

Implementation of the Right to Information Act
Analysis at a Central Information Commissioner's office

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Central Information Commission
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Executive Summary

The Central Information Commission is the apex body that oversees the implementation of the landmark Right to Information Act. It is therefore useful to observe the functioning of the Central Information Commissioners, and analyse the findings to even begin to understand the functioning of the Commission.

In the spirit of promoting greater transparency, one of the Central Information Commissioners agreed to allow his hearings to be observed and made data available to enable a basic level of analysis. This study documents and analyses three aspects of the functioning of this Central Information Commissioner.

In this three part study, the first study focuses on observation of the hearings process. Based on the observations, a set of recommendations have been made that are likely to increase efficiency of the system.

The second study focuses on the decisions themselves. In many cases where the first appellate authority has ruled that the information should be provided to citizens, the Central Information Commissioner has ruled in a similar manner. While this does not come as a surprise, in nearly 40 percent of the cases in which the first appellate authority refused information to the citizen, the Central Information Commissioner has ruled in favour of the information being given to the citizen. For the cases observed in this study, it has taken an average of 378 days to get their cases heard by CIC from the date of filing the initial RTI request. Of this, the average wait time at the CIC stage alone is a staggering 257 days. From the citizens' stand point, this highlights the need for a robust and speedy appellate mechanism.

In the third study, the attempt is to understand the perceptions (of both citizens and PIOs) of the hearing process at the Central Information Commissioner's office. Although there are some cases in which both citizens and PIOs have felt that the process was not fair, in the majority of the cases (over 85 percent), the hearing process was seen as fair even when the decision went against the concerned individual.

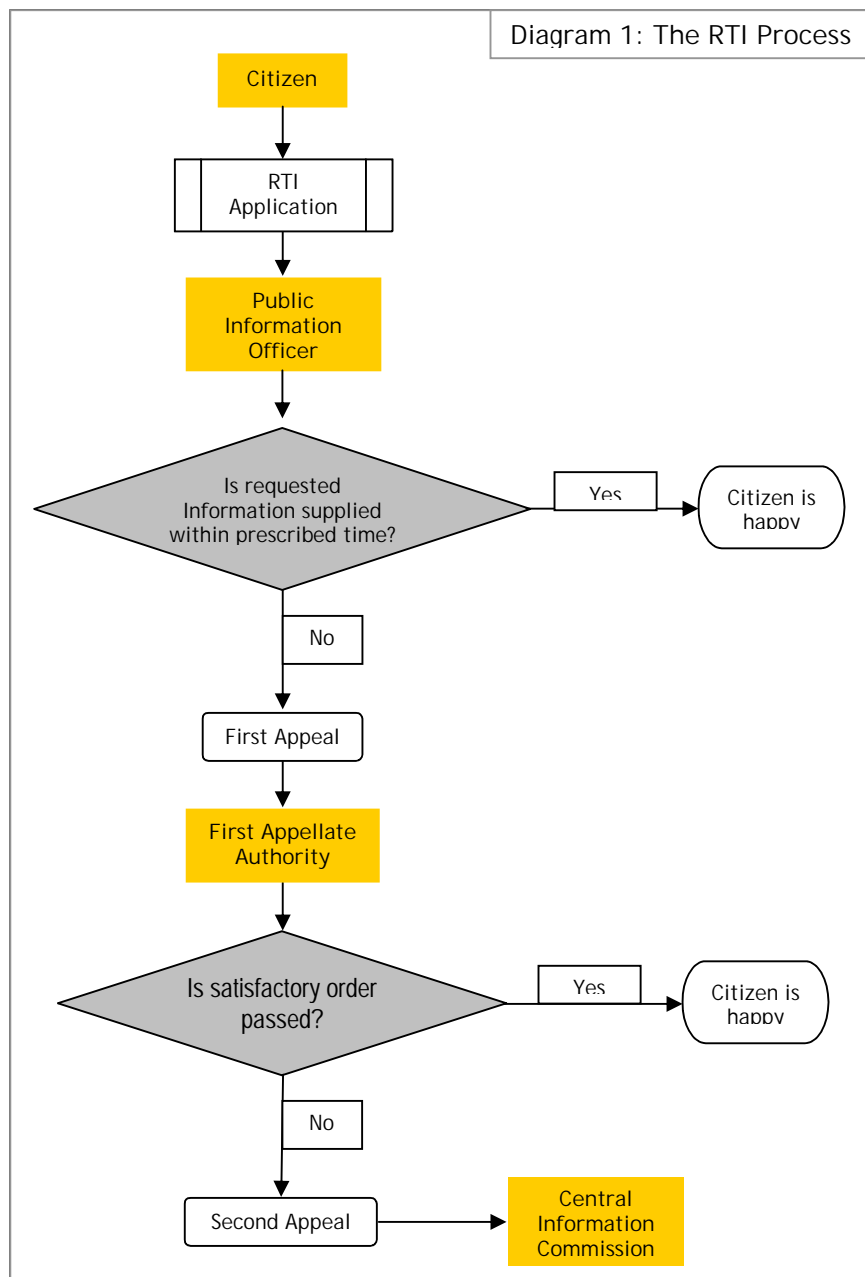
This study should be seen as only a curtain raiser. There is a need to undertake more systematic analysis of the work at the Central Information Commission, cutting across all Commissioners. A careful mapping of all aspects that need to be studied, along with the appropriate steps to build in greater analytical rigour in such a study, would both be desirable.

1. Background

The Right to Information Act was passed in India in 2005. This landmark Act has created a platform through which citizens of the country may have access to the information under the control of public authorities.

While the RTI Act has provided citizens with a platform to seek information and provide transparency in government functioning, it is critical to ensure that the Act is effectively implemented.

Diagram 1 represents the process of information seeking from the central public authorities as envisaged by the RTI Act. It also represents the stage in the appeal process at which the citizen would approach the Central Information Commission.



As can be see in diagram 1, there are various officials designated such as PIO, First Appellate Authority and Central Information Commissioner to ensure that the Act is implemented in letter and spirit. There is scope for failure and delay in supplying information to citizens by any official including Chief Information Commissioner, the highest designated official in the process.

There are eight Central Information Commissioners. There are a few thousand cases that come up before the Central Information Commissioners each quarter. For example, in the last quarter of 2008 the total number of decisions given by all the central information commissioners put together is about 3000 cases (<http://www.cic.gov.in/index.html>).

2. About this study

There have not been published studies that analyse the work of the Central Information Commission (CIC), beyond the annual reports published by the CIC itself. It would be desirable to conduct a large scale and systemic study of the CIC with regard to various operational parameters and satisfaction of citizens. Setting in motion a feedback loop, is one of the necessary inputs for continuous improvement of any system.

In this context, three related studies have been taken up that broadly focus on the efficiency and perception of fairness of the system. The three independent research sub-studies were carried out at different intervals of time during the last quarter of year 2008 and January 2009. This study examines a subset of the hearings conducted at the CIC with focus on the work of one Central Information Commissioner, Mr. Shailesh Gandhi.

The goal of the study is to provide direct and practical feedback to the Central Information Commissioner. The appropriate research solution is to actually conduct improved versions of this kind of study across all Commissioners at the CIC. In the absence of such a study, it can be argued that some of the feedback and findings of this study might be applicable to varying degrees to other Central Information Commissioners.

The purpose of this note is broader. This note aims to make it available in a documented form to a larger audience that is interested in improving the work of the CIC.

At the outset, it would be useful to keep in mind some of the limitations of the study.

- The study is based on observations of the hearings and documentation of one Central Information Commissioner, over the period of his first few months in office.
- It would be useful to conduct a similar study across all Central Information Commissioners to get a comprehensive picture of the questions being explored.
- A framework that is statistically more rigorous will be useful, as this kind of study is expanded to cover all commissioners.

The next section describes the three studies, discusses the methodology, and details the findings.

3. Study 1: Hearing Process Analysis

3.1. Objective

The objective of this part of the study was to observe and analyse the hearing process with regard to its efficacy. Based on physical observations of the hearing process, we wanted to document the process and make suggestions to make the hearing process more efficient, without adversely affecting the nature of the actual hearing process.

3.2. Procedure followed

The hearings of the cases are conducted in the open chamber. We observed the hearing process during the last week of October 2008. As a third party independent observer, the process was observed and actions were documented. Based on our observations a set of suggestions were prepared.

3.3. Key Findings

- During the period of the observation, the hearing process started on schedule.
- During the hearing hours, the information commissioner was not found distracted by other phone calls or by other meetings or by e-mails.
- All the files related to the day's hearings were available on his table.
- The soft copy of all details extracted from the files related to the hearings was available on his computer.
- The hearing decision order is typed, stamped and given to the citizen and PIO immediately after the hearing.

Some areas of improvement, along with suggestions are listed in the table below:

Some observations	Suggestions
The information commissioner was found personally typing the decision.	The information commissioner should engage appropriate assistance.
There are some cases where the PIO is not fully prepared before he comes for the hearing.	Some form of communication to direct PIOs to come fully prepared for the hearings would be useful.
It is observed that in many cases where PIOs have changed and first appellate authority has upheld the citizen's request for information, the new PIO offers to implement the order.	By using the software system, it might be possible to generate the list of all cases where PIOs have changed and the first appellate authority has upheld the citizen's request. A notice can be sent to all such PIOs to address the complaint/ appeal even before calling them for the hearing. This could hasten the process. Other such possibilities need to be explored. (This has now been addressed.)

4. Study 2: Analysis of hearing decision documents

4.1. Objective

The objective of this part of the study was to analyse the content of the hearing decision documents. We wanted to document our findings based on the content analysis of the decision documents.

4.2. Procedure followed

The decision documents are available on the internet (www.cic.gov.in). A total of 81 hearing decision documents were analysed. The decision documents selected for analysis were all passed during the period October 6 - 22, 2008. The contents of the decision documents were analysed.

4.3. Key Findings from Analysis of hearing decision documents

1. In how many cases has the information commissioner upheld the citizen request and in how many cases has the citizen's request been rejected?

A total number of 81 hearing decision documents were analysed.

Upheld Citizen Request	48	59 %
Rejected Citizen Request	33	41 %

It is found that citizens had not attended the hearings in 22% of the cases and PIOs had not attended the hearings in 12% of the cases. Data is not available in 7% of the cases.

2. In how many cases was the first appellate authority's order unavailable?

In the normal course of an RTI application, a citizen who is not satisfied by the response of the PIO is expected to appeal to the first appellate authority and then to the information commissioner.

The data from the hearing orders points out that there are 13% cases in which First appellate authority has not passed orders despite citizens filing such appeal. This results in delays for the citizen seeking information, while also increasing the work load for the information commissioner.

3. What is the pattern emerging between the information commissioner's and the first appellate authority's decisions?

The effort here is to understand the response of the Central Information Commissioner to those cases in which the first appellate authority refused to provide information to the citizens.

	First Appellate Authority	Information Commissioner
Rejected Citizen Request	25	15

Of the 81 cases considered, 13% cases were not heard by the first appellate authority.

Of the remaining 71 cases, 25 citizen applications were rejected by the first appellate authority. Of these, the information commissioner ruled in favour of citizens in as many as 10 cases.

4. In how many cases has the first appellate authority ordered that citizen should be provided with information?

Of the 81 cases, there are 36 cases where first appellate authority has ordered the PIO to provide information to citizens. Of these, 28 cases were issued the same order by the Central Information Commissioner, indicating that in many cases there was agreement in how the case was perceived by Central Information Commissioner as well as first appellate authority.

It is important to note that in 28 out of 36 cases citizens were not supplied with the information despite the orders from the first appellate authority.

5. How many show cause notices have been given by the Information Commissioner?

Show cause notices are issued to PIOs to explain why information commissioner should not impose penalty under the provision of RTI Act on them.

Of the 81 cases, Central Information Commissioner has given show cause notices in 32 cases.

6. Analysis of time duration between RTI applies / PIO reply / date of first appeal / first order date / second appeal / second hearing date?

	PIO reply date - File date	First Appeal date - File date	First Order date - First Appeal date	Second Appeal (CIC) date - File date	Second (CIC) Hearing Date - Second Appeal Date
Average days	31	56	28	121	257
Number of cases above average days	30	24	32	37	58
Number of cases below average days	35	52	25	25	4
Number of cases with date details are "Not Available"	16	5	24	19	19

For those cases that have been observed in this study which have come up to appeal at the CIC, it has taken an average of 378 days to get their cases heard by CIC from the date of filing the initial RTI request. Of this, the average wait time at the CIC stage alone is a staggering 257 days.

5. Study 3: Satisfaction Survey

5.1. Objective

The objective of this study is to capture the perceptions of the citizens and PIOs about the efficiency and fairness of the hearing process by the Central Information Commissioner.

5.2. Procedure followed

Two sets of questionnaires were prepared - one for citizens and another for PIO. Questions were included to allow for both qualitative and quantitative analysis. The questionnaire was kept short keeping the interviewee's availability of time in mind. At the same time, questions which are required to capture interviewee's opinions were included.

Please see Appendix A for PIO Questionnaire and Appendix B for Citizen Questionnaire.

The exit interviews of citizens and PIOs were conducted on 6 randomly chosen days, with no advance notice to anyone, between December 11, 2008 and January 16, 2009, a total of 25 working days. The Central Information Commissioner conducted 435 hearings between these dates. For purposes of this study, 49 PIOs and 41 citizens were interviewed. It is not mandatory for citizens or PIOs to attend the hearings.

The interview procedure followed consisted of conducting "exit interviews" of both citizens and PIOs as soon as they came out of the hearing process. It was considered important to capture the opinions immediately after the hearing process.

Both citizens and PIOs who participated in the survey were informed both orally and in writing on the questionnaire that this is an independent study. The names of interviewees were also not captured to give them an environment to speak their mind without any inhibitions.

5.3. Key Findings of Satisfaction Survey

1. How is the distribution of Central Information Commissioner's decision amongst the PIOs interviewed?

49 PIOs were interviewed for the purposes of this study.

Of the 49 PIOs interviewed, the Central Information Commissioner had ruled against them in 22 cases. The Central Information Commissioner had ruled in favour of PIOs in 24 cases. In 1 case the decision was adjourned and in 2 cases the details are not captured.

2. What is the perception of PIOs about the fairness of the hearing process?

49 PIOs were interviewed for the purposes of this study. The PIOs interviewed for this study represent various departments of the government. Some of them are from Delhi and others are from various parts of the country.

a. Is the process followed by Central Information Commissioner fair?

Fair	44	Of the 46 PIOs who have said that the process followed by the Commissioner is fair during the hearing, in 20 cases the decision was not in their favour.
Partially Fair	3	
Data Not Available	2	

Of the 22 PIOs against whom Central Information Commissioner had ruled, 20 of them have said that the process followed by the Commissioner is fair.

b. Did the Central Information Commissioner allow you to make your case?

Yes	46	Of the 46 PIOs who have said that Central Information Commissioner allowed them to make their case during hearing, in 21 cases the decision was not in their favour.
Partially	1	
Data Not Available	2	

Of the 22 PIOs against whom Central Information Commissioner had ruled, 21 of them have said that Central Information Commissioner has allowed them to make their case.

c. Has Central Information Commissioner spent enough time to conduct the hearing?

Yes	41	Of the 41 PIOs who have said that Central Information Commissioner has spent enough time to conduct the hearing, decision by Central Information Commissioner was ruled against 20 of them.
Data Not Available	8	

20 out of the 22 PIOs against whom the Central Information Commissioner had ruled have said that Central Information Commissioner has spent enough time to conduct the hearing.

d. Do you agree with the decision of Central Information Commissioner?

Yes	36	Of the 36 PIOs who have said that they agree with the decision of Central Information Commissioner, decision by Central Information Commissioner was ruled against 16 of them.
No	1	
Partially	2	
Data Not Available	10	

Of the 22 PIOs against whom Central Information Commissioner had ruled, 16 of them agree with the decision.

3. What is PIOs perception about the efficiency of the Central Information Commissioner?

49 PIOs were interviewed for the purposes of this study. The PIOs interviewed for this study represent various departments of the government. Some of them are from Delhi and others are from various parts of the country.

a. Was the Central Information Commissioner prepared for conducting the hearing?

Yes	39	Of the 39 PIOs who have said that Central Information Commissioner was prepared for conducting the hearing, the Central Information Commissioner had ruled against 19 of them.
Data Not Available	10	

Of the 22 PIOs against whom Central Information Commissioner had ruled, 19 of them have said that Central Information Commissioner was prepared for conducting the hearing.

b. Was there enough notice given regarding hearing date?

More than 7 days time	42	Of the 42 PIOs who have said that Central Information Commissioner had given enough notice time regarding the hearing date, Central Information Commissioner had ruled against 20 of them.
More than 3 days but less than 7 days	1	
One day	1	
Data Not Available	5	

Of the 22 PIOs against whom Central Information Commissioner had ruled, 20 of them have said that they had enough notice given to them regarding the hearing date.

The two PIOs who have said that they had less than 7 days of time also informed us that they were commenting on the date when they came to know. Since they do not continue as PIOs of the department which they were representing in the hearing, they do not know when the department received the intimation from CIC regarding the hearing date.

c. Has Central Information Commissioner Conducted the hearing at the specified time?

Less than 2 hours from the specified time	47	Of the 47 PIOs who have said that Central Information Commissioner has conducted the hearing within two hours from the specified time, Central Information Commissioner had ruled against 22 of them.
Data Not Available	2	

Of the 22 PIOs against whom Central Information Commissioner has ruled, 20 of them have said that Central Information Commissioner conducted the hearing within two hours from the specified time.

d. Were you made to do multiple trips to Central Information Commissioner's office?

One Visit	46	Of the 46 PIOs who have said that they were not made to do multiple trips, Central Information Commissioner had ruled against 22 of them.
Data Not Available	3	

Of the 22 PIOs against whom Central Information Commissioner has ruled, all of them have said that Central Information Commissioner did not require them to undertake multiple trips for the same hearing.

4. How is the distribution of Central Information Commissioner’s decision amongst the citizens interviewed?

41 citizens were interviewed for the purposes of this study. Of the 41 citizens interviewed, in 33 cases the Central Information Commissioner has upheld their request. The Central Information Commissioner had ruled against citizens in 8 cases.

5. What is citizens’ perception about the fairness of the Central Information Commissioner?

a. Is the process followed by Central Information Commissioner fair?

Fair	33	Of the 39 citizens who have said that the process followed by Central Information Commissioner is fair, Central Information Commissioner had ruled against 6 of them.
Partially Fair	6	
Data Not Available	2	

6 out of the 8 citizens against whom the Central Information Commissioner had ruled said that the process followed by Central Information Commissioner is fair.

b. Did the Central Information Commissioner allow you to make your case?

Yes	34	Of the 34 citizens who have said that Central Information Commissioner allowed them to make their case during hearing, Central Information Commissioner had ruled against 6 of them.
Partially	4	
No	2	
Data Not Available	1	

6 out of the 8 citizens against whom Central Information Commissioner had ruled said that the Central Information Commissioner has allowed them to make their case.

c. Has Central Information Commissioner spent enough time to conduct the hearing?

Yes	35	Of the 35 citizens who have said that Central Information Commissioner has spent enough time to conduct the hearing, Central Information Commissioner had ruled against 7 of them.
Partially	3	
No	2	
Data Not Available	1	

7 out of the 8 citizens against whom Central Information Commissioner had ruled said that the Central Information Commissioner has spent enough time to conduct the hearing.

d. Do you agree with the decision of Central Information Commissioner?

Yes	27	Of the 27 citizens who have said that they agree with Central Information Commissioner's decision, Central Information Commissioner had ruled against 5 of them.
Partially	12	
No	1	5 out of 12 citizens who have said that they partially agree with the decision of Central Information Commissioner have said that they would have wanted the Central Information Commissioner to impose the penalty in addition to asking PIOs to share the information sought.
Data Not Available	1	

5 out of the 8 citizens against whom Central Information Commissioner has ruled the decision have said that they agree with the decision of Central Information Commissioner.

6. What is citizens' perception about the efficiency of the Central Information Commissioner?

41 citizens were interviewed for the purposes of this study.

a. Was the Central Information Commissioner prepared for conducting the hearing?

Yes	35	Of the 35 citizens who have said that the Central Information Commissioner was prepared for conducting the hearing, Central Information Commissioner had ruled against 6 of them.
Partially	1	
No	3	
Data Not Available	2	

6 out of the 8 citizens against whom Central Information Commissioner had ruled have said that the Central Information Commissioner was prepared for conducting the hearing.

b. Was there enough notice given regarding hearing date?

More than 7 days time	40	Of the 40 citizens who have said that Central Information Commissioner had given enough notice time regarding the hearing date, Central Information Commissioner had ruled against 7 of them.
Data Not Available	1	

7 out of the 8 citizens against whom Central Information Commissioner had ruled have said that the Central Information Commissioner had given them enough notice regarding the hearing date.

c. Has the Central Information Commissioner conducted the hearing at the specified time?

Less than 2 hours from the specified time	40	Of the 40 citizens who have said that Central Information Commissioner has conducted the hearing within 2 hours from the specified time, Central Information Commissioner had ruled against 7 of them.
Data Not Available	1	

7 out of the 8 citizens against whom Central Information Commissioner had ruled have said that the Central Information Commissioner has conducted the hearing within 2 hours from the specified time.

d. Were you made to do multiple trips to Central Information Commissioner's office?

One visit	38	Of the 38 citizens who have said that they were not made to do multiple trips, Central Information Commissioner had ruled against 6 of them.
More than one visit	2	
Data Not Available	1	

6 out of the 8 citizens against whom Central Information Commissioner had ruled have said that the Central Information Commissioner did not make them to do multiple trips on the same hearing.

6. Appendix A: PIO Questionnaire Document

This is an independent study. We are interested in understanding the need felt by PIOs. We will be thankful if you can spare sometime to answer our questions. Please tick all the choices that you feel are answers to the corresponding question. If you feel that none of the choices for a question represent the answer then please write your answer below the question.

Date of Interview:

Public Authority:

1. How long have you been the PIO for your department?
 - Less than 6 months
 - More than 6 months and less than 1 year
 - More than 1 year

2. How long have you been the PIO in any other department prior to this present assignment?
 - Less than 6 months
 - More than 6 months and less than 1 year
 - More than 1 year
 - Not worked as PIO in any other department

3. What has been the toughest part of being the PIO?
 - Inadequate / No training about the Act
 - Understanding the RTI application request
 - Getting information from the respective officers
 - Communicating the practical problems to first appellate authorities and Information Commissioner in addressing any specific RTI application
 - Do not have the required support staff
 - All of the above
 - _____

4. What support / change in the government system would enable the implementation of the RTI Act?

Respond to the following questions in the context of the RTI application for which you attended the hearing at central Information Commissioner today.

5. Was this particular complaint/ appeal filed when you were the PIO?
 - Yes
 - No

6. Were you the PIO when First Appellate Authority conducted the hearing?
 - Yes

- No

7. What was First Appellate Authority's decision?

- Allowed
- Dismiss
- Disposed
- No Order

8. What was the Central Information Commissioner's decision?

- Allowed
- Dismiss
- Disposed
- Adjourned

9. Do you feel that the process followed by Central Information Commissioner is fair?

- Fair
- Unfair
- Partially Fair

10. If the answer to the above question is fair / unfair can you describe why do you think so?

11. Did the Information Commissioner allow you to make your case?

- Yes
- No
- Partially

12. Do you feel that Information Commissioner has spent enough time to conduct the hearing?

- Yes
- No
- Partially

13. Do you agree with the decision of the Information Commissioner?

- Yes
- No
- Partially

14. If you do not agree / partially agree with the decision of Information Commissioner, what should be the decision in your view?

- Dismiss / Disposed
- Allow but No Penalty
- Dismiss / Disposed and No Penalty

15. Do you feel that Information commissioner was prepared for conducting the hearing?

- Yes
- No
- Partially

16. If you feel that Information Commissioner was not prepared for conducting the hearing, describe the lack of preparation.

17. Did you have enough time from the date of receiving the notice to the actual date of the hearing?

- More than 7 days
- More than 3 days but less than 7 days
- One day

18. Did the Information Commissioner's office conduct the hearing at the time specified?

- Within 2 hours from the specified time
- More than 2 hours, but less than 4 hours from the specified time
- Indefinite waiting
- Did not conduct the hearing

19. Did you have to make repeated visits to Information Commissioner's office for completing the hearing process for this particular complaint / appeal?

- One visit
- More than one visit

20. Do you feel that your physical presence made a difference to the outcome of the hearing? Could this have been done on the phone?

- Yes
- No
- Not Sure

21. How have your general experiences with other Information Commissioners or with First Appellate Authorities in conducting the hearing at the time specified?

- Within 2 hours from the specified time
- More than 2 hours, but less than 4 hours from the specified time
- Indefinite waiting
- No prior experience

22. How have your general experiences with other Information Commissioners or with First Appellate Authorities for completing the hearing process of any particular complaint / appeal?

- One visit
- More than one visit
- No prior experience

23. Do you have any suggestions for improvements at the Information Commissioner's office which you might have experienced in other offices or you might have felt the need for?

7. Appendix B: Citizen Questionnaire Document

This is an independent study. We are interested in understanding the need felt by Citizens. We will be thankful if you can spare sometime to answer our questions. Please tick all the choices that you feel are answers to the corresponding question. If you feel that none of the choices for a question represent the answer then please write your answer below the question.

Date of Interview:

1. What is the purpose of passing the RTI Act?
 - Effective tool to expect government to perform actions
 - Effective tool to access government information and use that information in getting pending work done
2. How many RTI applications have you applied till now?
 - One
 - More than one
3. Do you feel that in general, you are able to get access to information using the RTI Act?
 - Yes, can get access to information
 - Yes, but there is huge delay in getting the information
 - Yes, but there is always resistance for sharing the information
 - No, cannot get access to information

Respond to the following questions in the context of the RTI application for which you attended the hearing at Central Information Commissioner today.

4. What was First Appellate Authority's decision?
 - Allowed
 - Dismiss
 - Disposed
 - No Order
5. What was the Central Information Commissioner's decision?
 - Allowed
 - Dismiss
 - Disposed
 - Adjourned
6. Do you feel that the process followed by Central Information Commissioner is fair?
 - Fair
 - Unfair
 - Partially Fair
7. If the answer to the above question is partially fair / unfair can you describe why do you think so?

-
-
8. Did the Information Commissioner allow you to make your case?
- Yes
 - No
 - Partially
9. Do you feel that Information Commissioner has spent enough time to conduct the hearing?
- Yes
 - No
 - Partially
10. Do you agree with the decision of the Information Commissioner?
- Yes
 - No
 - Partially
11. If you do not agree / partially agree with the decision of Information Commissioner, what should be the decision in your view?
- Allow
 - Penalty
 - Allow and Penalty
12. Do you feel that Information Commissioner was prepared for conducting the hearing?
- Yes
 - No
 - Partially
13. If you feel that Information Commissioner was not prepared for conducting the hearing, describe the lack of preparation.

-
-
14. Did you have enough time from the date of receiving the notice to the actual date of the hearing?
- More than 7 days
 - More than 3 days but less than 7 days
 - One day
15. Did Information Commissioner's office conduct the hearing at the time specified?
- Within 2 hours from the specified time
 - More than 2 hours, but less than 4 hours from the specified time
 - Indefinite waiting
 - Did not conduct the hearing
16. Did you have to make repeated visits to Information Commissioner's office for completing the hearing process?
- One visit
 - More than one visit
17. Do you feel that your physical presence made a difference to the outcome of the hearing or Could this have been done on the phone?

- Not Possible
- Audio conference
- Video Conference
- Not Sure

18. How have your general experiences with other Information Commissioners or with First Appellate Authorities in conducting the hearing at the time specified?

- Within 2 hours from the specified time
- More than 2 hours, but less than 4 hours from the specified time
- Indefinite waiting
- Did not conduct the hearing

19. Do you have any suggestions for improvements at the Information Commissioner's office which you might have experienced in other offices or you might have felt the need for?
