



Centre for Civil Society, New Delhi



DUTY TO PUBLISH INDEX

REPORT CARD ON RTI COMPLIANCE OF STATES

Indian public authorities fail RTI exam

Executive Summary

All government bodies in India are bound by the *Right to Information Act, 2005* to release a large cache of information to the public, in order to reduce the need for explicit requisitions. This law came into force exactly a year ago on October 12th 2005. In this last year public authorities under these governments have released varying amounts of information that they were required to.

We constructed a 37 point index based on the provisions of Section 4 of the *Right to Information Act, 2005*. We looked at the websites of the education ministries of 27 states and 7 union territories, and looked for 37 key points of information required by the RTI Act. We gave them a percentage score based on how much information they disclosed.

Education was chosen as the department to be studied, because it is an important responsibility of the government and directly involves the lives of many millions of Indian citizens. Assessing the functional transparency of state education departments suggests the seriousness with which the states themselves are taking their *Duty to Publish*.

The results are startlingly poor. The average state education ministry discloses only 29% of the information that they are required to under the RTI Act. Leaders Madhya Pradesh and Uttaranchal publish 87% and 76% of the required information, respectively. Chandigarh (62%) and Delhi (54%) top the Union Territories. 'Progressive' states like Rajasthan and Tamil Nadu get low 11% and 5% scores. Assam, Dadra & Nagar Haveli, Daman & Diu, Jharkhand and Sikkim disclose no information at all.

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DUTY TO PUBLISH INDEX

REPORT CARD ON RTI COMPLIANCE OF STATES

» Major Findings «

1. The **states and union territories fail** with the average DTP Index score of 29%.
2. **68% of all the states and union territories fail**, getting less than 35%, which is usually the passing score of examinations administered by them. The failing states together represent 2/3rds of the population of the country.
3. The **top five** states and union territories are Madhya Pradesh (87%), Uttaranchal (76%), Chandigarh (70%), Punjab (64%) and Delhi (54%)
4. **53% of public authorities do not provide any information at all about their public information officers**, arguably the most basic information required under the RTI Act.
5. 60% of public authorities disclosed their aims and functions, which is the most answered point of the 37 points of compliance. It is followed by the directory of employees revealed by 52% and the designation of the PIO by 46%.
6. Of the **most useful information to citizens**, only 37% gave the details of department budgets, 20% published the manner of execution of subsidies and 23% listed the projects undertaken by the department.
7. The home of the RTI movement, **Rajasthan scores very poorly** with just 11%.
8. Madhya Pradesh (87%), Delhi (59%), and Maharashtra (54%) which had Duty to Publish laws of their own before the RTI Act 2005, manage an above average performance.
9. **Neither Tamil Nadu (5%) nor Goa (17%) manage even a passing score**, in spite of having Right to Information legislation (without any Duty to Publish obligations) since 1997.

Notes:

1. Jammu & Kashmir's Right to Information Act includes Duty to Publish obligations. However we have not assessed it since it is exempted from the Central Legislation.
2. For points 4, 5, and 6 figures relate to the number of public authorities who answered those questions.

DUTY TO PUBLISH INDEX

REPORT CARD ON RTI COMPLIANCE OF STATES

Rank	Name of State	DTP Index	
1	Madhya Pradesh	87%	✓PASS
2	Uttaranchal	76%	✓PASS
3	Chandigarh	70%	✓PASS
4	Punjab	64%	✓PASS
5	Delhi	59%	✓PASS
6	Meghalaya	57%	✓PASS
6	Pondicherry	57%	✓PASS
8	Karnataka	56%	✓PASS
9	Maharashtra	54%	✓PASS
10	Haryana	49%	✓PASS
11	Gujarat	46%	✓PASS
12	Tripura	35%	✓PASS
13	Mizoram	32%	✗FAIL
14	West Bengal	24%	✗FAIL
14	Uttar Pradesh	24%	✗FAIL
16	Andhra Pradesh	22%	✗FAIL
16	Lakshadweep	22%	✗FAIL
18	Himachal Pradesh	19%	✗FAIL
19	Kerala	18%	✗FAIL
19	Orissa	18%	✗FAIL
19	Bihar	18%	✗FAIL
22	Goa	17%	✗FAIL
23	Arunachal Pradesh	16%	✗FAIL
23	Andaman & Nicobar	16%	✗FAIL
25	Chhattigarh	15%	✗FAIL
26	Nagaland	11%	✗FAIL
26	Rajasthan	11%	✗FAIL
28	Manipur	5%	✗FAIL
28	Tamil Nadu	5%	✗FAIL
29	Assam	0%	✗FAIL
29	Dadra & Nagar Haveli	0%	✗FAIL
29	Daman & Diu	0%	✗FAIL
29	Jharkhand	0%	✗FAIL
29	Sikkim	0%	✗FAIL
-	Jammu & Kashmir	Exempted	

» What is the Duty to Publish? «

The Right to Information Act 2005 (RTI Act), which came into force on the 12th of October 2005, brought with it two major responsibilities for government bodies in India. The Act enhances the scope of the more widely publicized Duty to Furnish information on demand, with a Duty to Publish certain information proactively.

Amongst the state legislation that preceded the RTI Act, Delhi's 2001 act was the first to incorporate the Duty to Publish obligations. Maharashtra and Madhya Pradesh enacted their legislation in 2003 which contained similar provisions. All these states have done reasonably well in the Index, indicating that the habits of transparency are inculcated in the bureaucracy with time.

This Duty to Publish or DTP is enshrined in section 4 of the RTI Act. Along with more basic information about their aims, functions and remuneration of each employee, government bodies are required to reveal detailed information about subsidies, licenses and projects that are under their purview. They must also list information about the boards and committees that function under their aegis, and the accessibility of the minutes and the meetings to the public.

As specified in section 4(2) of the RTI Act, the intention of this clause is that public should have minimum resort to the Duty to Furnish in order to obtain information.

» Why is it important? «

If it is properly administered the Duty to Publish information, can potentially revolutionize the landscape of governance in India. Section 4(1)(a) of the RTI Act is the first instance in India of a law that explicitly calls for the use of information technology to improve the record keeping and management of all government functions. Section 4(3) strongly recommends that the specified information is not just made available but widely disseminated.

The most powerful direction in this section is the right it gives every citizen to walk into a government office and ask to see the files or documents pertaining to information specified in section 4. This right is not tempered by a 30 day waiting period or a fee.

However these rights, which are implied in the government's Duty to Publish, are not supported by any incentive system, as is the case with the Duty to Furnish information. If information requested under the act is not provided within 30 days, citizens have recourse to an appellate process. If information is not disclosed under the Duty to Publish, however the law is silent about what penalties the Public Information Officer or the government body will face. The consequences of this silence are illustrated in the sample study we undertook, which is described below.

» Duty to Publish Index «

Going by the dictum, *'If it matters, it should be measured'*, we developed a measure for compliance with the Duty to Publish. Measuring the compliance of government bodies with their legal obligations is an important step towards ensuring that they don't renege on them.

In that spirit, we have formulated an index which closely follows the letter and intent of section 4 of the RTI Act. This index can be applied to any government body or public authority as defined by the Act, to get a measure of the amount of information that it has disclosed under its provisions.

Typically we have been administering the Index on the websites of government bodies, but it could be easily administered on Notice boards or other mediums of dissemination which have been prescribed.

The index is administered using the points of compliance listed below, and then the score is turned into a percentage of the maximum possible score of 37. This percentage is the DTP Index score.

The points of compliance included in the Index are listed below:

Serial	Point of Compliance	Related subsection of the RTI Act
1	Aim or why the department was set-up?	4(b)(i)
2	Organisation chart [Clearly defined office hierarchy from director/secretary to clerk/peon].	4(b)(i)
3	Functions and duties of the public authority	4(b)(i)
4	Powers and duties of officials and employees	4(b)(ii)
5	Procedure followed in the decision-making process	4(b)(iii)
6	Channels of supervision and accountability	4(b)(iii)
7	Norms set by the public authority for the discharge of its functions (personnel, financial, administrative, financial, etc.)	4(b)(iv)
8	List of rules/regulations/instruction manuals used by the employees of the public authority while discharging functions	4(b)(v)
9	Links to the rules/regulations/instruction manuals used by the employees of the public authority while discharging functions	4(b)(v)
10	Categories of records/documents held by/ under the control of the public authority	4(b)(vi)
11	A detailed listing of the subheads/subcategories of documentation	4(b)(vi)
12	List of committees/ councils/ boards where the public is represented	4(b)(vii)
13	Particulars of constituents of committees/ councils/ boards where the public is represented	4(b)(vii)
14	List of internal boards, councils, committees and other bodies constituted as part of the public authority	4(b)(viii)
15	Particulars of constituents of such internal boards, councils, committees and other bodies constituted as part of the public authority	4(b)(viii)

16	Information regarding whether meetings of such boards, councils, committees and other bodies are open to the public?	4(b)(viii)
17	Minutes of meetings of such boards, councils, committees and other bodies	4(b)(viii)
18	Directory of officers and employees	4(b)(ix)
19	Monthly remuneration including system of compensation received by the officers and employees	4(b)(x)
20	Budget allocated to each agency (all plans, proposed expenditures and reports on disbursements made)	4(b)(xi)
21	Manner of execution of subsidy programmes	4(b)(xii)
22	Amount allotted to subsidy programmes	4(b)(xii)
23	Details of beneficiaries of subsidy programmes	4(b)(xii)
24	Particulars of recipients of concessions, permits or authorizations	4(b)(xiii)
25	Information available to the public authority or held in an electronic form and available on its website	4(b)(xiv)
26	Particulars of facilities available to citizens for obtaining information (working hours of the library/reading room, internet, notice boards, newspapers)	4(b)(xv)
27	Name of the Public Information Officer	4(b)(xvi)
28	Designation of the Public Information Officer	4(b)(xvi)
29	Contact details of the Public Information Officer (official phone number, e-mail address, postal address)	4(b)(xvi)
30	List of completed schemes/policies/projects	4(c)
31	List of schemes/policies/projects underway	4(c)
32	Procedures/guidelines	4(c)
33	Budget/grants	4(c)
34	Nodal officers	4(c)
35	Details of identifiable/measurable outputs/outcomes	4(c)
36	List of administrative/quasi-judicial decisions	4(d)
37	Link to the full decision	4(d)

» Indexing states' compliance «

The state governments administer a host of important services for citizens. They have a direct responsibility to their own domiciles, as well as to the nation at large since much of the states' budget is funded through union government transfers.

Ideally we would have liked to assess all the public authorities under the purview of each state government. However limitations on resources forced us to look at only education departments. Education is a particularly important area regulated and administered by state governments. It directly affects the lives of a large number of citizens and has been enshrined in the constitution as a fundamental right. Transparency in the functioning of education ministries would be crucial to improving the quality of education.

Keeping this in mind, we administered the Duty to Publish Index on the education ministries of 27 states and 7 union territories. Some of the results are explained in the Major Findings section at the beginning of this document. The summary results of the education departments index are listed on page 3. States and union territories are ranked separately.

The results are startling at one level. Only 8 states and 3 union territories manage to get more than 35%, which is usually the passing score of examinations administered by them. The failed states together represent 66% of the population of the country.

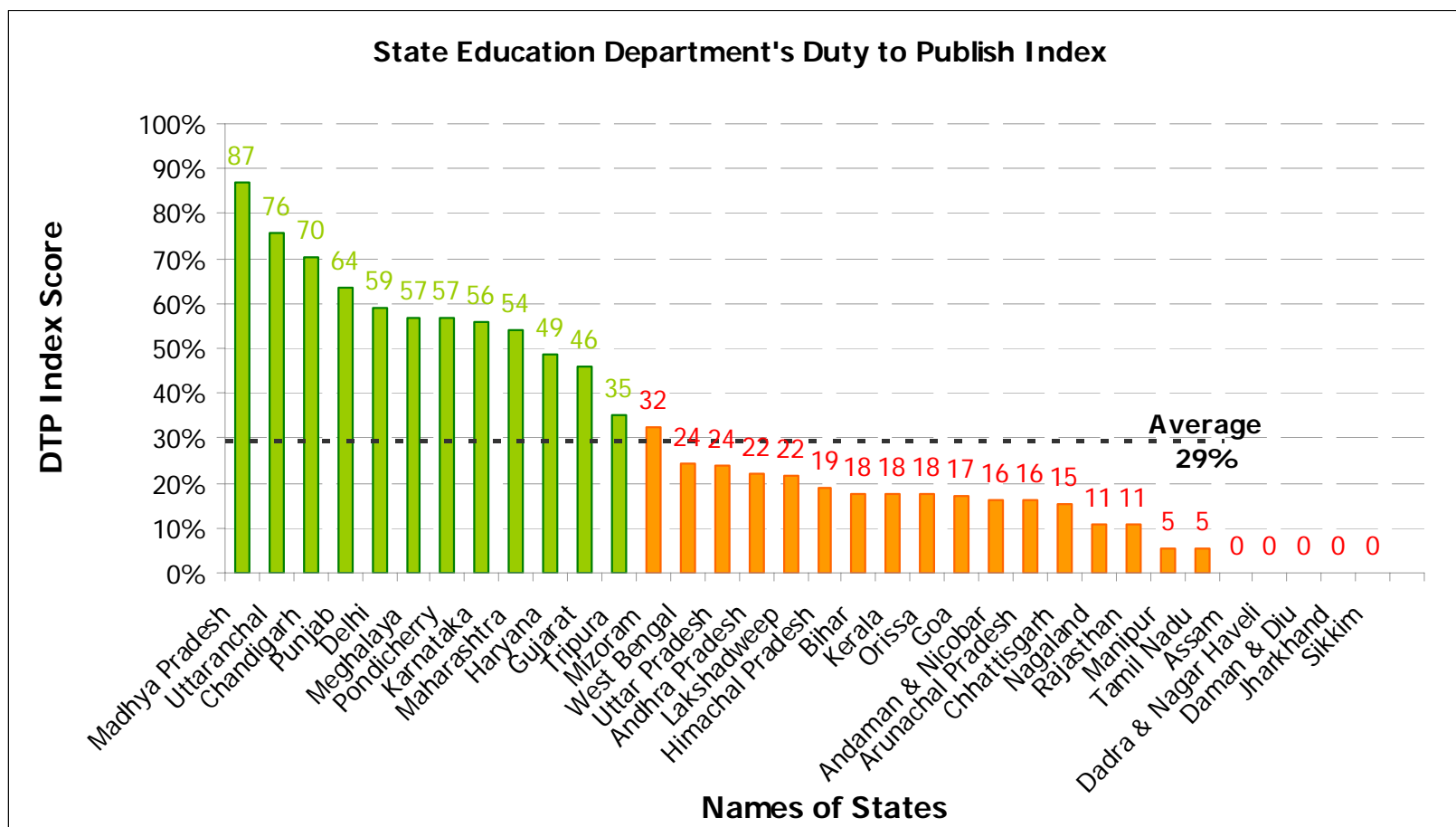
At the same time some commendable steps have been taken by the leaders, Madhya Pradesh and Uttaranchal. Both have invested in preparing proactive disclosure templates to make the collection and publication of data easier for their Public Information Officers. They have also published their information in Hindi, the language most widely used by their domiciles. The level of detail in the disclosures is also very heartening, especially when compared with states such as Sikkim and Jharkhand which don't even seem to acknowledge their duty to publish.

Andhra Pradesh, Goa, West Bengal, Maharashtra as well as the Central government, have invested in RTI Portals, but have not succeeded in uploading information for education departments. In the case of Maharashtra although the state has provided a template, the education departments have largely resorted to reprinting the templates, with a few blanks filled in.

Although the overall performance is dismal, the leaders provide some hope for their citizens and set a standard which the laggards would do well to emulate.

DUTY TO PUBLISH INDEX

REPORT CARD ON RTI COMPLIANCE OF STATES



The graph above shows the names of the states on the horizontal axis, and the DTP index score on the vertical axis. The bars displayed in green are for those states with scores greater than 35%, those below are shaded orange. The average score line is displayed by the dotted line..