

No transparency please, we are the Indian bureaucracy!
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It can only happen in India. No sooner does a perfectly good piece of legislation, the Right to Information Act 2005, come into being – one could even say 20 years too late – than the very people who are meant to uphold every value of democracy, transparency and accountability can be seen to doing everything in their power to wriggle out.

The Act was signed into law on 15 June 2005. The joy of ordinary citizens, who have long been subjected to the whims of a bureaucracy steeped as much in secrecy as in privilege, was dampened by no less than the President, who is reported as commenting on the need for secrecy of communications between the President and the Prime Minister. Happily, his official website makes no mention of this and perhaps it was just an early reaction before deeper consideration. As a people's President and man of scientific temper, his comments may have been misreported.

Much worse are the recent claims to immunity from information giving being made by the Central Vigilance Commission, Central Bureau of Investigations and the Delhi Police: all frontline public sector organisations that exist only in the public service and are paid for by public monies. These bodies exist only to act as guardians of democracy and good governance. Their success depends on openness and getting the public to participate in their functioning because they are so deeply trusted. For them to request immunity from a law that promises to usher in a new era of transparency in government is not only shocking, but also unwarranted. Under section 24 (1) of the Act only “security and intelligence agencies” specified in the Second Schedule have immunity from the Act, so in its claims, the CVC for one, is really whistling in the wind.

The new law is in fact much more benign than the knee jerk reactions it is getting. It has plenty of protection for keeping sensitive information away from the public. The only difference is that finally bureaucrats have to justify why they are keeping information away from the public. They can only do so if it is itself in the public interest to hold this information closely. Otherwise the Act requires that all public bodies, read government departments and public service utilities, make information available to the public in two ways: without being asked and on request.

Agencies like the CBI and CVC perform on a daily basis a number of routine functions which involve spending public funds and decision-making that affects not only its own officers but also the public at large. These categories of information, by the very logic and purpose behind the RTI Act, must be made available to the public. If information is to be held back, the question of whether to give it or not will be decided upwards through departmental appeals and finally by the courts.

Where information is genuinely sensitive - i.e. only if it is likely to jeopardise national security, endanger the life of the life or physical safety of any person, or an investigation, it is any case protected by the new law, so what's to worry about? Even where sensitive information is concerned, for example,

in a criminal investigation, information can be made public to the extent that it does not disclose the identity of a confidential informant, victim or defendant. Comparisons are odious, but surely no informed person can have missed in contrast to our attitude the huge amounts of information being provided by the London Metropolitan Police even as they work through a complex investigation to uncover the London bombers under the eyes of an impatient public. Their reward can be seen in the fulsome response they have received in turn. Much as we love to hate the British, the lesson to be learned is there is nothing to fear from including 'we the people' in our own security. Most of us want to find the culprits in corruption and chaos and are not in cahoots with villains.

While the CBI and Delhi Police may be strung out by the false notion that the most intimate details of their investigations and sting operations will have to be revealed they may be surprised to learn that the questions most likely to be asked of them are quite mundane – What was the budgetary allocation for rural police stations for the financial year 2005; how many cases are pending investigation and/or prosecution by the CBI: ordinary questions on ordinary functions; questions that may embarrass but are certainly in the public interest to know. Can anyone in a mature democracy say they shouldn't have to answer for their performance?

Unfortunately, there is every chance that more and more of these unmerited requests will come and be seriously considered by a sympathetic bureaucracy, who no doubt see the benefits of similar immunity for themselves at some future date. But there is futility in considering such requests. The new law makes clear that information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

All the Act has really done is not to give some fantastic radical right into the hands of flaming subversives. It has just made clear - and better known - a fundamental right which Indian citizens already have: the right to know. Until now few knew this and fewer used it. Faced with the very real chance that the Act will be well used we are now seeing the spectacle of an extremely privileged bureaucracy that has never had its discretions and decision-making questioned, being dragged kicking and screaming into a new era of power sharing -and it is about time too.