

From transparency to accountability

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With the Union cabinet having approved the Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, 2011 (hereafter referred to as the GR bill), Parliament has an opportunity to enact a law that would give citizens a way in which to hold government functionaries accountable. An effective GR act has the potential to transform the relationship between an ordinary Indian and the bureaucracy. It builds on the transparency regime of the RTI by encouraging citizens to use information to enforce accountability.

We have no shortage of innovations in law, but our constant refrain is that we are unable to implement them. Beginning with the RTI Act, 2005, India has enacted a slew of rights-based legislations: NREGA, the Forest Rights Act and the RTE Act. In many states, there are public service guarantee acts that convert the delivery of every notified public service into an entitlement. The only law that has some effective redress mechanism built into it is the RTI, and we must learn lessons from it. The GR bill should provide every person the right to make a complaint and create an architecture for them to receive a time-bound written reply. Failure to do so should, like the RTI law, attract a penalty to be paid from the concerned officer's pocket. What makes this bill an important complement to the public service delivery bills of the states is its potential to hold both the implementing functionary and the supervisory structure accountable. Indeed, this bill seeks to make the supervisory superstructure the linchpin for the redress of grievances, by holding supervisors (grievance redress officers) accountable for not sorting out people's complaints. Supervisors in our bureaucracy are there to ensure delivery, but have completely escaped real accountability. Like the PIO in the RTI Act, the GRO here should be made accountable to the people.

The lack of an effective mechanism to deal with everyday grievances characterises the functioning of almost all government departments. The basic mechanisms to engage with the system have not been put in place: an acknowledgement of the petition or complaint mandated through a dated receipt; a participatory process of inquiry; a time-bound reasoned reply through a "speaking order"; and an independent appellate authority at the district or sub-district level who can impose penalties and award compensation for non-compliance.

The introduction of the bill in Parliament in December 2011 was a welcome step in trying to create this architecture. However, the bill had several lacunae that needed to be addressed. It was referred to the parliamentary standing committee, which made several useful

recommendations in its report to Parliament in August 2012. The bill has now been approved by the cabinet. Some critical provisions must be included in any GR legislation to ensure that the mechanism has the institutional capacity to effectively receive, inquire into and redress any complaints relating to deficiencies in the functioning of government.

First, the legislation must mandate each public authority to develop a citizens' charter enumerating all the services, goods and obligations of the public authority along with relevant timelines, norms and standards. All the obligations of the public authority under any law, policy, programme, order or scheme, should be comprehensively stated in the charter. The charter must be developed in a participatory manner and must be periodically updated. The obligations of proactive disclosure under Section 4 of the RTI Act should be used as a means to build the larger ecosystem of responsibilities by enumerating the job chart of each functionary so that responsibility can be fixed. Any violation of the obligations as outlined through proactive disclosure, the citizens' charter or job charts should constitute a grievance under the law.

Second, in a country like India, it is critical that the GR law provide a decentralised system for receiving and dealing with complaints close to people's place of residence. Every public authority/ office should have a supervisor designated as the GRO at the panchayat and municipal ward levels to receive and dispose of complaints in a specified timeframe. This mechanism is invoked after the failure of a system to perform its regular function. The GRO should have adequate authority to ensure that the deficiency is redressed in a reasonable timeframe and responsibility is fixed. If the GRO does not redress the grievance within 15 days, the complaint should automatically be escalated to the head of the department (HoD) at the district level, while making the GRO responsible for not carrying out the obligations of the act.

Third, there are millions of people who are denied their basic entitlements but find it difficult to make a complaint. Many are ill-equipped to draft a written application, and do not find themselves empowered enough to walk into a department and file a complaint against an official of the same department. In order to facilitate registration, follow-up and tracking of grievances, the legislation must provide for single-window information and facilitation centres at the most decentralised level in rural and urban areas. Grievances could be received in multiple ways and for each complaint, a dated receipt must be issued. The bill must provide for a right to a time-bound open hearing for individual and collective complaints, preferably on a designated day, to facilitate peoples' participation in the hearing. These are not just theoretical ideas — some have been put to use with great success in the context of Rajasthan's Right to Hearing Act.

Fourth, it is essential that the bill provide for an independent authority at the district level with powers to penalise HoDs, GROs and other erring officials and also order compensation to the complainant. This is something that the DoPT has already promised to incorporate in the law through a press note issued soon after the bill was introduced in Parliament. Appeals against the decision of the district-level designated authority must lie with the state/ Central GR commission. If the penalty and compensation provisions are not strong, the bill will be rendered ineffective. The commissions should also have powers to give directions, where appropriate, about systemic changes that may have to be made to prevent the recurrence of grievances.

It would be a shame if this bill is sacrificed at the altar of federalism. Many grievances that affect the common person are in state government agencies and departments. It would be meaningless to create a GR mechanism that leaves out the majority of Indians, especially those most in need of its intervention. This legislation will serve as a complement to the public service delivery acts passed by the states. The Concurrent List of the Constitution authorises both the Centre and the states to legislate on "actionable wrongs", which is essentially what grievances are. The concerns of those worried about Central interference in state policy could be addressed by making sure that the state commissions are, as in the RTI Act, appointed at the state level and not subordinate to Central commissions. Appeals against the orders of state commissions could go to the high courts. Also, disciplinary action could be a parallel process available exclusively to the department and the state government.

If the bulk of the funding for this legislation comes from the Central government, every Indian could have access to a real platform for democratic accountability without interfering in the domain of the state governments. Just 1 per cent of the expenditure on flagship programmes could help fund the entire framework. Imagine the loss to India and our citizens had the national RTI Act not applied to the states as well. RTI 2.0 must give all Indians a chance not just to seek answers, but make officials accountable to the people. An effective grievance redress legislation would significantly reduce arbitrariness and corruption and give people better access to their entitlements.