

ARC's Positive Recommendations for Improving The Implementation of RTI Act Rejected (June 16, 2009)

Dear friends,

Yesterday you received a note on the probable amendments to the RTI Act based on the recommendations of the Second Administrative Reforms Commission. Readers will remember that the very first report of the Second Administrative Reforms Commission (ARC) focused on strengthening the RTI Act describing it as the 'master key to good governance'. GOI has made public its decisions on all the recommendations made by ARC through the website of the Department of Administrative Reforms and Public Grievances [<http://darpq.nic.in/arpq-website/Right%20to%20Information%20-%20Master%20Key%20to%20Good%20Governance.pdf>].

Given below is a list of important and practical recommendations of the ARC rejected by GOI:

Official Secrets Act to stay: The ARC had recommended and rightly so, the repeal of the Official Secrets Act (OSA) and incorporation of some of its anti-espionage provisions in the National Security Act. ***GOI has rejected this recommendation on the ground that the offences under the OSA are substantive offences and cannot be placed in what is essentially a preventive detention law.*** This argument cannot be flawed but the anti-espionage provisions may be placed in the Indian Penal Code without much difficulty. There is no reason for treating OSA as a treasured heirloom that must be preserved for posterity.

Oath of Secrecy to stay: The ARC had recommended that the oath of secrecy administered to Ministers be replaced with an oath of transparency. ***GOI has rejected this recommendation on the ground that Ministers will still be expected to maintain secrets in the RTI era.*** So even if Parliament signaled its will to change the underlying paradigm of governance from secrecy to openness by passing the RTI Act GOI wants its Ministers to be sworn to secrecy- the numerous calculated leaks of government information notwithstanding- *praan jaaye par vachan na jaaye*.

Composition of the selection committee for Information Commissions remains unchanged: The ARC had taken note of the monopoly enjoyed by the government on the committee mandated with the selection of members of Information Commissions. It had recommended that the Cabinet Minister on the committee be replaced by the Chief Justice of the Supreme Court at the Central level and the Chief Justice of the respective High Courts at the level of the States. ***GOI has rejected this decision stating that the existing arrangements have no infirmity.***

Refusal to end the bureaucratic domination of Information Commissions: A vast majority of Information Commissioners appointed at the Centre and in the States are officers who retired from senior positions in government. Individuals who swore by the OSA were made champions of transparency overnight. Recognising this anomaly, the ARC recommended change in the RTI Rules to ensure that at least 50% of the Commissioners are drawn from fields of expertise outside the bureaucracy. ***GOI has rejected this recommendation merely stating that the Act provides for the appointment of eminent persons from different fields of expertise.*** Apparently the necessity of giving detailed reasons for a decision of rejection applies only to the domain of PIOs and appellate authorities, and not to GOI as a whole.

Refusal to print *suo motu* disclosure documents: Recognising the fact that less than 5% people in India are internet literate, the ARC had recommended printing of proactive disclosure documents of public authorities periodically in order to make them easily accessible to people. ***GOI has rejected this recommendation on the ground that this would be an expensive affair to be undertaken periodically. Instead public authorities would upload their proactive disclosure documents on the RTI portal set up by GOI.*** No mention is made of the fact that the existing disclosures are not regularly updated on this portal and in any case they are inaccessible to non-english-speaking and internet-illiterate citizens.

Shortchanging records management: Recognising the poor state of management of public records all over India, the ARC had recommended the setting up of a well networked series of public records offices at the Central and state level. It had also recommended setting aside 1% of the budget of

flagship programmes of each ministry for this purpose. **GOI has rejected the 'public records office' idea stating that the Public Records Act and the National Archives would be adequately strengthened for this purpose.** The fact that the Public Records Act does not cover the States has been conveniently forgotten. **GOI has rejected the funding idea also on the ground that no separate allocation needs to be made for improving records maintenance, the same could be met under the existing budgetary provisions.** Behind this rejection there is little realisation of the fact that records management is an area of least concern in several public authorities. The question that begs consideration is how many public authorities take records management seriously to make budgetary provisions for this item of expenditure every year as it is a continuous exercise. The provision about records management found in the RTI Act has only enthused many public authorities to hasten the destruction of records that are past their stipulated lifespan.

Refusal to set up single window system: Based on the strong backing from civil society the ARC had recommended that a single window system manned by Assistant PIOs be set up at the district level for receiving applications from citizens. The obvious purpose was to create convenience for citizens who would otherwise have to go through considerable difficulty identifying the correct PIO. **GOI has rejected this recommendation stating that complaints would pertain to different areas and time would be lost in distributing them to the relevant offices.** The possibility of linking up with the State Governments for setting up such facilities has been ignored. The example of Nawanshahr district in Punjab where such a system was functional has been ignored.

Refusal to effectively monitor the implementation of the RTI Act: Recognising that a large number of public authorities function at the regional, state, district and sub-district level the ARC had recommended that a nodal officer be appointed by the relevant Information Commission as a monitoring authority to ensure proper implementation of the RTI Act. **GOI has rejected this recommendation on the pretext that it may lead to inter-departmental conflict.** Surely, making the District Collector/Deputy Commissioner's office as a monitoring authority at the district level may not lead to any conflict as they perform a supervisory role on many accounts including the maintenance of law and order. Another good suggestion has been rejected on incredible grounds.

Bureaucrats have not accepted most of the important recommendations that civil society has been advocating for since the inception of the RTI Act. People have the right to know why. We advocates and activists should demand that the entire file on the ARC recommendations along with notings must be proactively disclosed by GOI. This is indeed the mandate of clauses (c) and (d) of section 4(1) of the RTI Act:

"Every public authority shall...

(c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;

(d) provide reasons for its administrative or quasi-judicial decisions to affected persons."

People have the right to know the details of why such progressive and practical recommendations have been rejected.

What can you do to demand transparency and resist amendments?

Please send emails demanding your right to know and insisting on the public authorities to proactively disclose detailed reasons for rejection. Please also strongly voice your opposition to making any amendments to the RTI Act. A sample email is given below which you are free to adapt:

"Dear-----,

I would like to exercise my right to know the detailed reasons behind the acceptance of some and the rejection of various other recommendations made by the Second Administrative Reforms Commission in its first report- *Right to Information: Master Key to Good Governance*. I urge you to place the entire contents of the file relating to the said report including all file notings on your website. I would like to remind you that you have an obligation to proactively disclose all facts relating to the decisions taken on the recommendations contained in the said report under clauses (c) and (d) of sub-section (1) of section 4 of the Right to Information Act (RTI Act).

As a citizen of India I would like to assert that there is no need to amend anything in the RTI Act which guarantees my fundamental right to seek and obtain information from public authorities.

Yours sincerely,

Name of the sender.”

NO AMENDMENTS - LEAVE OUR RTI ACT ALONE.”

Please send this email along with the slogan to the Minister and Secretaries mentioned below:

- 1) Mr. Prithviraj Chavan, Minister of State, Personnel, Public Grievances and Pensions, Government of India.
Email: mpos-pp@nic.in or mchavanprithviraj@sansad.nic.in
- 2) Ms. Rajni Razdan, Secretary, Department of Administrative Reforms, Ministry of Personnel, Public Grievances and Pensions, Government of India.
Email: mraini.razdan@nic.in
- 3) Mr. Rahul Sarin, Secretary, Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions, Government of India.
Email: msecy_mop@nic.in

Please circulate this email within your networks. Please build up pressure against any attempt to amend the RTI Act. If each email group decided to send a 1000 mails from its members we could create some impact.

Our Slogan: NO AMENDMENTS - LEAVE OUR RTI ACT ALONE.

Thanks

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