

RTI BILL: Undergoing gradual Metamorphosis

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After more than a decade of lobbying, it seems that civil society and the public at large will finally achieve a goal that has too often seemed within reach but then somehow slipped out of grasp – a right to information law which will apply to all government bodies throughout the country and can be used by all citizens in all States.

Yesterday the government reintroduced the keenly awaited RTI Bill with amendments in the Lok Sabha four months after being introduced in the Parliament last December in 2004. The bill is expected to be enacted into a law this week itself. These developments comes a month after a Parliamentary Standing Committee made recommendations to the House in a record time for improving the Bill, and a Group of Ministers reviewed the Bill. These developments are particularly heartening especially when one recalls that the old *Freedom of Information Act 2002* has lain dormant in the statute books for more than two years.

The original draft of the RTI Bill - which purported to provide the country with a “more participatory, progressive and meaningful” as promised by the Common Minimum Program of the new government – was an improvement over the old Act, but still contained some key deficiencies. For example, it did not cover State bodies, penalties for non-compliance by officials were very weak and exemptions from disclosure were very broad. It was encouraging therefore that the Bill was speedily referred to a Parliamentary Committee which very promptly held well attended hearings and invited submissions from interested range of people who had plenty of improvements to suggest. The Bill passed through committee stage in record time and the final report was presented to parliament in March 2005.

It is now up to the Government to take quick action to accept the Committee’s recommendations – and ideally go even further and accept the additional recommendations of civil society groups. For example, since the RTI Bill is intended to enable a fundamental right, its remit must naturally cover all the people in the country. In this vein, the government should accept the Committee’s unequivocal recommendation that the jurisdiction of the Bill be extended to both Central and State Government bodies. This is crucial to ensure maximum access by the public. Of course, this will need to be worked through with State Governments when it comes to implementation because State Governments will have a key responsibility for ensuring that information held by their public bodies is also made available under the law. Already, nine States in India have passed their own right to information laws to

enable access – but now it is time for the other 19 States to come to the party.

In fact, the Committee has gone even further and has widened the definition of the public authority to include Panchayats and Municipal bodies. In a country of billions where about seventy percent of the population lives in the villages and where the government allocates millions in welfare schemes for the rural poor, widening the scope of the public authority to include local self-government institutions is an important step in the right direction.

Another key recommendation that the cabinet cleared today is to set up independent Information Commissions which will be able to hear appeals from people who believe that government officials have wrongly withheld information from them. The Committee has even recommended that Commissioners and their Deputies be conferred the status of Chief Election Commissioner and Election Commissioner respectively in order to strengthen their independence and autonomy. This is a welcome and radical new step. Information Commissions have been established throughout the world – and in many countries have been shown to be very effective in cracking open formerly closed government bodies and enabling the public to properly subject them to scrutiny.

The Committee should also be commended for recommending that people living below poverty line should be exempted to pay any fees for accessing information while in other cases it should not exceed the actual cost of supplying the information. This is an important recommendation because in a country where majority don't get to have one proper square meal a day, levying fees would be incur additional burden on their limited financial resources.

Despite many of the positive steps forward proposed by the Committee though, there remain weaknesses in the Act. For example, the Committee has not removed the exemption of entire organizations (such as security agencies and intelligence agencies), although it has at least recommended that the law should not apply to such bodies if the information requested pertains to an allegation of a violation of human rights or corruption. This is significant because for years these agencies have been accused of human rights violations and have been at the center of too many scams.

The penalties clauses in the Bill also remain weak. The Committee's recommendations go some way towards strengthening the penalties available to sanction officials who fail to comply with the law, but the provisions could still be made stronger, in line with the good practice that is already evidenced in States like Maharashtra where the Lokyukta

can immediately impose personal penalties on official who have wrongfully delayed providing information under the law. The Information Commissioners should be given similar powers – as well as powers to penalise people where they have not only delayed providing information but have actually destroyed information or provided false records.

Whatever be the shortcomings though, it is fact that this new right to information Bill is an improvement on the old - and perhaps happily still born - Freedom of Information Act 2002. Passing it and getting it implemented across India is a national priority. The people of India have already had to wait too long for the government to pass laws that will enable what has long been recognized by the Supreme Court of Indian as our fundamental right. An early law will also lay the foundations for the many administrative reforms that will usher in transparent and accountable government that the Manmohan Singh Government has promised. If the law is passed – and more importantly, implemented promptly, effectively and in the spirit of open government - then for the first time Indians will be able at last have available to them information, the oxygen of democracy.