] The head of a government institution may disclose information if certain conditions are fulfilled as mentioned in section 13(2). In matters relating to sections 14,15,16(1),16(2),17,18,21,22,23 and 26, the head of a government	Yes, as mentioned in Sec.8(2).

Annexure-I(6) -					
S. No.	PARAMETER	UNITED KINGDOM	SOUTH AFRICA	CANADA	INDIA
		exclusion of the duty to confirm or deny outweighs the public interest in disclosing whether the public authority holds the information.	(a) the disclosure of the record would reveal evidence of— (i) a substantial contravention of, or failure to comply with, the law; or (ii) an imminent and serious public safety or environmental risk; and (b) the public interest in the disclosure of the record clearly outweighs the harm contemplated in the provision in question. (Sec. 46)	institution may refuse to disclose information	
10	<b> GROUNDS FOR REFUSAL</b>	Disclosure of information may be refused on the following grounds: i. If the authority estimates that the cost of complying with the request would exceed the appropriate limit.(Sec.12) ii. If the request is vexatious.(Sec.14) iii. If the request has been complied with earlier.(Sec.14)	The exemptions are worded as follows: The information officer of a public body may refuse a request for access to a record of the body if— (a) the request is manifestly frivolous or vexatious; or (b) the work involved in processing the request would substantially and unreasonably divert the resources of the public body. (Sec.45)	Access may be refused either if the records do not exist, or if it is covered by exemption provisions. (Sec.10)	Application can be rejected only under exemption clauses i.e. Sections 8(1) and 9, and in case of organizations listed in the Second Schedule.

Annexure-I(6) -					
S. No.	PARAMETER	UNITED KINGDOM	SOUTH AFRICA	CANADA	INDIA
11	<b> FEES STRUCTURE</b>	Public Authorities have to specify the fees structure. The fee structure is regulated by the Regulations issued by the Secretary of State. The Regulations may also provide for fees waiver.(Sec.9)	The information officer of a public body to whom a request for access is made, must by notice require the requester, other than a personal requester, to pay the prescribed request fee (if any), before further processing the request. [Sec.22(1)]  The head of a private body to whom a request for access is made must by notice require the requester, other than a personal requester, to pay the prescribed request fee (if any), before further processing the request. [Sec.54(1)]	Subject to this section, a person who makes a request for access to a record under this Act may be required to pay (a) at the time the request is made, such application fee, not exceeding twenty five dollars, as may be prescribed by regulation; (b) before any copies are made, such fee as may be prescribed by regulation reflecting the cost of reproduction calculated in the manner prescribed by regulation; [Sec.11(1)]  The head of a government institution to which a request for access to a record is made under this Act may waive the requirement to pay a fee or other amount or a part thereof under this section or may refund a fee or other amount or a part thereof paid under this section. [Sec.11(6)]	The application has to be accompanied by prescribed fee (Sec.6), which is currently Rs.10/-. For providing a copy of any document, additional fee of Rs.2/- per page is required to be deposited as per Rules issued by GOI. States have their own fee structure.
12	<b> APPEALS</b>	Any person (in this section referred to as "the complainant") may apply to the Commissioner for a decision whether, in any specified respect, a request for information made by the complainant to a public authority has been dealt with in accordance with the requirements of Part I. [Sec.50(1)]	In case of Public Bodies there is a provision of an internal first appeal. The second appeal lies to the Court. In case of Private Bodies the first appeal lies directly to the Court. (Sections 74 & 78)	Subject to this Act, the Information Commissioner shall receive and investigate complaints regarding any request for access to a record. (Sec. 30)	First appeal lies with the officer who is senior in rank to the CPIO/SPIO in each public authority [Sec.19(1)]. A second appeal lies with the Central Information Commission or the State Information Commission. [Sec.19(3)] There is a bar on jurisdiction of Courts (Sec.23)

Annexure-I(6) -		INDIA	
S. No.	PARAMETER	UNITED KINGDOM	SOUTH AFRICA
13	PUBLIC INTEREST CLAUSE	All exemptions (except absolute exemptions) are qualified by a public interest override whereby access will only be refused where the public interest in maintaining the exemption outweighs the public interest in disclosing the information.(Part II of the Act)	S.46: Both public and private bodies must disclose information when it reveals evidence of substantial contravention of law or imminent and serious public safety or environment risk AND the public interest in disclosure outweighs the public interest in refusing.
14	TIME FOR COMPLIANCE OF REQUESTS	20 working days(Sec.10)	30 days(Sec.25(1))
15	WHISTLEBLOWERS' PROTECTION	No provision. (Covered in Public Interest Disclosure Act)	No specific provision(Covered in Protected Disclosures Act)
16	RECORDKEEPING MANDATE	The Secretary of State shall issue, and may from time to time revise, a code of practice providing guidance to public authorities as to the practice which it would, in his opinion, be desirable for them to follow in connection with the discharge of the authorities' functions under Part I.	No
17	REPORT TO PARLIAMENT	Sec.49 - (1) The Commissioner shall lay annually before each House of Parliament a general report on the exercise of his functions under this Act. (2) The Commissioner may from time to time lay before each House of Parliament such other reports with respect to those functions as he thinks fit.	Sec.32. The information officer of each public body must submit a report to the Human Rights Commission every year. Sec. 84. The Human Rights Commission must include the prescribed information in its annual report to the National Assembly.
			Sec.25: The Central Information Commission or the State Information Commission shall after the end of each year prepare a report to the appropriate Government, which will in turn cause a copy of the report to be laid before each House of the Parliament/each House of the State Legislature.
			Sec. 38: The Information Commissioner shall, within three months after the termination of each financial year, submit an annual report to Parliament on the activities of the office during that financial year.
			Sec.20(6) states : "The head of a government institution may disclose any record requested under this Act, or any part thereof, that contains information described in paragraph (1)(b), (c) or (d) if that disclosure would be in the public interest as it relates to public health, public safety or protection of the environment and, if the public interest in disclosure clearly outweighs in importance any financial loss or gain to, prejudice to the competitive position of or interference with contractual or other negotiations of a third party'.
			30 days (Sec.7) 40 days, where confidential third party information has been sought. [Sec.11(3)]
			No provision.
			Yes. [Sec.4(1)(a)]

Annexure-V(1)

List of States which have constituted the Information Commissions  
(as on 12-4-06)

S.No	State	Name of State Chief Information Commissioner	Background
1	Andhra Pradesh	Shri C.D. Arha	Civil Service
2	Assam	Shri R.S. Mushahary	Civil Service
3	Chattisgarh	Shri A.K. Vijayavargiya	Civil Service
4	Goa	Shri A. Venkatratnam	Civil Service
5	Gujarat	Shri P.K.Das	Civil Service
6	Haryana	Shri G.Madhavan	Civil Service
7	Himachal Pradesh	Shri P.S.Rana	Civil Service
8	Karnataka	Shri K.K.Mishra	Civil Service
9	Kerala	Shri Palat Mohandas	Civil Service
10	Madhya Pradesh	Shri T.N.Shrivastava	Civil Service
11	Maharashtra	Shri Suresh V. Joshi	Civil Service
12	Meghalaya	Shri G.P.Wahlang	Civil Service
13	Nagaland	Shri P.Talitemjen	Civil Service
14	Orissa	Shri D.N.Padhi	Civil Service
15	Punjab	Shri Rajan Kashyap	Civil Service
16	Rajasthan	Shri M.D. Kaurani	Civil Service
17	Tamil Nadu	Shri S.Ramakrishnan	Civil Service
18	Tripura	Shri B.K.Chakraborty	Civil Service
19	Uttaranchal	Shri R.S.Tolia	Civil Service
20	Uttar Pradesh	Justice Shri Mohd. Asgar Khan	Judiciary
21	West Bengal	Shri Arun Bhattacharya	Civil Service



**Annexure-V (2)**

**No. of CPIOs/PIOs in various Ministries/Departments**  
(Based on information available on their web sites as on 11.05.2006)

Sl No	Ministry/Department	No. of CPIOs	Level of Officers	Whether Appellate officer appointed?
1	PMO	1	Dir.	Yes
2	Department of Commerce	41	Dir./DS/US	Yes
3	Department of Industrial Policy & Promotion	15	Dir./DS	Yes
4	Ministry of Personnel, Public Grievances and Pensions	42	Dir./DS	Yes
5	Department of Revenue	11	Dir./DS	NA
6	Department of Expenditure	9	Dir./DS	Yes
7	Ministry of Agro and Rural industries	1	Dir.	Yes
8	Ministry of Civil Aviation	1	US	Yes
9	Ministry of Coal	1	DS	Yes
10	Ministry of Parliamentary Affairs	3	DS	Yes
11	Ministry of Environment and Forest	22	JS/Dir/DS	Yes
12	Ministry of External Affairs	1	JS	Yes
13	Ministry of Food Processing Industries	15	Dir./DS	Yes
14	Ministry of Labor and Employment	1	Dir.	Yes
15	Ministry of Health and Family Welfare	36	Dir./DS/AC	NA
16	Department of Legal Affairs	6	JS/Addl. Legal Adv.	NA
17	Ministry of Mines	1	Dir.	Yes
18	Department of Ocean Development	6	Dir./DS	Yes
19	Department of Science & Technology	1	DS	Yes
20	Department of Tourism	15	Dir./DS	Yes
21	Ministry of Water Resources	10	Dir./DS	NA
22	India Meteorological Department	NA	NA	NA

JS= Joint Secretary; Dir.= Director; DS= Deputy Secretary; US= Under Secretary; AC= Assistant Commissioner; NA= Not Available

**Annexure-V (3)**

**Responses of some Ministries/Departments about status of record-keeping**

No.	Agency	Response
1	Deptt. of Consumer Affairs	Record keeping would be developed with passage of time.
2.	Ministry of Tourism	Since the obligation under section 4(1)(a) must get discharged within a timeframe outsourcing of efforts to bring in place a system of e-managed records should be an option worth considering.
3.	Deptt. of Post	That retrieval and storage of information will become easier by use of systems based on information and computer technology. Detailed and standard procedures for this should be developed by the nodal Ministry
4.	Ministry of Petroleum & Natural Gas	The present system of record management is appropriate for record keeping of the Ministry.
5.	Ministry of Steel	Record keeping at present is good enough
6.	Deptt. of Expenditure	Record maintenance needs to be given constant attention for its own sake RTI or no RTI. There is need for consultation with Department of Personnel and Training on the advisability and extent to which the norms governing weeding out of records needs to be changed in the light of the RTI Act.
7.	Ministry of Power	The State of record keeping is good enough
8.	Ministry of Overseas Indian Affairs	Computerization of all the records and networking of all the offices is the only solution for providing all information stipulated under the RTI Act. They have also stated that they have started this process of computerization which would be completed within one year.
9.	Deptt. of Telecommunications	In few cases giving information may take more than the prescribed time. Hence efforts are needed to modernize the system of recordkeeping.
10.	Deptt. of IT	The status of recordkeeping is satisfactory at this stage.
11.	Ministry of Law and Justice	State of record-keeping is good
12	Ministry of Non Conventional Energy Sources	The present of record-keeping may not be enough. It is necessary to develop appropriate information system through computers.
13.	Department of Agricultural Research and Education	The Manual of Office Procedures is time tested and does not warrant changes.
14.	Ministry of Urban Development.	There is a need to convert all records which are more than five years old into electronic form
15.	Deptt. of Health and Family Welfare	The state of record-keeping is satisfactory but it is being further improved.
16.	Deptt. of Agriculture and Cooperation	The record-keeping has to be updated for easy computerization, micro-filming, conversion into electronic form for web related application, to facilitate easy retrieval and access.

Annexure-VI(1)

**The Inverted Tree concept for maintaining inventory of the public authorities**

