



## Right to service act in India: Its Provision, Needs and Limitation

Virender singh, Email id. Virenku@gmail.com

**Abstract:** Right-based approach to governance became popular in India in the first decade of present century with the passage of legislations conferring Right to Information, Right to Work in rural areas, and Right to Primary Education upon its citizens. This article examines the next step in that direction—passage of Right to Service (RTS) Acts by a number of Indian States thereby providing its citizens the right to time-bound delivery of notified public services. These Acts not only empower citizens to make claims against the government if the rights are violated but also serve as a tool for the politicians and the senior bureaucrats to control lower bureaucracy. This article traces the genealogy of RTS Acts in Citizen’s Charter movement of the 1990s in the UK and evaluates their progress and results with the help of various theories and concepts used for improving the public service delivery. How inept implementation has thwarted the promise of accountability inherent in these Acts will be seen in detail while piercing the veil of statistical data.

**Keywords:** Governance, right to information, public service delivery, citizens’ charter, right to service, bureaucracy, reputation, accountability.

**Introduction:** The conceptual framework of directive principles of state policy as laid down in Part IV of the Indian Constitution asserts that India is a welfare state. This simply means that it is a model where the state plays a major role in protecting and promoting the interest of citizens as well as looks after their well-being and spends a substantial proportion of the budget in social provision and in implementing policies. The socio-economic principles that constitute a welfare state make it a government responsibility to provide for its citizens, equally and fairly. Provision of basic services such as health facilities, educational requirements, sustenance, basic amenities like water, electricity, roads, transport etc is the responsibility of a well functioning, responsive and accountable public sector. The Government, through its various tiers—central, state and local—aims to provide equitable standards of living by opening up schools and hospitals, running an efficient public delivery system, and improving standard of living for the people. The scope and nature of key services the paper intends to talk about are:<sup>1</sup>

ISSN : 2348-5612 © URR



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Basic Amenities	Certification	Facilities
Electricity, power connection to households and businesses Water/sewage connection Transport and trade licenses	Ration cards for PDS Registration and renewal of vehicles (drivers’ license, passports, police FIRs etc.) Issuing caste, birth, death, marriage, income and domicile certificates, voter cards, copies of land records	Banking services Sanction of building plans Public transport passes Kisan credit cards.

A consolidated list of services under the ambit of this bill and number of days for service delivery after receipt of application and the department to be approached in Delhi.<sup>2</sup>

<sup>1</sup> Narayanasamy V., The right of Citizens for Time Bound Deliver of Goods and Services and Rederessal of their Grievances Bill, Lok Sabha No. 131, 2011, [http://darp.gov.in/darpwebsite/cms/document/file/Citizens\\_Bill131.pdf](http://darp.gov.in/darpwebsite/cms/document/file/Citizens_Bill131.pdf)

<sup>2</sup> Transparency International, Corruption Perceptions Index 2014. Berlin: Transparency International, 2014. January 10, 2014. <http://workspace.unpan.org/sites/Internet/Documents/UNPAN93578.pdf>



These services have time frames and agencies that differ from service-to-service and state-to-state looking after their delivery. However, in spite of all the efforts, our development as a nation is plagued by low literacy levels, poor health, high population, extreme poverty and corruption.

**Public Service:** A commodity or service which is non-rivalrous and non-excludable in nature, and is supplied in public interest regardless of income, jurisdiction by the government to its people who have by a social consensus, democratically elected the government and vested it with the power to do so. The service could be publicly funded, contracted, commissioned or procured.<sup>3</sup>

**Study of the Central Act:** Tabled by V Narayanasamy, Minister of State for Personnel, Public Grievances and Pensions, in Lok Sabha in December 2011 The Right of Citizens for Time Bound Delivery of Goods Right to Public Service: Origin, Need & Analysis | Centre for Civil Society | www.ccs.in Page 10 and Services and Redressal of their Grievances Bill, 20115 was a proposed Indian central legislation which lapsed due to dissolution of the 15th Lok Sabha. This paper will enumerate the provisions of the Bill, its obligations and its organizational structure and further enlist areas of dichotomy or possible loopholes after a systematic review of the bill.

**Need for an Act:** In spite of the above mentioned government machinery, the efforts to reduce malpractices have been more or less futile, resulting in a gap between the administration and the citizens which needs to be bridged. This is to say that while there have been several administrative mandates towards the increased efficacy and proliferation of the grievance redressal machinery, as taken up in the aforementioned sections of this paper, they have not had the desired effect because of reasons ranging from budget allocation, lack of incentives and procedural complexities, to demand for bribes, and discourteous officials. It is important to qualify the term 'desired effect' here as not only the short-term result of efficacy in resolution of public grievances. The actual realization of any grievance redressed is the reduction of grievances themselves in a long-term, sustainable fashion.<sup>4</sup>

**Provisions of the Central Bill:** Introduced as Bill No. 131 of 2011 in the Lok Sabha for the purpose of empowering citizens, changing their perception of government functioning, and to tackle charges of employees being insensitive and corrupt, bringing in transparency and accountability and removing the feeling of impunity among the officials in a more tangible way, the Bill laid down the following provisions:<sup>5</sup>

- **Mandatory to Publish the Citizen's Charter:** Earlier, formulating a charter was an activity which was voluntary. The Bill now makes it mandatory for every public authority to publish a Citizen's Charter within six months of commencement of the Bill and specify details and time limits with regards to goods and services it renders as well as the names and designations of individuals who are in charge of delivering the same. It further states that it is the obligation of the Head of Authority to ensure that the Charter is regularly updated and reviewed and is available online and in print, free of cost.
- **Information and Facilitation Centre:** All public authorities from the Centre and the state to the district and sub-district levels, municipalities, and panchayats will have to establish information and facilitation centers. They could be in the form of customer care centers, call centers, help desks, people's support centers, or online portals, whichever means they take employ to make the information available at the

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3. World Bank. 2003. World Development Report 2004 : Making Services Work for Poor People. World Bank. © World Bank. <https://openknowledge.worldbank.org/handle/10986/5986> License: CC BY 3.0 IGO.

<sup>4</sup> Kauzya, John-Mary. Good Practices and Innovations in Public Governance. New York: Department of Economic and Social Affairs, United Nations. January 3, 2014. <http://workspace.unpan.org/sites/Internet/Documents/UNPAN93578.pdf>

<sup>5</sup> Citizens' Charter in Government of India", <http://goicharters.nic.in/>



citizen's doorstep. For example, every public authority is required to publish on its website, by the 15th of every month or, in certain cases, at even shorter intervals, the number of complaints received, pending and disposed off in the concerned time period.

- **Organizational Structure:** Grievance Redress Officer (GRO): Every public authority is required to designate Grievance Redress Officers to look into and redress any complaints from citizens. The timeframe for doing the same is 30 days (from the date of receipt of the complaint). The GRO: <sup>6</sup>
  1. Shall be at least one level above the officer designated to deliver the service.
  2. Must provide all necessary assistance to citizens in filing complaints.
  3. Must issue in writing, an acknowledgement specifying date, time, place and unique complaint number to the aggrieved citizen within two days of receiving the complaint.
- **Penalty and Compensation:** The Designated Authority, the State Public Grievance Redressal Commission and the Central Public Grievance Redressal Commission have the power to impose a lump-sum penalty, on the errant officer which may extend up to fifty thousand rupees and shall be recovered from his salary. The compensation amount awarded to the appellant shall not exceed the amount of penalty imposed.
- **Disciplinary action:** It provides that if any public servant is found guilty, he/she would be subject to disciplinary proceedings.
- **Appeal to Lokpal/Lokayukta:** It provides that any person aggrieved by the decision of the Central Public Grievance Redressal Commission or the State Public Grievance Redressal Commission, which contains the findings relating to corruption under Prevention of Corruption Act, 1988, may file an appeal to the Lok Pal or Lokayukta, constituted under the Lokpal and Lokayukta Act, 2011.

#### Limitations of the Central Act:

**Multiplicity of Legislations:** The bill adds to the multiplicity of already existent mechanisms and legislations established by the Centre and the states as it is another parallel to the same. The possibility of a jurisdictional conflict because of an already existent scheme or legislation providing its own grievance redressal mechanism could lead to overlaps. For example, the MNREGA Act, 2005 or the Food Security Bill, 2011 have their own relief measures while the Bill's coexistence would extend along similar lines.<sup>7</sup>

**Conflict with State Acts:** Since the states have legislated their own bills, it is not clear if the central bill will supersede or just exist alongside the state specific models. Not only does this create duality in approachability of jurisdiction, but funds could also be a disputable aspect between the state and the centre. Citizen welfare services differ from those that are provided state-to-state and Right to Public Service: Origin, Need & Analysis | Centre for Civil Society | www.ccs.in Page 21 those which are provided centrally, hence the central Bill laying down guidelines and defining norms for services that fall within the state's autonomy could be an area of conflict (may disrupt federal structure of legislature of states).

**Speedier Relief:** The Bill, in Chapter VI states that 'Every appeal filed under this section or complaint deemed to be way of an appeal shall be disposed of by the designated authority within thirty days from the date of receipt of such appeal'. However, it further states "Provided that an appeal of an urgent or immediate nature shall be disposed of within the same day of the receipt of the appeal or before the date on which the cause of action may cease to exist,

<sup>6</sup> Department of Administrative Reforms and Public Grievances, Citizen's Charters - A Handbook. Accessed January 5, 2014, <http://goicharters.nic.in/cchandbook.htm>

<sup>7</sup> Bannerji, A, Chaturvedi, Jaya. Citizens Charter in India : Formulation, Implementation and Evaluation. New Delhi: Indian Institute of Public Administration, 2008. February 5, 2014. [http://darpg.gov.in/darpgwebsite/cms/Document/file/IIPA\\_Report\\_Citizen\\_Charter.pdf](http://darpg.gov.in/darpgwebsite/cms/Document/file/IIPA_Report_Citizen_Charter.pdf)



which shall not be later than thirty days from the date of receipt of the appeal”. This gives a lot of power to the Designated Authority’s judgement of a complaint as urgent or not, since there are no said norms that define an urgent complaint. If speedier methods are available on the DA’s discretion, it may leave room for people retorting to malpractices to get their work done sooner.

**Missing Lokayuktas:** As per the Bill, a person aggrieved by the decision of the commission may prefer an appeal before the Lokpal at the Centre (in case of decision by the Centre’s public grievances redressal commission) and the Lokayuktas in the states, in other cases. The Lokpals and the Lokayuktas are yet to be established in majority states.

**Exclusion of NRIs:** The bill does not provide for non residents or foreign nationals to get access to basic services such as water connection or electricity connection, as covered in the bill. Only citizens can demand a service, file a complaint or get compensated. The NRIs are kept outside the purview of the whole mechanism.

**Inconsonance between powers of DA and Commissions:** Chapter VI of the Bill states that if there is a prima facie case of corruption, the DA, in writing, may refer the matter to the appropriate authority competent to take cognizance of such corrupt practice, or initiate proceedings. However, if there is a prima facie indication of corruption, the Commission can only record evidence and refer the matter to the appropriate authority. The Commission does not hold the power to initiate proceedings.

**Conclusion and Finding:** Most of the acts include the Designated Officers (from within or outside the authority), the First Appellate Authority and the Second Appellate Authority. In Chattisgarh, Karnataka and Punjab, a competent officer or a Commission is also appointed. Power of revision upon final verdict of the Second Appellate Authority lies with an officer nominated by the government. Disciplinary action against erring officer is recommended in all acts. The timelines and hierarchal structure in the State Acts are more or less the same. Provisions for appeal, revision, penalty and compensation, protection of action taken in good faith, bar of jurisdiction of courts, power to make rules and power to remove difficulties are mostly uniform across the state acts.

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