

2019

The Bihar Right to Public Grievance Redressal Act : an analysis

This document is for private circulation and is not a priced publication. Reproduction of this publication for educational and other non-commercial purposes without prior written permission is authorised, provided the source is fully acknowledged.

Copyright ©2019 Centre for Budget and Governance Accountability (CBGA)

Author

Inayat Anaita Sabhikhi

For more information about the study, please contact: inayat.sabhikhi@gmail.com

Designed by

Common Sans, 1729, Sector 31, Gurgaon, Haryana

Published by

Centre for Budget and Governance Accountability (CBGA)

B-7 Extn./110A (Ground Floor), Harsukh Marg, Safdarjung Enclave,
New Delhi-110029

Phone: +91-11-49200400/ 401/ 402

Email: info@cbgaindia.org

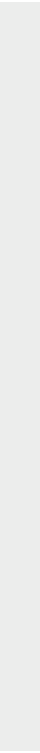
Website: www.cbgaindia.org

Views expressed in this report are those of the author and do not necessarily represent the positions of CBGA.



CONTENTS

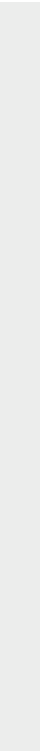
SECTION 1: BACKGROUND	04
1.1. Experience of Rights Based Development	04
1.2. Experience of Right to Information	05
SECTION 2: ARCHITECTURE OF BRPGRA	06
2.1. Law, guidelines and rules	06
2.2. Scope of the Act	07
2.3. Rights of Citizens	10
2.4. Administrative Architecture	13
SECTION 3: WORKING OF BRPGRA	15
3.1. Insight from official data	15
3.2. Social Analyses	19
SECTION 4: PEOPLES EXPERIENCES	21
4.1. Description of Campaign	21
4.2. Outcome of Campaign	22
4.3. Positive Case Studies	22
4.4. Policy Issues from Practical Experiences	23
4.4.1. Social Security Pension	23
4.4.2. Flood Relief	24
4.4.3. Land Issues	24
SECTION 5: KEY ISSUES	25
5.1. Points of Discussion	25
5.2. Policy Recommendations	27
SECTION 6: BEYOND GRIEVANCE REDRESS	29
6.1. Synergies with Transparency	29
6.2. Synergies with Accountability	29
6.3. Checklist on Principles	30
6.4. Conclusion	32





LIST OF TABLES

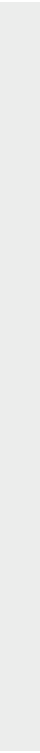
Table 1	Key Documents of BRPGRA
Table 2	Notified Departments and Services
Table 3	Timelines of Grievance Redress Processes
Table 4	Notified Officers for Grievance Redress
Table 5	Outcomes of CSO Campaign
Table 6	Amendments to Common Negative List
Table 7	Principles Checklist





LIST OF IMAGES

Image 1	Information and Facilitation Window
Image 2	Hearing Proceedings
Image 3	Outcome Budget BRPGRA
Image 4	Total Grievances
Image 5	Pending Grievances
Image 6	Disposed Grievances
Image 7	Source of Grievance
Image 8	Type of Grievance (Scheme)
Image 9	Type of Grievance (Department)
Image 10	First Appeal
Image 11	Second Appeal
Image 12	Review Petition
Image 13	Penalties Charged
Image 14	Gender Mapping of Grievances
Image 15	Caste Mapping of Grievances
Image 16	Awareness Camps, Vaishali
Image 17	Facilitation Desks, Katihar
Image 18	Typical Display of Information



SECTION 1: BACKGROUND

1.1. Experience of Rights Based development

The challenges in delivery of public services, particularly of welfare programs across the country, are well documented. These relate to, but are not limited to, lack of adequate budgets, inclusion and exclusion errors in selection of beneficiaries, lack of information on entitlements, poorly trained and equipped front line functionaries, corruption and leakages, lack of accountability of corrupt officials and so on. The dominant paradigm of 'rights-based development' in India, 2005 onwards, attempted to address some of these issues by making certain welfare rights legally justiciable. For example, the right to work under the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), the right to food under the National Food Security Act (NFSA) and the right to education under the Right to Education Act (RTE), among others. Drawing from the mandate of the Directive Principles of State Policy, these laws attempted to enforce principles of clearly defined and universal entitlements. Apart from the entitlement to the welfare benefit, these laws also provided inbuilt checks for transparency and accountability, so that citizens had the potential tools to hold State to account. Indeed the two are seen as twin rights.

Taking the case of the MGNREGA, although it has several legal entitlements, including work on demand, wage payments within fifteen days, unemployment allowance and so on; in reality these are difficult to claim. Only in areas where there are active rights based Civil Society Organisations (CSOs) do people actually receive the full extent of these entitlements, and even this is not true in all cases. Even as there are a myriad of government programmes designed for the most vulnerable and disadvantaged, the implementation of these schemes tends to be along the fault lines of the pervasive social inequities. Thus, designing a scheme and leaving it to existing structures to implement is not enough. There is need to acknowledge this, and explicitly build platform and techniques that reach beyond regular implementation channels, to make the concerted and special effort to facilitate those who are most marginalized, and likely to be left out even as part of a legislation like the MGNREGA. "Social equity and fundamental human rights suggest a responsibility for government but leave open the ways of discharging that responsibility. Importantly, enshrining these notions as rights legitimizes the demands of citizens—especially poor citizens—that government take responsibility for making services work. Market failures and social justice are normative justifications for public responsibility—they describe why governments should be involved. They do not always give much guidance on how." (World Bank Development Report, 2004, Making Services Work for the Poor).

From the experience of the implementation of rights based laws has emerged the need for a cross cutting right to redressal of grievances. Typically, grievances are the weakest link, wherein citizens are so disincentivized to file a complaint on wrongdoing, that it only further exacerbates the broken aspect of the system. A central architecture of the right to grievance redress, will indeed reinforce the existing mechanisms of transparency and accountability present in these legislations.

1.2. Experience of Right to Information

The articulation of a right to grievance redress also draws from the lessons and structure of the Right to Information Act, 2005. The aspects that made the Right to Information successful – simple and universal definitions, dedicated officers in each department, timebound processing, penalties and appellate authorities via Commissions, are thought to be what is required for a successful grievance redress architecture. The National Campaign for People's Right to Information (NCPRI), a group of individuals and organisations advocated for the Right to Information Act and now acts as a watchdog for its implementation.¹ In 2010-11, NCPRI put forward a basket of proposed legal measures to address corruption. This was at the centre of the lively national debate on corruption at that time.

The 'Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of Grievances Bill'², drawing largely from the NCPRI draft was introduced and passed in Lok Sabha in 2011. A Parliamentary Standing Committee examined it and a unanimous 'sense of house' resolution was passed in its favour in August 2011. However, after its introduction in the Rajya Sabha, it lapsed without passage. Thus, at present there is no central legislation governing the redressal of grievances of citizens in India.

In this context, Bihar is the only State in the country to have provided a legal framework to the redressal of grievances, the 'Bihar Right to Public Grievance Redressal Act (BRPGRA), 2015'. It is noteworthy not just for being the first State, but to also have a fairly strong law that is being administered with political and bureaucratic will. This also challenges the notion that States with traditionally “weak State capacity” are unwilling or unable to undertake reform for better governance. This working paper will explore the provisions of the legislation, learning from the practical use of the law, examine analyses of official data, discuss key issues, propose policy recommendations and put forward potential synergies for overall frameworks of transparency and accountability.

¹ <http://righttoinformation.info>

² <http://www.prsindia.org/billtrack/the-right-of-citizens-for-time-bound-delivery-of-goods-and-services-and-redressal-of-their-grievances-bill-2011-2125/>

SECTION 2: ARCHITECTURE OF THE BRPGRA

2.1. Law, guidelines and rules

The Bihar Right to Public Grievance Redressal Act (BRPGRA), 2015 was notified by the Government of Bihar on 28th August 2015, and it was implemented on 5th June 2016. It is administered by Bihar Prashasnik Sudhar Mission (Bihar Administrative Reforms Mission) under the General Administration Department.

“The design of the BRPGRA with the creation of a legal right to residents of Bihar, an independent quasi-judicial authority to ensure hearing and redressal, a No Wrong Door procedure for registering grievances, a Single Window System for final results (Redressal of grievances), a Time Limit for redressal, defining accountability and ensuring penal provisions exist for default or negligence, and a completely transparent system together constitutes a very, very radical redesign. The BRPGRA focused clearly on the processes that produced what the citizens (consumers) wanted: redressal, not just disposal of the case. The past systems were not backed by a legal right. It was not unusual for the complainant to file the same grievance again. The focus on processes to produce a result desired by the resident of Bihar is one of the most significant changes that BRPGRA has brought about.”³

The following are the important documents that define the implementation of the law:

Table 1: Key Documents of BRPGRA

S.No.	Date of Issue	Document
1.	28.8.2015	Bihar Right to Public Grievance Redressal Act (BRPGRA)
2.	22.1.2016	Rules under BPGRA with 8 sample formats
3.	30.5.2016	Notification of 44 departments under BPGRA and services
4.	30.5.2016	Notification of Public Grievance Redressal Officers, first appellate authority, second appellate authority and revision authority and stipulated time limit at Division, District and State level
5.	30.5.2016	Notification of jurisdiction of Division, District and State level Public Grievance Redress Officers
6.	30.5.2016	Notification of date of implementation from 5th June 2016
7.	9.2.2017	Appointment of Public Information Officers under BPGRA
8.	17.7.2017	Further notification of services under BPGRA

Source: Self Compiled.

³ Samadhan, Vol 2. 2017, IPE Global, Government of Bihar <http://lokshikayat.bihar.gov.in/Book/005.pdf>

There is also a website, www.lokshikayat.gov.in maintained by the implementing department with details of guidelines issued, provisions to track complaints and reports on performance.

2.2. Scope of the Act: What is the right to grievance redress?

The first important thing to note about this legislation is the wide definition of what constitutes a grievance. As per Section 2 (a) of BRPGRA, *“Complaint means an application made by a citizen or a group of citizens to a Public Grievance Redressal Officer for seeking any benefit or relief relating to any schemes, programme or services run in the State by the State Government or in respect of failure or delay in providing such benefit or relief, or regarding arising out of failure in the functioning of, or violation of any law, policy, service, programme or scheme in force in the State by a public authority but does not include grievance relating to the service matters of a public servant, whether serving or retired, or relating to any matter in which any Court or Tribunal has jurisdiction or relating to any matter under Right to Information Act 2005 or services notified under the Bihar Right to Public Services Act, 2011.”*

There are three important points to note in the definition of 'complaint':

1. It can be made by a citizen or a group of citizens. The latter is important, as it emerges from practical experiences of individual complainants being targeted, threatened and so on. Further, due to policy issues there are often large numbers of people who are affected by the same issue. It is much more cost effective both for citizen and administrative time and resources to file a collective complaint.
2. It relates to both delay and failure in the functioning of any benefit or scheme intended for citizens. This could be for a variety of reasons, as indicated in Section 1. This definition potentially opens up the interpretation to delve deeper into the causes of structural failures, including norms of eligibility, adequate budget resources and issues of corruption. These are often seen as “higher up” or policy issues beyond the control of local functionaries.
3. Through the definition of “violation of any law, policy, service, programme or scheme”, the net is cast very wide indeed as it includes not just laws, but also policies which are often difficult to hold State accountable to.

Notwithstanding this wide definition, as per Section (4) of the Act, the Government of Bihar will from time to time notify department wise schemes, programmes and services for which complaints can be filed. At present, (as per rules issued on 30.5.16 and 17.7.17), 44 Departments have been notified with more than 475 service (See Table 2). The Department with the highest number of notified services is the Education Department, followed by the Revenue and Land Reforms, Labour Resource, Social Welfare and Urban Development and Housing Departments. What merits further analysis, is what percentage of the total services administered by these departments are covered under this Act. Based on official data, the correlation between the higher number of notified services and grievances filed is presented in Section 3.

Table 2: Notified Departments and Services

S. No.	Department	No of Services
1	Education Department	48
2	Revenue & Land Reforms Department	30
3	Labour Resource Department	27
4	Social Welfare Department	27
5	Urban Development & Housing Department	27
6	Animal & Fishery Resource Department	26
7	Industry Department	25
8	Home Department	23
9	Environment & Forest Department	18
10	Youth, Art & Culture Department	18
11	Health Department	16
12	SC & ST Welfare Department	16
13	Registration, Excise & Prohibition Department	13
14	Agriculture Department	12
15	Energy Department	11
16	Planning & Development Department	11
17	Water Resource Department	11
18	Minority Welfare Department	10
19	BC & EBC Welfare Department	9
20	Rural Development Department	9
21	Tourism Department	9
22	Information & Public Relation Department	7
23	Transport Department	7
24	Disaster Management Department	6
25	Panchayati Raj Department	6

S.No.	Department	No of Services
26	Science & Technology Department	6
27	Co-operative Department	5
28	General Administration Department	5
29	Road Construction Department	5
30	Rural Works Department	5
31	Building Construction	4
32	Finance Department	4
33	Food & consumer Protection Department	4
34	Information Technology Department	4
35	Sugarcane Industries Department	4
36	Cabinet Secretariat Department	3
37	Election Department	3
38	Mines & Geology Department	3
39	Minor Water Resource Department	3
40	Public Health Engineering Department	2
41	Commercial Tax Department	1
42	Law Department	1
43	Parliamentary Affairs Department	as per CPL*
44	Vigilance Department	as per CPL*
		484

* Common Positive List

Source: Compiled as per BRPGRA rules dated 30.5.16 and 17.7.17.

Further to this, there are two cross cutting lists of the Common Positive List and the Common Negative List which are automatically included or excluded, respectively, across departments.

The Common Positive List has the following three buckets:

1. Complaints regarding the manner or behaviour of officers and functionaries
2. Delay/ Inconsistencies in payments to suppliers/service providers
3. Matters related to more than one district or entire State of notified departments, schemes and services

Taken together, they demonstrate clearly the intent of the Government of Bihar to cater to all constituencies of citizens. The first, relates to very specific grievances that an individual might have with a particular official, so it is pitched at the cutting edge of “service delivery.” Vendors and service providers of government programs are an often unregulated but crucial link in the delivery of services. Finally, giving the option to file a complaint relevant to a wider policy issue, will be of use to citizen representatives and those interested in systemic changes.

The Common Negative List has the following:

1. Internal administrative matters related to public servants
2. Matters under the Right to Information Act, 2005
3. Matters covered under the Right to Public Service Act, 2011
4. Matters sub-judice in courts

While these are fairly straightforward, what is of interest is the amendments to the Common Negative List, after a year of implementation (more on this later).

2.3. Rights of Citizens

Before going into details of the administrative architecture, the primary right to citizens that this Act provides, is the right to public grievance redressal. This is defined in the Act in the following way, “Right to Public Grievance Redressal means an opportunity of hearing and redressal provided to the citizens on a complaint within the stipulated time limit and the right to get information about the decision made in the hearing and redressal of the complaint.”

This manifests itself in the following way:

- i. Right to file a complaint:
 - Any citizen can file a complaint and seek the right to redress. This can be done on the notified 'Form-1'(made available at the office of the Public Grievance Redress Officer and at Information and Facilitation Centres). Complaints can also be filed via post, email, online portal and call centre.
 - Complaint can also be filed on a blank piece of paper. Providing name, address and complaint is essential. Providing mobile number, email and aadhaar number is not necessary.
 - If information provided is incomplete, it is the duty of the receiving officer/functionary to complete the information on the form and get a signature/thumbprint from the complainant.
 - If the Public Grievance Redress Officer is in need for further information to hear the case, she will seek information from the complainant and issue a notice within seven days of receiving the complaint.
 - This entire process is free of cost.

ii. Right to facilitation:

- Information and Facilitation centres are set up where access to the state portal, help desk, call centre and an overall service centre for the public will be included.
- Where the complaint filed with a particular PGRO and is under the jurisdiction of a different office, it will be transferred within 7 days and the complainant will be informed.
- If the subject or jurisdiction of the complaint is not at the place that the citizen has filed the complaint, it is the duty of the Public Grievance Redress Officer to transfer it to the correct authority and inform the citizen within seven days.

iii. Right to information:

- If the citizen has any queries on the process of applying, it is the duty of the Public Grievance Redress Officer and/or Information and Facilitation Centres to provide this information and guide citizens.
- Information Boards outside the office of the Public Grievance Redress Officer are mandatory which will have both the list of hearings scheduled and details of final orders (as per 'Form 4').

iv. Right to receipt:

- It is the duty of the person receiving the complaint to ensure that it is digitized, and an online tracking ID is provided to the citizen. This number will be used at all stages, from hearing to appeals and review (if required).
- Along with the tracking ID, a date of hearing will also be provided.
- The format of the receipt is prescribed in 'Form 2'.

Image 1: Information and Facilitation Window



v. Right to a hearing:

- Information Board outside the office of the Public Grievance Redress Officer will display the hearing schedule.
- Every complainant will be provided the right to hearing by the Public Grievance Redress Officer.
- This entire process, from filing a complaint, to hearing and final orders has to be done within 60 days (see Table 3).
- In case there is a refusal or delay in hearing, then the Public Grievance Redress Officer has to provide the following information – the reason for delay, the time period within which an appeal can be filed, and details of the appellate authority.

Image 2: Hearing Proceedings

vi. Right to redress:

- The Public Grievance Redress Officer hears out the issue and decides to either accept the complaint and orders a resolution or suggests alternative benefits available to the citizen under any other law, policy, scheme or programme, or rejects it by providing reasons.
- The final order or “redress” by the PGRO will be provided as per 'Form 3.'

vii. Right to appeal:

- If the citizen is dissatisfied with the response, she can appeal to the first appellate authority. If the citizen is still dissatisfied she can appeal to the second appellate authority. At this stage the

second appellate authority may penalize the PGRO/public authority/first appellate authority between Rs. 500 to Rs. 5000.

- The time period of each appeal is 60 days (see Table 3).

viii. Right to timebound redress:

Table 3: Timelines of Grievance Redress Processes

S. No.	Activity	No. of Days
1.	Redressal of Grievance	60
2.	First Appeal	60
3.	Second Appeal	60
4.	Review	60

Source: as per rules BRPGRA dated 30.5.16.

2.4. Administrative Architecture

To provide these rights to citizens, an elaborate architecture has been put in place. The first, is dedicated Public Grievance Redress Officers (PGROs) at the Division level. Further, such PGROs are appointed at the district and department level. First and second appellate officers have also been appointed (see Table 3). This has been done for all 101 sub-divisions, 38 districts and 44 Departments (indicated in Table 2). While it is administered by the General Administration Department (as mentioned earlier), the Information and Public Relations Department is also rule bound to develop a strategy to popularise this law.

Table 4: Notified Officers for Grievance Redress

S. No.	Post	Division	District	Department (State)
1.	Public Grievance Redress Officer	Division Public Grievance Redress Officer	Additional Collector (Lok Shikayat Nivaran)	Deputy Secretary of Department (if not available, Upper Secretary)
2.	First Appeal Officer	Additional Collector (Lok Shikayat Nivaran)	Regional Commissioner	Joint Secretary/ Upper Secretary/ Special Secretary
3.	Second Appeal Officer	District Official	Department Secretary /Principal Secretary	Secretary/ Principal Secretary
4.	Review Officer	Regional Commissioner	Investigation Commissioner	Investigation Commissioner

Source: as per rules BRPGRA dated 30.5.16.

In addition to provide the rights of citizens detailed above, there is also an additional responsibility of increasing awareness of the provisions of this law as follows:

- Develop and convene programs to spread awareness about the provisions of the Act, especially to the masses and vulnerable communities.
- In such programmes, order and incentivise public authorities to participate to communicate the benefits of the schemes available in their departments.
- This will give a chance for public authorities to communicate the redressal that they undertake in a time bound manner under this law.

As per the Government of Bihar Budget of 2018-19, a total of Rs. 69 crores has been allotted to the implementation of the BRPGRA, which constitutes 0.08% of the total budget.⁴ This also challenges the notion that implementing measures that improve governance, citizen rights, transparency and accountability are “unaffordable” for an already resource strained State.

Image 3: Outcome Budget, Bihar Prashnik Mission Society, General Administration Department 2018-19

परिणाम बजट 2018-2019							
साधारण प्रशासन विभाग							
क्र. सं.	विषय कोड	स्कीम/सब-सं. एवं प्र. सं.	कार्यक्रम का नाम	परिणाम (B.E.) 2018-2019 (राशि लाख रुपये में)			परिणाम
				संख्या	राशियां	कुल	
1	2	3	4	5	6	7	8
1	33-2052000920122	राज्य स्वीकृत	बिहार प्रशासनिक सुधार मिशन सोसाइटी	0.00	6,932.51	6,932.51	बिहार प्रशासनिक सुधार मिशन सोसाइटी द्वारा मानव संसाधन प्रबंधन प्रणाली के कार्यान्वयन, बिहार लोक शिक्षण निगम अधिष्ठाता अधिनियम, 2015 के कार्यान्वयन एवं अनुसंधान तथा राज्य में प्रशासनिक व्यवस्था तथा मानव संसाधन को दृष्टि, प्रभावी एवं निष्पक्ष बनाना, लोक सेवाओं की कार्य क्षमता, अधिष्ठाता एवं कार्यकुशलता का विकास, हेल्प लाईन 'जिज्ञासा' के माध्यम से जनता को बेहतर सुविधा प्रदान करना, सुशासन केन्द्र स्थापित करना, बिहार लोक सेवाओं का अधिष्ठाता अधिनियम का कार्यान्वयन एवं अनुसंधान, लोक शिक्षण अधिनियम का संचालन तथा धारा-अध्याय सम्बंधितों की विवरणी वेबसाइट पर अपलोड किया जाना है।
योग				0.00	6,932.51	6,932.51	

⁴ Outcome Budget, Government of Bihar 2018-19 <http://finance.bih.nic.in/Budget/Outcome-Budget.pdf>

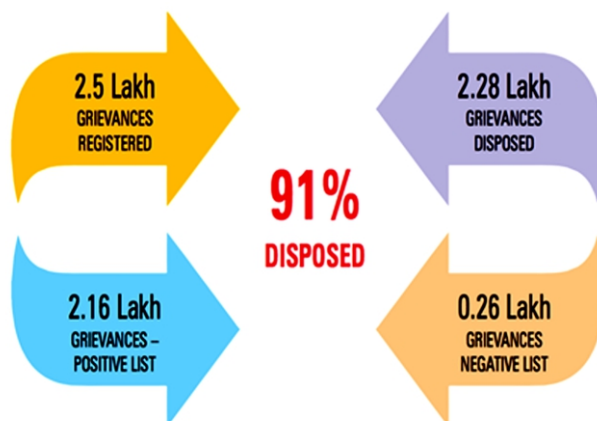
SECTION 3: WORKING OF BRPGRA

There are no summary or disaggregated statistics reported by the Government of Bihar on the performance of implementation of the law. Even though all processes are digitised, the reports that emerge from these processes are not in the public domain. However analysis conducted in two reports, which use government provided data, enable some idea on the working of BRPGRA; an 'Independent Evaluation' report conducted by IPE global, with support from UK AID, available on the Government of Bihar website, using data for the duration of 5th June 2016 to 21st December 2017, and research by M.R. Sharan (Harvard Kennedy School, forthcoming) using data from 5th June 2016 to 5th June 2017.

3.1. Insight from Official Data

- i. A total of 2.5 lakh grievances have been registered, out of which 91% have been disposed.

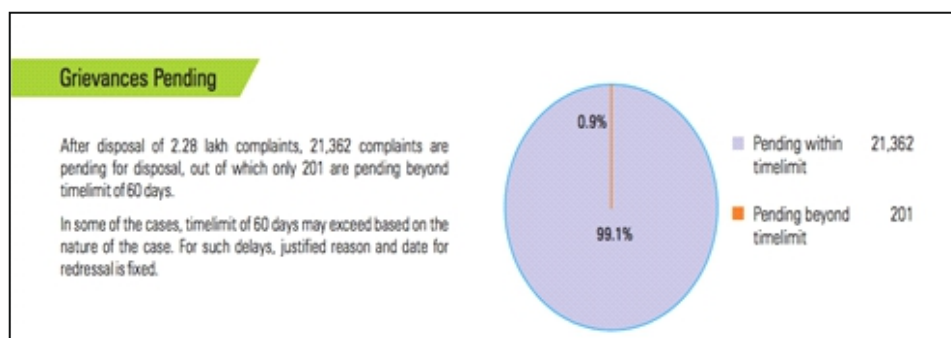
Image 4: Total Grievances



Source: Samadhan Vol. 2, 2017

- ii. As noted above in Section 2, the time limit for disposal is 60 days. As per the self-reported figures, 99.1% have been redressed within the time limit of 60 days.

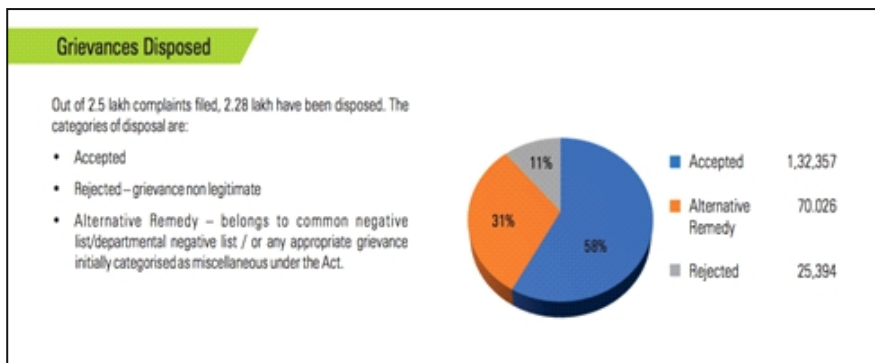
Image 5: Pending Grievances



Source: Samadhan Vol. 2, 2017

iii. The strength of this legislation is the intention to provide actual redress, and not simply 'disposal.' To this extent, the PGRO is dutybound to either accept the grievance and provide a fair hearing, suggesting alternative benefits or recording in writing the reasons for rejection. Out of the 91% complaints disposed, only 58% were those which were actually accepted and given a hearing. The remainder were either rejected (11%) or an alternative remedy suggested (31%).

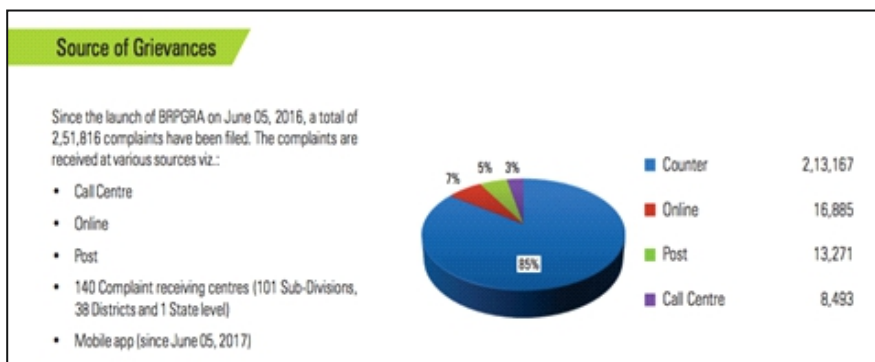
Image 6: Disposed Grievances



Source: Samadhan Vol. 2, 2017

iv. The source of grievances is overwhelmingly received from the Information and Facilitation Centres (85%), with online being the next option (7%). This implies some amount of cost to the citizen to physically go to the centres. However, it could also indicate the convenience and information provided by the centres.

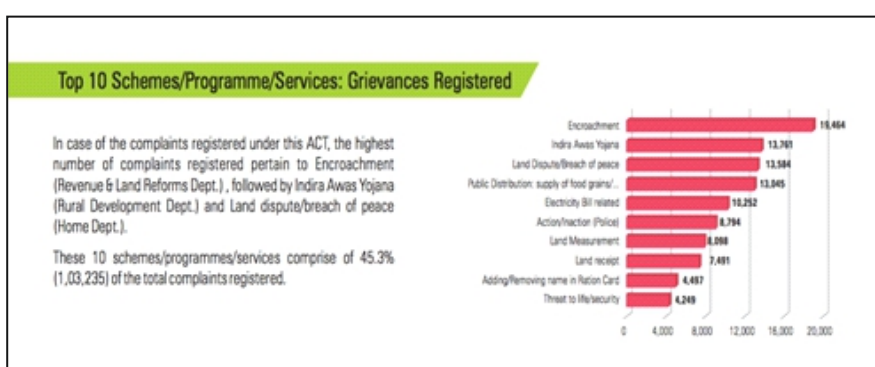
Image 7: Source of Grievance



Source: Samadhan Vol. 2, 2017

- v. The highest number of grievances have been received for Encroachment of Land, closely followed by Indira Awas Yojana (on housing), Land Dispute and the Public Distribution System (PDS). Intuitively this makes sense, as land is a fiercely contested issue in Bihar given the high density of population. PDS in terms of coverage of population (approx. 80%) is also likely to garner more grievances. Further, even though more than 475 services have been notified under the BRPGR, these 10 services have comprised 45% of the total complaints received.

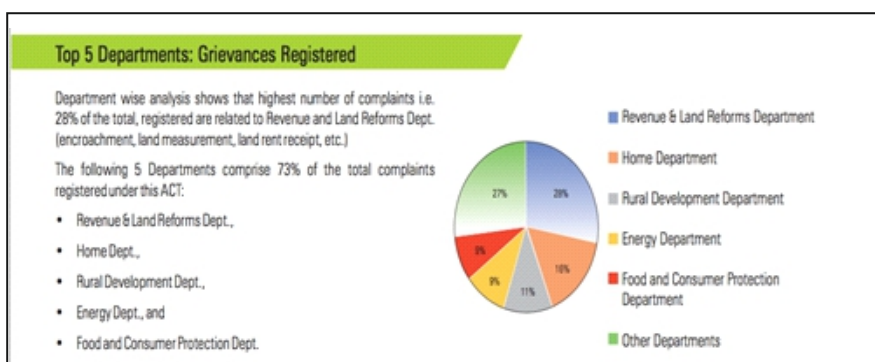
Image 8: Type of Grievance (Scheme)



Source: Samadhan Vol. 2, 2017

- vi. Concomitantly, the Revenue Department has received the highest number of complaints (28%), closely followed by Home Department (27%). As noted in Section 2, the Education Department has the highest number of notified services, but does not feature in the top 5 Departments of grievances registered.

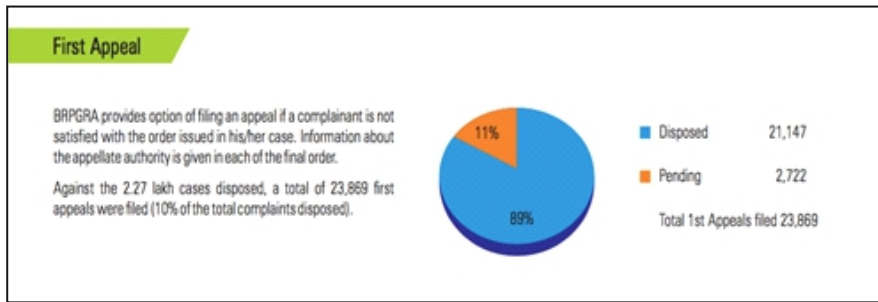
Image 9: Type of Grievance (Department)



Source: Samadhan Vol. 2, 2017

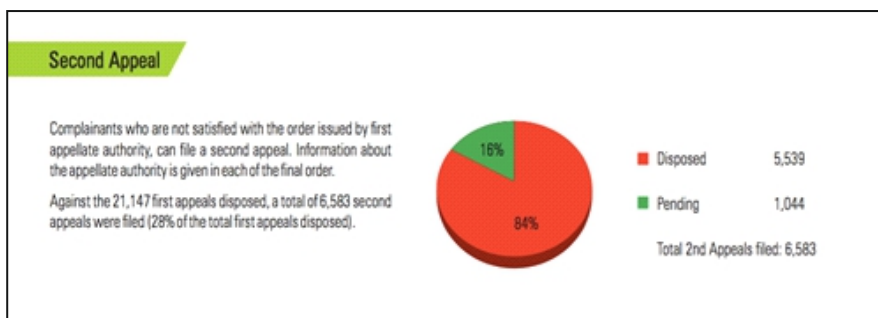
vii. Like redressal of grievances, the numbers for first and second appeal and review petition are largely positive with over 80% of them disposed. It may be noted that the first appeal rate, is about 10% to total grievances. The second appeal is much higher at 28% (of the total first appeals) and the review petitions are much lower at 2.8% (of all second appeals).

Image 10: First Appeal



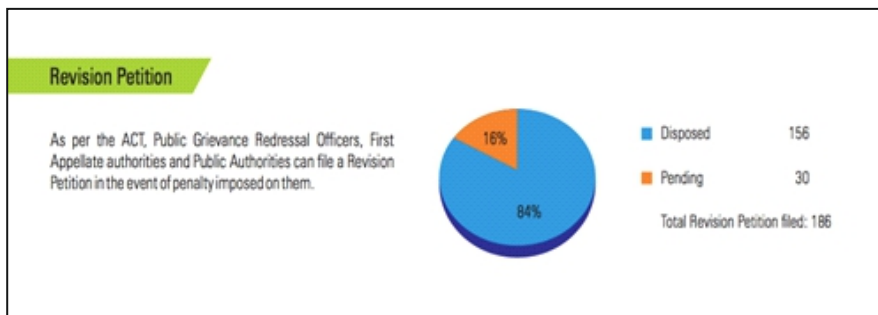
Source: Samadhan Vol. 2, 2017

Image 11: Second Appeal



Source: Samadhan Vol. 2, 2017

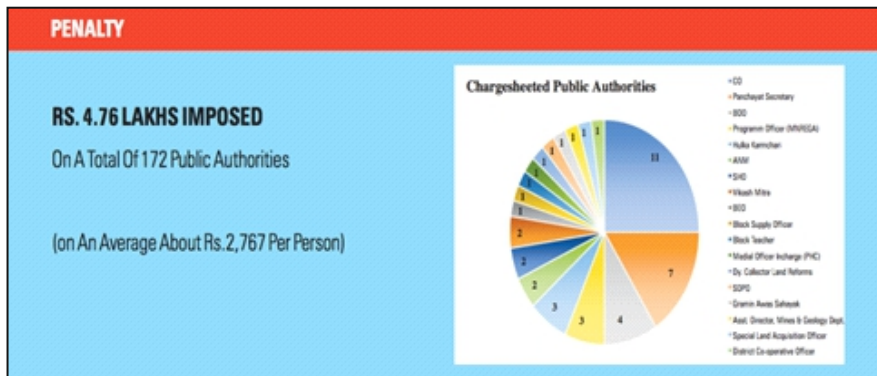
Image 12: Review Petition



Source: Samadhan Vol. 2, 2017

viii. The total penalty charged is Rs. 4.76 lakhs on a total of 172 public authorities. More than 50% of the charge sheeted officers are either Circle Officers (appointed under Revenue Department) Panchayat Secretaries or Block development Officer (for Rural Development).

Image 13: Penalties Charged

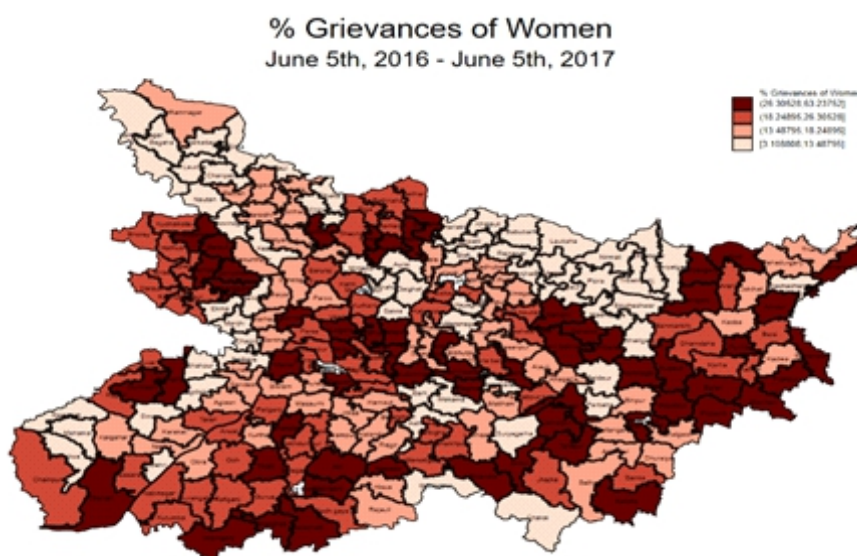


Source: Samadhan Vol. 2, 2017

3.2. Social Analyses

- i. Women: Only 27 % of grievances are by women. However, women complain on a wider set of issues – like police, rural development, food and welfare.

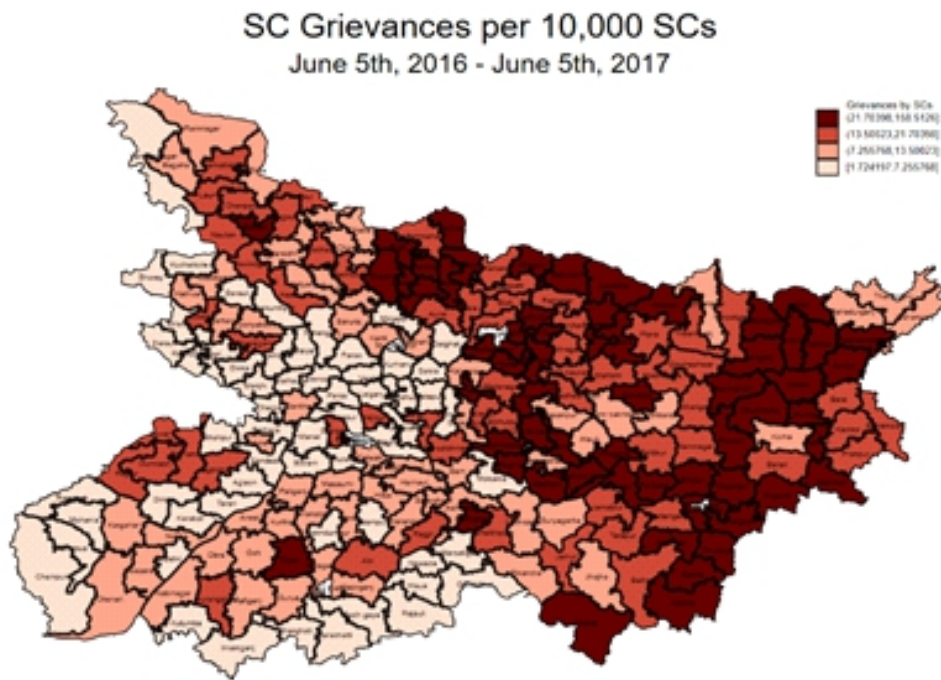
Image 14: Gender Mapping of Grievances



Source: M.R. Sharan

- ii. Scheduled Castes: are better represented than women, and their primary grievance relates to land (over 75%). There is an average of 1.3 complaints for 1000 SCs. Within land complaints, the most common grievances relate to encroachment. East-Bihar shows a much higher complaint rate.

Image 15: Caste Mapping of Grievances



Source: M.R. Sharan

SECTION 4: PEOPLE'S EXPERIENCES

4.1. Description of Campaign

To better understand the provisions of this legislation and its potential for redress and policy changes, efforts were made by CBGA to collaborate with local Civil Society Organisations to facilitate citizens to use the law to access their entitlements. In two districts of Bihar, close to 100 volunteers were trained. Through awareness campaigns people were informed about their right to redress under this law. By setting up facilitation desks, over 500 grievances were filed (December 2017).⁵ These were tracked over a period of time till their redressal. Citizens were supported to attend the hearings, and their doubts were clarified along the way. Finally, an assessment was done on whether the citizen was satisfied with the final redress received or not. These details were communicated in writing to the concerned Public Grievance Redress Officer (PGRO).

Image 16: Awareness Camps, Vaishali



Image 17: Facilitation Camps, Katihar



⁵ Jan Jagran Shakti Sangathan in Katihar and Araria. This was later also conducted in Vaishali and West Champaran.

4.2. Outcome of Campaign

- i. A total of 537 people filed grievances related to 9 subjects, ranging from pensions to electricity. However, the most popular grievance related to pensions (old age, widow and disabled).
- ii. Out of the 182 complaint IDs, the government claims that 146 of these, or 80% are redressed. Citizens on the other hand, give a positive report card to only 17, or about 10% of the complaints (see next section for detailed analyses).

Table 5: Outcomes of CSO campaign

S. No.	Department*	Total People	Total Complaint Ids	No. Redressed according to govt.	No. Redressed according to citizens
1	Pension	260	123	123	0
2	Flood Relief	127	25	13	13
3	Land Related	51	21	2	2
4	MGNREGA	11	5	2	0
5	Ration Card	3	3	2	1
6	Housing	19	2	2	0
7	Electricity	4	1	1	1
8	School	1	1	1	0
9	Ward Committee	61	1	0	0
		537	182	146	17

*difference of figures if any is due to inaccessibility of final orders in some cases

4.3. Positive Case Studies

- i. Deep Narayan Paswan from Amgachi Gram Panchayat, Sitki Block filed a complaint related to the Kabir Anthushti Anudan Scheme. It provides a one time grant to Below Poverty Line (BPL) families to undertake funeral rituals in the case of a death of a family member. In this Gram Panchayat the Mukhiya and Panchayat Secretary had provided people only Rs. 1,500 although the entitlement is for Rs. 3,000. After filing the complaint under Lok Shikayat, in the first hearing nothing happened. However, before the second hearing, the Panchayat Secretary gave further cheques of Rs. 1,500 to two people and so the matter was successfully resolved.⁶

⁶ Deep Narayan Paswan video: https://www.youtube.com/watch?v=SwYThLeF_Rk&t=19s

- ii. Before MGNREGA was removed from the purview of this law, Reena Devi of Sikkat Panchayat, Katihar filed a complaint on MGNREGA, for no work being open and for the bank official mistreating people when they come for wage payments. Again, in the first hearing nothing happened. They were unable to go for the second hearing but got a call from the IFC on the orders passed by the PGRO. The PRS then opened works in the Gram Panchayat. Before the second hearing itself the bank official came to the house of the complainant and apologized for his behavior and said it would never happen again.⁷
- iii. Usha Devi of Soriya Panchayat, Katihar facilitated the filing of a complaint for Parvati Devi who lost her son, Suraj Kumar in the floods of last year. Despite filing all the required documents with the Mukhiya they not yet received any relief. After filing a complaint under Lok Shikayat, they went for the first hearing where the Mukhiya was not present. Before the second hearing, the Mukhiya gave her the cheque with the comment “*cheque lena hain ya case ladna hain* (do you want a cheque or do you want to fight a case)”. At the next hearing the Mukhiya and Circle Officer were present as well as Parvati Devi and the matter was closed with final orders by the PGRO.⁸

4.4. Policy Issues from Practical Experiences

4.4.1. Social security pensions

- i. Redress Sought: The majority of the complaints on pensions were from those who were earlier receiving pensions, and had their documentation, but since the migration from cash to banks had stopped receiving it. This could be for a variety of reasons, including; rejected by the Public Fund Management System (of Ministry of Finance), no Bank Account of IFSC Code, no Aadhaar with Bank Account, no Aadhaar and Bank Account not seeded. All of these can and should be resolved at the District level on a regular basis.
- ii. Details: On further investigation in the website of the Department of Social Welfare www.elabharti.nic.in it is clear that almost 10 lakh pensioners in the state are being denied their social security pensions. The worst affected districts are Madhubani, Saran, Bhagalpur and Darbhanga where over sixty thousand pensioners each are being denied their entitlement.

Head	Numbers
Total Beneficiary	6302362
Total Beneficiary Paid	5389037
Not Being Paid	913325

Figures from: www.elabarthi.nic.in as of 13th December 2017

⁷ Reena Devi video: <https://www.youtube.com/watch?v=KEWaD7fuvfs>

⁸ Usha Devi video: <https://www.youtube.com/watch?v=S24tE-X1yIs>

- iii. Redress through BRPGRA: Upon hearing these cases, the final orders of the PGRO are all the same, i.e that the “account details have been entered into the elabarathi portal. When funds are released from the Central Government, the pensioners will receive the pension.” Thus, out of the 123 IDs filed, all have the same order.
- iv. Comment on Redress: While this is an intermediate step, it is not considered redressal by the complainants, as their original complaint (of not getting their pension) still stands. Further, the final order does not provide any details on whether the account number was wrongly entered, not entered or what exactly the issue was. There is also no proof along with the final order that the correct details have now been entered into the system. The question remains, why is there no action taken against officials who had up till now not entered or wrongly entered the account details?

4.4.2. Flood Relief

- i. Redress Sought: Similarly, for Flood Relief, while people's names were on the list of eligible beneficiaries they had not received their benefit due to errors in bank account and IFSC details.
- ii. Redress through BRPGRA: The quality and quantum of redress here is far greater. Out of the 25 complaints filed on flood relief, 13, or 52% have been redressed by government and corroborated by citizens. This is due to the fact that the disbursement of flood relief benefits is decentralised. The budgets are in the control of the District administration and therefore can be disbursed immediately. Further, the final orders had the RTPS counter number through which the flood relief benefit had been sent to the beneficiary account.
- iii. Comment on Redress: The remainder of the complaints related to people who were not on the list of beneficiaries but had also suffered losses during floods. These complaints were not accepted by the PGRO and these were considered false claims as the implementing agency put forward that due process had been followed in preparing the list. The question remains, why is there no process of redressal to add citizens to the list of beneficiaries? Why was no action taken on officials for incorrect entry of account details?

4.4.3. Land Related Issues

- i. Redress Sought: There were a variety of land issues filed, but the most common related to having documents on being claimants to the land but not having possession.
- ii. Redress through BRPGRA: Out of the 21 complaint IDs filed, only 2 have been successfully redressed by government and corroborated by citizens. This is because most of the documents provided by citizens as claimants of the land were either incomplete or false (without their knowledge). These complaints were not accepted.
- iii. Comment on Redress: However, the question remains that why is no action being taken against the officials who have provided these incomplete and false documents?

SECTION 5: KEY ISSUES

5.1. Points of Discussion

- i. **Need for Increase Awareness:** There is huge potential to improve the awareness around the provisions of this Act. More effort needs to be made to popularize the law and reach the persons who have such genuine grievances related to welfare programs. As per a sample survey only 5% of 'Below Poverty Line' respondents were aware of BRPGRA and only 1.6 persons for every 1000 people report grievances under BRPGRA.⁹ This despite the fact that the notified rules are unambiguous on the need for awareness drives to be conducted on the provisions of the BRPGRA.
- ii. **Utilise Potential of Information and Facilitation Centres:** While the centres have been broadly defined under the act, in practice they serve as defacto front desk and back office for the office of the Public Grievance Redress Officer. They are adequately resourced with a waiting area, boards with information on services and dedicated staff. While the centres being tagged to the officer of Public Grievance Redress Officer is welcome, there is need for them to be far more decentralized and people friendly.
- iii. **Timelines for Redressal:** While a timeline of sixty days has been notified, the monitoring of this is only by the Department and pendency's are not publicly available. From the point of view of the citizen, there should be some system of automatic escalation of complaints which are not redressed within the timeframe.
- iv. **Average Number of Hearings:** The average number of hearings is between 3 and 4. The bottom twenty sub-divisions take more than 4.5 hearings per case.¹⁰ Given that the hearing is at the sub-division level this translates into high transaction costs. Citizens noted that in the first two hearings, either the PGRO or Implementing Department are usually absent, causing delay.
- v. **Scope for improvement in quality of redress:** As demonstrated through the CSO campaign, there is huge scope of improvement both in the final order and the quality of redress. In the case of pensions, the complainants should at least have been provided with proof that their account details are correctly seeded. The complaint should have been kept pending until the pension is successfully received. In the case of flood relief as well, there is a narrow reading of procedures. Persons who are claiming to be eligible should be given a chance, rather than rejecting the claim and considering the earlier prepared list of beneficiaries as the final one. In all three cases of pension, flood relief and land, no action has been taken against any official and no penalties levied despite clear violations.
- vi. **Strengthen system of appeal:** While online filing facility is useful in filing complaints, there is a

⁹ M.R. Sharan, Doctoral Thesis, Harvard Kennedy School (forthcoming)

¹⁰ As per CSO campaign experience and M.R. Sharan, Doctoral Thesis, Harvard Kennedy School (forthcoming)

need to extend this to the filing of appeals as well, to enable citizens to pursue their complaints to its logical end. Further, the PGRO is the only independent authority in this entire architecture. The first and second appellate authorities and review petitions are internal within the Department (see Table 4).

- vii. Process and timelines for compliance: There should be some system put in place to check whether the orders of the PGROs/appellate authorities are being complied with on a systematic basis, and in a timebound manner.
- viii. Public MIS: The overall tracking of the functioning of the law is unavailable, such as pendency at level of department, public grievance redress officer etc. While individuals can track their complaints online, the entire Management Information System of the operationalisation of this should be in the public domain, including timelines adhered to, orders of PGROs etc. This will have two important benefits for the long term success of this law – increase citizen investment and protect citizens. Having information on the functioning of the law is the necessary prerequisite for an active stake from citizens to preserve its progressive provisions. Secondly, as with the experience of Right to Information applicants who are threatened against filing requests, the Central Information Commission in 2011 ordered a protocol of suo-motu disclosing information requested for by an applicant who is being threatened. Thus pro-actively putting out information on grievances and their redressal, will protect citizens from any possible intimidation.¹¹
- ix. Examining the Negative List: It is interesting to note the correlation between the number of grievances filed in the categories of Common Negative List and their subsequent exclusion from the BRPGR (see Table 6). Close to 5,000 complaints were filed to add or remove names from ration cards (refer to Image 6: Top Schemes of Grievances Registered). Programme Officers under MGNREGA were the fourth largest kind of officer charge sheeted (refer to Image 11: Penalties Charged). While 'service matters' in a clear exclusion under the Common Negative List, the addition of 'Anganwadi Sevikas and Sahayaks' perhaps reflects their changing socio-political standing from community workers to frontline functionaries. An independent Public Grievance Redress Commission (along the lines of State Information Commission) could perhaps anchor this task of including and removing services with clear reasons for doing so, after public consultation.

¹¹ Suchi Pande, Dying for Information: Right to Information and Whistleblower Protection in India, U4 BRIEF January 2015 No 3

Table 6: Amendments to Common Negative List

Department	Service	Reason
Food and Civil Supplies	Adding/removing name from ration card	Included in Right to Public Services Act, 2011
Industries	Not receiving amounts from banks related to schemes operated/sponsored by State Government	Bank Public Grievance Redressal Officers of banks do not come under jurisdiction as per Section 2 (d) of BRPGRA Rules dated 30.5.16
Rural Development	Matters related to MGNREGA	Provision of Lokpal under MGNREGA, Section 27
Social Welfare	Matters related to selection of Anganwadi Sevika/Sahayak	Relevant form available at Department level

Source: as per BRPGRA rules dated 17.7.17

5.2. Policy Recommendations

1. Develop awareness material in collaboration with Civil Society Organisations. This could include:
 - Scheme/Department wise entitlements
 - Location and details of Information and Facilitation Centres
2. PGROs may be monitored on:
 - Number and type of awareness activities conducted
 - Number of grievances registered
3. Collaborations with Civil Society Organisations may be sought to:
 - Develop sector wise information disclosure formats for Information and Facilitation Centres.
 - Jointly undertake sector specific campaigns from time to time to understand policy issues (under clause 3 of Common Positive List.
4. For Information and Facilitation Centres:
 - Under the aegis of the State Information Commission become model sites of proactive disclosure for all notified schemes and departments.
 - The staff at the IFCs can be trained to proactively provide free information services to citizens on their entitlements and status of disbursement.

5. Put in the Public Domain the following reports:
 - Grievances Filed, Pending, Disposed (Department and District wise)
 - Daily Case List of PGROs
 - Adherence to Timelines (for Redress, Appeal and Review)
 - Number of Hearings
 - Penalties Charged
 - Final Detailed Orders of Redress
6. Automatic Escalation of Grievances: If a grievance is not redressed within 60 days, a system of automatic escalation may be devised, wherein it is automatically considered for First Appeal.
7. Enable multiple methods to file appeals and review petitions, whether online, through call centre, through Information and Facilitation Centre and so on.
8. Independent Appeals: To retain independence of the process, independent appellate mechanisms could be designed, including neighbouring PGROs as First Appeal Authorities of each other (if required) or State Information Commissions.
9. Compensation: The registration of a grievance in effect reflects the breakdown of procedure at some level or the other. PGROs could be empowered to order compensation to citizens, apart from penalties to officers.
10. Independent Commission: An Independent Public Grievance Redress Commission can pass orders on systemic grievances to prevent their recurrence (as per clause 3 in the Common Positive List). It can function as an overall monitoring and oversight body for the implementation of the Act. It can also anchor training plans for implementing departments to better respond to the system of grievance redress and hearings.

Image 18: Typical Display of Information



SECTION 6: BEYOND GRIEVANCE REDRESS

6.1. Synergies with Transparency

It is common sense that citizens need to know their rights to be able to claim their rights. In this vein, the Right to Information Act and the BRPGRA have a strong resonance with each other. Given the wide scope of both laws and their intent to design systems to work for the most marginal and vulnerable communities, there are clear potential synergies:

- i. Section 4 (1) (b) of the Right to Information Act lays out the proactive disclosure norms that are expected of all public authorities. For the 44 Departments notified under the BRPGRA, awareness programmes as mandated under the rules of BRPGRA could double up as practical ongoing activity based manifestation of Section 4 disclosure.
- ii. The Information and Facilitation centres could function as physical sites of display of information. They could think of creative and iterative processes to disclose information effectively. Material developed by them could be widely shared with the concerned departments, CSOs, displayed at Gram Panchayat Bhawans and so on.
- iii. Since the PGROs are at the cutting edge of both issues plaguing people and the bottlenecks of implementation, they are a valuable resource to provide inputs on policy design on the schemes themselves. A regular feedback channel between the PGROs and Implementing Department can also be established.

6.2. Synergies with Accountability

The BRPGRA has many components which are considered building blocks of an administrative accountability structure. It has introduced several concepts which are considered critical to ensuring the citizen can hold the State accountable. In doing so, it is a prime example of a law that is actually providing something of substance to citizens, rather than simply checking a box of good governance.

A common misconception exists with the Right to Public Service Delivery (PSDA) laws that are enacted in over 20 states of the country. The Right to Grievance Redress legislation is a different architecture altogether, providing for an independent public grievance redress officer, time bound responses, public hearings and information and facilitation centres. In contrast, the PSDA has only a set of notified services which are to be delivered to eligible persons within the stipulated time period (more on this later).¹² While PSDAs are often touted as taking forward the good governance agenda, in comparison to a grievance redress law with teeth, they do very little for citizens.

This law also shows how essential the right to free facilitation is, as a part of an accountability framework. Opening up multiple channels, independent of the implementing departments is crucial to filing grievances. As stated by Robinson (2013),¹³ *“a very insular and difficult to approach bureaucracy can be made much more accessible with the introduction of social workers or something as simple as a clearly demarcated help desk.”*

¹² <https://thewire.in/government/bihar-right-to-public-service-delivery-and-right-to-grievance-redress>

¹³ Nick Robinson, 2013, Closing the Implementation Gap: Grievance Redress and India's Social Welfare Programs

6.3. Checklist on Principles

Finally, a useful reference point often used to assess transparency and accountability frameworks, are the principles laid out by the Central Employment Guarantee Council,¹⁴ a statutory body under the MGNREGA. Though drafted in the context of MGNREGA, they are intended to be cross applicable. A quick assessment of the BRPGRA from the point of view of upholding these principles is presented below:

Table 7: Checklist of CEGC Minimum Principles

Sl. No.	Principle	Comment on BRPGRA
1.	Concepts like transparency and accountability must be framed in a manner in which they are governed by universal and inclusive processes. This is essential to empower every individual or group with the right to monitor the programme, and help and facilitate beneficiaries claim their rights under the Act.	Yes, wide ranging scope of right to grievance redress, to enable citizens to access their rights under various programs.
2.	This is in keeping with the spirit of the RTI Act 2005 which allows equal and open access to all citizens of India; and specifically precludes any provision that may restrict, or exclude any citizen from using it, or from having to prove their locus standii.	Yes, an entitlement for all residents of Bihar.
3.	Within this universality, in a programme like the MGNREGS, there may be a need to specially empower and facilitate certain marginalized or beneficiary groups with mandatory provisions to support their access. However, this should not be taken as a means of restricting or limiting access of anyone else who might aid the principle of transparency and accountability voluntarily, or through the effort of particular agencies. In fact, in all cases of proactive disclosure or collective monitoring, there is an inherent need for facilitation by external agencies/individuals/groups.	Yes, in terms of rules stating need for special awareness programs for vulnerable communities and existence of Information and Facilitation centres.
4.	Transparency and accountability of the institutions and individuals involved with the implementation of the NREGA is incumbent on the full and informed involvement of, and support to the potential and actual beneficiaries. This is because they, more than any of the other stakeholders, have the incentive, the resilience and the local knowledge required for adequately monitoring and evaluating the implementation of the scheme.	Yes, given platform of hearing.

¹⁴ Report of the Working Group on Transparency and Accountability (Central Employment Guarantee Council), submitted on 7th July 2010 to MoRD

Sl. No.	Principle	Comment on BRPGRA
5.	Whereas regulatory institutions and mechanisms can be corrupted, co-opted, intimidated, marginalized, or misled by vested interests, the workers and those who are entitled to benefit from the programme, should individually and collectively have access to platforms for exercising their entitlements both inside and outside the Gram Sabha. Workers are perhaps the least susceptible to such disruptive tactics.	Not clear manifestation.
6.	In order to enable and empower the workers and the gram sabha to effectively perform this function, various conditions need to be fulfilled. These include a widespread understanding of the entitlements, of the prescribed time frames, of who's responsible for what, of the prescribed standards and rates, of the decision-making processes, of the possibility for appeal, complaint or grievance redressal, and of the reasonably expected outputs and outcomes.	No, there is no explicit role for Gram Sabha.
7.	All relevant information regarding the MGNREGA must be proactively displayed (Mandatory) and made accessible through different modes and medium, ensuring local language compatibility and keeping in mind the needs of the semi-literate, the illiterate and the differently abled.	Partial, only mandated disclosure at the office of the PGRO.
8.	Information must be authenticated, updated with reasonable periodicity, and put across in a manner and format that is easy to understand. Towards that end, special proformas and formats need to be developed.	No, potential opportunity to develop a model with Information and Facilitation centres.
9.	Relevant information must be appropriately displayed from the worksite, the village and the gram panchayat office, the block and district level, right up to the state and national level.	Partial, some display of notified services at Information and Facilitation centre.
10.	It must also be kept in mind that, as far as possible, all decision making should be done in public in the full view of all interested stake holders. This is the best way of ensuring that decisions are not only fair but also appear to be fair.	Partial, unclear on whether citizens apart from complainants can be present at PGRO hearing.

Sl. No.	Principle	Comment on BRPGRA
11.	Recognising that, despite best efforts, both the modes of providing information and of getting feedback can be corrupted or blocked, multiple modes and routes must be used in order to make it progressively difficult to inhibit the free flow of information to and from the people.	Partial, multiple modes to file grievance. However, can set up channels to get systematic feedback.
12.	Whereas focus must be on using as far as possible culturally appropriate modes of communication, especially traditional modes with which the local people are familiar, the advantages promised by new and emerging technologies must also not be ignored. Of especial relevance are mobile phones which have effectively permeated rural households and promise an innovative, reliable and quick method of simultaneously communicating with a large number of people.	Yes, dates of hearing communicated via text message. Through tracking ID can check status of grievance online.
13.	Advances in remote sensing and in biometrics must also be appropriately harnessed to give the common man and woman an advantage over traditional vested interests.	No (not relevant)

The purpose of this exercise is to demonstrate that the law is largely resonant with the principles of Transparency and Accountability. Therefore there is all the more of an opportunity to practically demonstrate the functioning of an effective grievance redress system. For this, the devil will lie in the details.

6.4. Conclusion

Through this paper an attempt has been made to examine the BRPGRA, a pioneering legislation that gives Bihar residents the right to grievance redress. A close look at law, its guidelines and rules demonstrates the intent of the Government of Bihar to put forward an accessible architecture for citizens. However, having more information in the public domain on the working of law, particularly reports on grievances, departments and timelines will greatly increase citizen investment and use of its provisions. Through limited official data available in public reports, the experience of the past year and a half looks promising, with immense potential for improvement. An exercise by CSOs showed that concentrated focus on awareness and facilitation of complaints of vulnerable and marginalised people (as mandated in the rules of the BRPGRA) is at odds with official data, in terms of priority areas of grievances. It also raises a big question on the quality of redress which was found to be lacking. Nonetheless, even with just this limited exercise, several policy issues related to schemes emerged, thus indicating the multi-dimensional potential of the BRPGRA to establish links between grievance

redress and scheme implementation. Taken together, some major point of discussion are the need to improve awareness of citizens, the high average number of hearings per grievance, the lack of public reports on the functioning of the law and the difficulties in filing of appeals. A set of policy recommendations have been put forward including automatic escalation of grievances, provision for compensation to citizens and an independent commission. Finally the potential of synergies with overall transparency and accountability frameworks indicate several nodes of cross fertilisation that the implementation of this law offers.



About CBGA

CBGA is an independent, non-profit policy research organisation based in New Delhi. It strives to inform public discourses through rigorous analysis of government budgets in India; it also tries to foster people's participation on a range of policy issues by demystifying them.

For further information about CBGA's work, please visit www.cbgaindia.org or write at: info@cbgaindia.org