

केन्द्रीय सूचना आयोग
Central Information Commission

REPORT ON AND RECOMMENDATIONS OF THE THIRD ANNUAL CONVENTION ORGANIZED BY THE CENTRAL INFORMATION COMMISSION.

The Third Annual Convention of the Central Information Commission was held on 3rd & 4th November 2008 at DRDO Bhawan, New Delhi. Dr. Manmohan Singh, Hon'ble Prime Minister of India, inaugurated the Convention on 3rd November 2008 at 10:00 hrs. Shri Prithviraj Chavan, Minister of State, Personnel, Public Grievances and Pensions; Shri Rahul Sarin, Secretary, Department of Personnel and Training, amongst others, were present in the inaugural session. Shri Wajahat Habibullah, Chief Information Commissioner, welcomed the Hon'ble Prime Minister of India. All the Information Commissioners of the Central Information Commission attended the Convention. (Names enclosed as Annexure –I)

2. 15 State Chief Information Commissioners, 51 State Information Commissioners and 6 Secretaries of SICs also attended the Convention. (Names enclosed as Annexure – II)

3. Importantly, the Convention was also attended by delegates from Pakistan, Sri Lanka, Bangladesh and Nepal (names enclosed as Annexure –III).

Inauguration

4. While welcoming the Prime Minister of India and the distinguished delegates, Shri Wajahat Habibullah, Chief Information Commissioner, underlined the need of realization of the Government's urge for transparency and accountability of public functionaries, so as to reach the benefits of good governance to the 'Aam Admi'. Referring to the setting up of a National Sub Committee of the Central

Information Commission, he mentioned that this Sub-Committee submitted its report to the Commission on 13th July, 2008, wherein the Committee has underlined the need for a change in the attitude of the bureaucracy to enable it to comply with RTI Act both in letter and in spirit. Shri Habibullah also mentioned that the Sub-Committee has also recommended that for the RTI Act to be an instrument of accountability and transparency, political and administrative support is critical. He observed that it is incumbent on the Information Commissions as well as the Govt. to ensure effective and independent functioning of the Information Commissions. He also referred to other recommendations of the Sub-Committee such as improving the free flow of information, through scientific management of records by the public authorities, including public awareness; co-operation and coordination of activities of SICs/CIC; adoption of best practices; rules and executive orders issued under the Act, with the Central Govt. taking a lead in bringing homogeneity; and, most importantly, the criticality of the information delivered at the district level. Referring to the main issues to be discussed in the two day Convention, Shri Habibullah underlined the need for striking a balance between 'Right to Information' and 'Protection of Individual Privacy'. The law on this subject, he said, is still in the process of evolution and hoped that the deliberations in this Convention, which is also being addressed by top legal luminaries, would enable the Convention to evolve legally sound and yet pragmatic benchmarks in this regard. He also observed that the time has now come to make a current assessment of the RTI and appreciated the initiative taken by the Department of Personnel in appointing the Price Water-house Cooper to

make an assessment of far we have gone, together with the NGO initiative of the Campaign for the Promotion of the Right to Information (CPRI).

5. The Prime Minister of India initiated his inaugural address with the observation that his Govt. takes great pride in having piloted the RTI Act, 2005, through Parliament, as in modern society information is power. By sharing information with the people at large, the Govt. is bringing decentralization and participatory governance. He also observed that the RTI Act is a revolutionary enactment that has placed vast power in the hands of the ordinary citizen of the country in demanding transparent and accountable administration. He also expressed his happiness at the fact that the benefits of the RTI Act are now reaching common citizens and there are many heart-warming stories of the resolution of problems faced by ordinary men and women, like getting their ration cards or electricity connection, through a simple procedure of filing an application for information under this Act. The Prime Minister took note of the fact that there has been an exponential growth of requests for information by the citizens during the last 3 years and that the number of such requests being rejected is gradually coming down. However, he emphasized the need for enhancement in the quality of voluntary disclosures so that information seekers will not be required to join long queues. He called upon all public authorities to improve “information housekeeping” by improving Data Management practices and by computerization of records. The Hon’ble Prime Minister also emphasized that there is a need to strike a balance between the need for disclosure of information and the limited time and resources with the public authorities so that vexatious or

frivolous demands are not allowed to deprive genuine information seekers of their legitimate claims on limited public resources.

6. The Prime Minister expressed the hope that this Convention would bring out concrete suggestions to deal with the situation and give a holistic assessment of the achievements and shortcomings in the implementation of the RTI Act, as this would help the Govt. and its instrumentalities to implement the Act better, thereby effectively empowering the citizens of the country.

7. In his address, Minister of State for Personnel, Public Grievances and Pensions, Shri Prithviraj Chavan observed that the Right to Information Act, 2005, is a recognition of the commitment of the UPA Government to promote transparency and accountability for fostering good governance and democracy. The Central Information Commission and the State Information Commissions have been given powers to ensure that public authorities respect the right of the citizens to have access to information. He emphasized that the Indian law is the only disclosure law in the world that has a penalty provision on defaulting Public Information Officers. He also observed that ordinary citizens do not request for information about high-level policy and management functions of the Government but they often seek information relating to administrative activities that immediately affect them. He observed that RTI Act is thus a legislation enabling improved public service delivery.

8. Shri Chavan noted that there are indeed certain teething troubles in the enforcement of the Act and expressed the hope that with the passage of time, ways and means would be evolved for its more effective implementation. He also underlined the need for capacity building of various stakeholders dealing with the RTI Act to work on its effective implementation, which also includes strengthening of the Information Commissions at the Central and State level. The Minister also spoke of guidelines for information seekers and Public Information Officers, Appellate Authorities and Public Authorities issued by the Department of Personnel and Training and the 'in principle' decision of the Government to set up a "Call Centre" for RTI on a pilot basis. However, Shri Chavan also cautioned the delegates against allowing this law to become a tool for promotion of an adversarial relationship between different stakeholders.

Sessions

9. Shri A.N. Tiwari, Central Information Commissioner, chaired the First Technical Session on "RTI and Transparent Governance". The panelists in this session were Professor Madhu Kishwar, Centre for Study of Developing Societies; Shri D.K. Das Choudhari, SIC, Tripura and Dr. P.K. Mohanty, Joint Secretary, Ministry of Urban Development, Govt. of India. In his power point presentation, Shri Tiwari enumerated the elements of good governance: **Accountability, Participation, Predictability, Transparency, Efficiency and Effectiveness, Responsiveness, Forward Vision and the Rule of Law.** According to him, other elements of good governance are greater participation of citizenry in the democratic process, fight against corruption, access to information

leading to poverty eradication and, above all, protection of human rights. He underlined that transparency remains the key element of good governance and is fundamental to ushering in rapid economic and social progress. Deprecating the tendency of undesirable secrecy in the governing processes, Shri Tewari commented that secrecy-oriented laws like the Official Secrets Act weaken participatory democracy, make transparency look like an avoidable luxury and provide a smoke screen for unaccountable functioning of public services. According to him, the secrecy laws promote and nurture irresponsibility. He observed that the culture of secrecy is not only regressive but also self-defeating and calls for change in the mind-set of bureaucracy, which is currently secrecy-centered.

10. Referring to the preamble of the RTI Act, 2005, Shri Tiwari mentioned that it encompasses key elements of good governance and this Act is the only law that allows people to question authority directly, without the intervention of elected representatives, the Courts or the Media.

11. Shri Tiwari underlined the need for classification of data, Meta data and information and proper Record Management Systems for effective retrieval and access by the citizens. He also underlined the need for the training of officials who are charged with the responsibility of supplying information as also awareness amongst the citizenry for demanding quality information.

12. In his concluding remarks, Shri Tiwari underlined the need for voluntary disclosures under section 4 (2) of the RTI Act on the part of the public authorities

so that the need for filing RTI applications by the citizens is minimized. He also called upon the CIC and the SCICs to resort to the provision of Section 19 (8) (a) of the RTI Act to compel the public authorities to make voluntary disclosure as mandated by law. He also called upon the CIC and the SCICs to establish dialogue with the key public authorities about transparency based systemic changes within a given time frame. He envisaged the CIC and the SCICs pooling their resources to set up an Institute to catalyze transparency-based systems bringing improvement in the public authorities. He was of the firm view that RTI laws contribute directly to improvement in governance by breaking down various barriers between Govt. and the people, enhancing trust and that RTI is a powerful assault on endemic corruption in developing countries.

13. Advocating a people-centric approach, Professor Madhu Kishwar lamented that information asked for from the top level comes easily, but if a poor man asks for any information, it is not easily accessible. Sometimes, people are apprehensive of asking for information as such requests may be met with reprisal on the part of the authorities required to part with information. Drawing upon her personal experiences, she mentioned that interceding on behalf of the people of Delhi, she had written thousands of letters to the officials of the Municipal Corporation of Delhi and the only response she got was that the matter was being examined and will be responded to soon but no subsequent reply was sent to her. On the positive side, she applauded the work of Shri Krishan Kumar, Deputy Commissioner in a district of Punjab, in uploading valuable information on the website and making it readily accessible to the public at large. She observed that

through the dedicated efforts of Shri Krishan Kumar, the sex ratio in the district had improved significantly and the Aanganvadi system showed tremendous improvement. Her broad observation was that the RTI Act could be used as a powerful tool for development if the bureaucracy responds in a positive manner.

14. Shri D.K. Das Chaudhary emphasized that transparency in Government's functioning is an inalienable component of good governance and open government and that disclosure of information in regard to the functioning of government should be the rule with secrecy only an exception. He mentioned that the RTI Act contains certain provisions which are to be implemented by the appropriate governments but there has been very little achievement due to lack of desired initiative by various stakeholders. He also observed that the desired change in the mind-set of bureaucracy has not yet come about even after the enforcement of this Act. He also observed that the State Governments have not created adequate infrastructure for the proper functioning of the State Information Commissions. He was of the view that the RTI Act does not confer adequate powers on the Information Commissions for ensuring execution of their orders and this calls for suitable amendments in the Act. He also expressed the view that financial and infrastructure constraints on the State Information Commissions were a stumbling block in their efficient functioning.

15. Dr. P.K. Mohanty made a power point presentation on the subject "Right to Information: Tool to Good Governance through Transparency". He laid emphasis on improving service delivery through enhancing accountability, improving

performance; targeting the poor and the disadvantaged and ushering in transparency in the governmental processes. He also underlined the need for a people-centric approach in governance through the process of consultation; access to services to which they are entitled; courtesy and provision of up-to-date information; openness and transparency about operations, budget management, structure of government departments and prompt redress of genuine grievances of citizens. Dr. P.K. Mohanty observed that the Right to Information was the centerpiece of good governance.

16. The Second Technical Session on “**RTI – Need for Different Strategy Specific to Rural Areas**” was chaired by Ms. Aruna Roy, Magsaysay Awardee. The other panelists of this session were Shri T.R. Raghunandan, Joint Secretary, Ministry of Panchayati Raj, Govt. of India; Shri V.V. Giri, SIC, Kerala and Shri Vilas Patil, SIC, Maharashtra.

17. In her preliminary remarks, Ms. Aruna Roy observed that the State Governments have done very little either for the delivery of service to the rural masses or for the implementation of RTI Act. Drawing upon her personal experiences, she mentioned that there is widespread usage of RTI in rural areas but no record of RTI applications is being maintained at the Panchayat and Tehsil levels. She also observed that the Governments at the State and the Central level have not done enough in propagating the culture of Right to Information. She was emphatic that the Panchayats have a ‘dismal’ record in making voluntary disclosures, as mandated under the RTI Act. She also observed that, ironically,

the Panchayats and other Public Authorities insist on disclosure of information by others when it suits them, but such authorities themselves are reluctant to disclose information. Observing that, on an average, projects valued at 1.0 to 1.5 crores are being annually implemented in a Panchayat area, only about 1/3 of this amount reaches the people. In this context, the RTI Act is a powerful tool in the hands of people to know as to how much money was sanctioned and how much out of it has been spent and where. She suggested that the Ministry of Panchayati Raj, Govt. of India, must consider preparing a template for disclosure of information, as mandated under section 4 (1) (b) of the RTI Act. She also suggested that this Ministry might consider organizing a National Workshop on RTI and Panchayats in concert with the Central Information Commission.

18. Responding to this, Shri T.R. Raghunandan broadly agreed with the suggestions made by Ms. Aruna Roy and mentioned that his Ministry would do all that it can for the propagation of RTI culture at the Panchayat level. Taking note of the fact that record management at the Panchayat level was poor all over the country, he mentioned that the Ministry of Panchayati Raj has funds at its disposal which can be availed of by the State Governments for proper record maintenance and data management at the Panchayat level. He also mentioned that some States like Karnataka and Andhra Pradesh have undertaken pilot projects for efficient maintenance of records and data management at different levels and that their example should be emulated by other States.

19. Shri V.V. Giri, SIC, Kerala, made a power point presentation on “RTI Awareness Strategy – Initiative by Kerala State Information Commission”. He mentioned that Kerala State Information Commission, in association with Kerala State Literacy Mission, had launched an educational programme to make the citizens, especially in rural areas, aware of the provisions of the RTI Act and to help them in preparing applications under the RTI Act. This programme was launched on 1st January, 2007. Under the scheme, RTI Help Desks have been established in 55 of 153 Block Panchayats. The RTI Help Desks render necessary assistance to the citizens by making them aware of their Right to Information and help them prepare and submit RTI applications. The ‘Preraks’, who are in charge of the Help Desks, accompany the applicants to the offices of the public authorities concerned, where necessary. He also mentioned that model RTI Help Desks have been established in six Districts, which are functioning in the offices of Kerala State Literacy Mission Authority. About 7 lakh people have participated in the contact programmes at grass root level. The fact that about 2 lakh applications were filed before various public authorities of the State during 2007 and 2008 is reflective of the trust that the people have reposed in RTI. He also mentioned that KSIC has funded the scheme by contributing Rs. 15.14 lakhs.

20. Participating the discussion, Shri Vilas Patil, SIC, Maharashtra mentioned that he is based at Nagpur and responsible for hearing appeals of 11 districts of Vidarbha Region. He has been holding hearings at the District headquarters for the people’s convenience. Drawing upon his personal experience, he mentioned that people are insistent on imposition of penalty on the PIOs under Section 20 of

the RTI Act; that even after receiving requisite information, the people generally file first appeal before the First Appellate Authority and the second appeal before the SIC; that there are professional information-seekers through BPL card holders in every village and they are in the habit of requesting for old and voluminous information; that some people even after receiving information complain to the SIC that they did not receive information with the objective of having the PIOs punished by the SIC; and that in rural areas, it is rare that information is being sought in larger public interest and the same is being sought for personal interest or for causing harassment to the PIO, with a malicious intent. His broad observation was that the RTI Act is being used as a tool to cause harassment to the public authorities but there is no provision in the Act to stop such unethical practices. He underlined the need for amendments in the Act with a view to discouraging filing of frivolous applications and resorting to unethical practices.

22. The Third Technical Session on **“RTI and Poverty Alleviation”** was chaired by Shri B.N. Yughandhar, Member, Planning Commission. The panelists for this session were Professor M.M. Ansari, Central Information Commissioner; Dr. Suresh V. Joshi, Chief Information Commissioner, Maharashtra State; Shri Nikhil Dey of Mazdoor Kissan Shakti Sanghathan (MKSS) and Ms. Shaheen Anam from Bangladesh.

23. The session opened with a power point presentation by Professor M.M. Ansari. Prof. Ansari primarily dwelt on the three aspects of the matter viz. impact of RTI on good governance; use of RTI by the poor for claiming and realizing their

entitlements under the flagship programmes, and ways and means to ensure effective use of RTI for eradicating poverty. The central theme of Prof. Ansari's presentation was that lack of openness in the functioning of Government provides a fertile ground for breeding corruption, inefficiency and lack of accountability in the working of public authorities and, this in turn, results in perpetuation of all forms of poverty. Prof. Ansari emphasized that the culture of secrecy encourages Govt. officials to indulge in corrupt practices which, in turn results in lower investment due to misuse of power and diversion of funds for private purposes. He emphasized that the RTI regime seeks to dismantle the culture of secrecy and thereby promotes development. He quoted figures from Transparency International to substantiate his thesis that after the implementation of RTI Act, levels of corruption have gone down in the country by about 15%. Referring to the implementation of National Rural Employment Guarantee Act (NREGA), Prof. Ansari mentioned that people have sought to know the details of schemes and their relevance to the rural communities, utilization of funds, payment of wages to the target beneficiaries etc. According to him, disclosure of relevant details, such as muster roll, has helped in containing corruption and ensuring the reach of benefits to the target beneficiaries and identification of persons responsible for creating obstruction in effective implementation of schemes. He also referred to several other flagships schemes such as Mid Day Meal Scheme to School Children; Integrated Child Development Scheme; Grant of Pension for the Poor Senior Citizens; Public Distribution System; Sarva Shiksha Abhiyan; National Rural Health Mission; Aam Admi Insurance Scheme and observed that

the RTI Act has been successfully used by the common people to seek transparency and accountability from the public authorities in the implementation of these schemes. The central point of Prof. Ansari's presentation was that RTI has a significant bearing on good governance, development and implementation of flagship programmes for poverty alleviation etc.

24. Referring to the State of Maharashtra, Dr. Suresh V. Joshi mentioned that 3,16,000 applications have been filed in the State during the last 3 years, out of which about 60% applications are from the urban areas and the remaining 40% from the rural areas. He agreed with Professor Ansari that RTI has helped in reducing corruption as also in poverty alleviation. For greater transparency in the flagship programmes in the rural areas, Shri Joshi suggested that 20% muster rolls should be checked up by the senior governmental functionaries every year to ensure that there is no misappropriation of government funds.

25. Shri Nikhil Dey agreed with the earlier panelists that RTI Act has helped bring about transparency and accountability in the functioning of public authorities. He, however, lamented that the information seekers are being harassed by the public authorities and also by the parties, about whom information is being sought, in the rural areas. In fact in some cases he contended, the information seekers were physically belaboured and even murdered. He also observed that it is difficult for the poor to reach up to the CIC and SICs concerned by way of filing second appeals for obtaining information. He wondered why the CIC and SICs couldn't hold hearings at the District headquarters on the pattern of

Lok Adalats. He also underlined the need for voluntary disclosure of broad based information by the public authorities, thereby reducing the need for filing of individual applications by the information seekers. He made an important suggestion that if the Information Commission has passed an order for disclosure of a class of information, it should be binding for all PIOs to disclose that class of information voluntarily. This would obviate the need of filing of multiple RTI applications and appeals etc.

26. Ms. Shaheen Anam mentioned that RTI has now become the central development theme in civil society and the development agencies in Bangladesh. There has been a gradual shift in perceiving RTI as a development tool for realizing basic rights, such as right to food, shelter, security, livelihood choices etc. Referring to the NGO Manusher Janno Foundation (MJF), she mentioned that this institution was established in 2002, which now operates all over Bangladesh through 127 partner organizations. MJF provides financial and technical support to organizations working on human rights and good governance. MJF has recognized RTI as the key to ensure good governance, which is directly related to the livelihood of the poor. She also mentioned that MJF also recognizes that non-availability of information is a major impediment to development. She agreed with the previous panelists that RTI could help reduce corruption and misuse of funds and avoid wasteful public expenditure and improve quality of goods and services rendered by the public authorities. Participants applauded when Ms Anam informed the House that the Bangladesh Government has promulgated RTI Ordinance – 2008 recently which has been drafted after wide ranging

consultations. She, however, observed that the Ordinance on its own would not help the people. People should also know how to use this Ordinance. She also called upon the Government of Bangladesh to take necessary steps to establish Data Management Systems to provide information proactively.

27. The Session ended with the following perception summarised by Shri B.N. Yughandhar, who is among India's most experienced and celebrated administrators:-

- (i) that CIC and SICs should insist on Data Management by the Public Authorities;
- (ii) that the stake holders should work together to take RTI towards achieving social, political and economic equity, and
- (iii) that the appropriate Governments must integrate social audit, monitoring of various developmental programmes, capacity building and RTI applications.

28. The Fourth Technical Session on “**RTI and Protection of Individual Privacy**” had the privilege of being chaired by Hon’ble Justice J.S. Verma, former Chief Justice of India. The panelists in this Session were equally distinguished viz. Shri F.S. Nariman, a legal luminary of legendary standing; Shri Prashant Bhushan, Advocate, Supreme Court of India and Shri B.K. Chakraborty, Chief information Commissioner, Tripura State.

29. In his opening remarks, Justice Verma mentioned that the RTI Act is meant for disclosure of information by the Public Authorities but this right is not absolute. Drawing a parallel with Right to Freedom of Speech as enshrined in Article 19 of the Constitution, he said that this right is not absolute and the State can impose reasonable restrictions on it. By the same analogy, reasonable restrictions have been imposed on RTI as enshrined in section 8 of the RTI Act. He, however, drew a distinction between right to privacy of a private person and that of a public servant. According to him, exemptions available to a private person may not be always available to a public servant. In certain circumstances, a public servant cannot take shelter behind the right to privacy, which is available to a private person. To illustrate, if a private person is not in good physical or mental health, it can be said to be personal information, disclosure whereof may be construed as invasion of his privacy; but, the same would not hold good if a Government official is not mentally or physically fit to discharge his official duties. The health status of a public official cannot be kept confidential and its disclosure is warranted. Realizing that it is difficult to define right to privacy in categorical terms, he underlined the need for striking a balance between the right to privacy and an obligation to disclose.

30. Shri Fali Nariman mentioned that he had opposed the Freedom of Information Act, 2002, when it was brought to the Rajya Sabha in December, 2002. One of the grounds of his objection was that no additional resources, including manpower, were being provided to the Central and State agencies to

implement the Act. Admitting that his views have since undergone a change, he mentioned that RTI Act does help to keep Governments and public bodies transparent. He, however, expressed his reservations about the Right to Information Act, as it stands today. Referring to section 3 of the Act, he said that all citizens have the Right to Information but the information sought by a person must be of some interest to him. If the information is not of some interest to him, searching for and supplying of such information becomes a burdensome and time-consuming exercise. In other words, Shri Nariman hinted at bringing in an element of meaningful purpose in seeking information from the public authorities, which does not exist in the present RTI Act. His second reservation was about the vexatious demands being made by the information seekers on the public authorities. Referring to the observations of Hon'ble Prime Minister of India made in his inaugural speech in the Convention, Shri Nariman said that vexatious demands should not be allowed to deprive genuine information seekers but there is no provision in the RTI Act to discourage such vexatious demands. He further observed that RTI Act only confers rights but does not prescribe any duties. Certain duties and responsibilities should also be incorporated in the Act, as in Article 19 (3) of the ICCPR. This, according to him, is an "unfortunate omission in our RTI Act".

31. Referring to the right to privacy, Shri Nariman observed that "privacy is notoriously difficult to define". Privacy is generally regarded as an unwarranted, unreasonable intrusion into activity that society recognizes as belonging to the realm of 'individual autonomy.' He observed that he is not a great proponent of

'Rights Culture' and that we in India have too many rights and too few duties. While he was totally in favour of citizen's right to seek information from the public authorities, he, however, observed that there should be some ground rules for invoking this right. According to him, the person seeking information should have 'standing' or 'locus' to seek information.

32. Advocate Prashant Bhushan, on the other hand, was all out for disclosure of information. He observed that if an Income Tax Return is filed by an individual with the Income Tax Department under the statutory provisions, it is no longer private information and its disclosure cannot be denied on the ground of privacy. He held the same view about the medical information about public servants, which presently is exempted from disclosure under 8 (1) (j) of the RTI Act. The substance of Shri Bhushan's discourse was that disclosure should be the rule and non-disclosure, an exception.

33. Shri B.K. Chakraborty's view was that no right is absolute, including the right to privacy, and that the Public Authorities should deal with the requests for information under the RTI Act with "applicant friendly attitude". When there is a conflict between the privacy of an individual and right to information of citizens, the latter should prevail, if it serves the larger public interest.

34. The Session was summed up by Justice Verma with the observation that transparency and accountability are key elements for good governance and if there is no transparency, accountability cannot be fixed. He was of the view that

there should be maximum disclosure and minimum secrecy. He supported his argument by alluding to the disclosure of assets by the candidates proposing to contest Parliamentary and Legislative Assembly elections. This being so, according to him, there is no reason why the property returns of the Judges of the constitutional courts should not come in public domain. He also observed that the post-retirement conduct of the public servants should also be in the public domain.

35. The Fifth Technical Session on “**Media, Civil Society and RTI**” was chaired by Shri Prannoy Roy, CMD, NDTV. The other panelists were Dr. Bhaskar Rao, Chairman, Centre for Media Studies; Shri Vijay Kuvalekar, SIC, Maharashtra; Shri Jagadananda, SIC, Orissa and Shri Dilip Reddy, SIC, Andhra Pradesh.

36. Shri Prannoy Roy did not make the customary opening remarks and exhorted the participants to suggest innovative ideas conducive to the maximum implementation of the RTI Act by the civil society through the instrumentality of the mass media. In fact, he wanted to seek ideas from the House so that his own channel could play a constructive role in spreading the RTI culture. The participants enthusiastically participated in the deliberations. One of the delegates suggested that as the female gender has not made optimal use of RTI Act, NDTV might reach out to the female information seekers across the country in its programmes. Another delegate suggested that media should organize programmes for popularizing RTI culture through the length and breadth of the

country. A view was also expressed by some of the delegates that the print media in the country was increasingly losing interest in the RTI culture and all that it was interested in was to selectively highlight instances where information seekers were being harassed by the parties in respect of whom information had been sought and, occasionally, by the public authorities. Hence, the balance in reporting should be restored.

37. In his concluding remarks, Shri Prannoy Roy conceded that the mass media had a vital role in spreading the RTI culture in the country but it had its own limitations inasmuch as the challenge before the media was to create interesting products, which fulfills commercial parameters of TRP. He also reminded the participants that media had played a pro-active role in popularising the RTI culture but in the process had lost its way. Admitting that the media was the beneficiary of RTI Act in a significant manner inasmuch as it could solicit information from public authorities for coming out with interesting stories and features, it was media's duty to take the movement beyond creating awareness amongst the masses. He also felt the need of the media, civil society and the academia coming together to use the RTI Act as an instrument for developing more effective delivery mechanisms.

38. It was generally felt that the Annual Reports prepared by the Central and State Information Commissions should be proactively debated by the media for spreading the RTI culture in the country.

39. The Sixth Technical Session on **“RTI in South Asia – An Overview”** was chaired by Shri Wajahat Habibullah, Chief Information Commissioner, Central Information Commission. The other panelists were Shri Rukshana Nanaykkaara, Project Director, Transparency International, Sri Lanka; Shri Pranav Bhattarai, Managing Editor, Good Governance, Investigation and Analysis, Nepal; Shri Mukhtar Ahmad Ali, Executive Director, Centre for Peace and Development Initiatives, Pakistan and Ms. Shaheen Anam, Manusher Janno Foundation, Bangladesh.

40. In his opening remarks, Shri Habibullah underlined the fact that gradual spread of RTI culture in South Asian countries will empower the people of the region and lead to good governance. He expressed happiness at the fact that the panelists in the Session were from the neighbouring countries where RTI culture was yet to take roots and hoped that the movement will flourish in the time to come.

41. Shri Rukshana Nanaykkaara made a power point presentation on “Right to Information in South Asia”. Referring to Article 10 of the Sri Lankan constitution, he said that every person is entitled to freedom of thought, conscience and religion. Article 14 (1) of the Sri Lankan constitution entitles every citizen to the freedom of speech and expression subject to certain restrictions. This right also entitles the citizens to Right to Information. Despite the constitutional provisions, he said, as of now, there is no Right to Information law in Sri Lanka. Despite this

handicap, the Sri Lankan constitutional courts have held that a citizen has right to obtain and record information as was held in Fernando Vs. Sri Lanka Broad Casting Corporation and others. Referring to other cases decided by the Supreme Court of Sri Lanka, viz., Environmental Foundation Limited Vs. Urban Development Authority, Sri Lanka, he mentioned that in this case the apex court has held that people do have a right to know about the dealings of the Govt. and that no public property can be given to a private party without the knowledge of the public. By citing these two case laws, he tried to underline the fact that the seeds of RTI culture have been sown in Sri Lanka even when there is no statutory law on the subject. He also informed the House that a Bill on Right to Information has been drafted in Sri Lanka but it is yet to be enacted into the law.

42. Next to address the Convention was Shri Pranav Bhattarai from Nepal. He mentioned that right to information is as crucial as a heartbeat to a human life. Without free and transparent flow of information, good governance would remain a far-fetched dream. According to him, what is freedom of press for journalists, the right to information is for the citizens. Right to information is vital for transparent and accountable governance system. He informed the House that Nepal has enacted right to information law- in July 2007, which is quite an achievement. He underlined the need for foreign partnership and sharing country specific experiences with the like-minded people and organizations in the South Asian region. He said that Information Commission has been set up in Nepal with the Chief Information Commissioner and two Information Commissioners but the Government is yet to frame RTI regulations. He also pointed out certain

deficiencies in the Nepalese law viz., denial of information to non-Nepalese information seekers; exclusion of private companies and institutions from the responsibility to provide information and provision of heavy fee to be paid by the information seekers etc. which may act as a deterrent. Another important deficiency, according to him, is that there is no public interest override in the exemptions provided in the law and that the secrecy laws still have an upper hand in the legal scheme of things. He, however, regretted that despite the enactment of law and constitution of the Information Commission, the law is yet to be enforced. He underlined the need for political will to implement the law and the Media, NGO's and the citizenry joining hands to persuade the Government to commence implementation.

43. Shri Mukhtar Ahmad Ali from Pakistan mentioned that Article 19 of the constitution of Pakistan provides for freedom of speech and expression and the Supreme Court of Pakistan has interpreted it to mean that Right to Information is concomitant and prerequisite to freedom of speech. The Pakistan Government has promulgated Ordinances to provide right to information to the people viz., Freedom of Information Ordinance 2002 which covers all the Federal bodies, including Courts and Parliament. The citizen is entitled to seek information within 21 days under this Ordinance. Complaints in this regard are to be made to Ombudsman. However, there is a strong exemption clause in the Ordinance, which excludes the notings in files, minutes of meetings, intermediary opinions, classified records, and personal information, from disclosure. He, lamented, that this law has been used in a limited sense in Pakistan as all the Provinces are not

covered under this law. He also mentioned that the procedure for obtaining information under the Ordinance is cumbersome and time consuming.

44. He also informed the House that another Ordinance has been enacted in Pakistan called the Local Govt. Ordinance, 2001, which contains certain provisions for the participation of public in the governmental processes, namely, the Zila Council meeting is open to the public, unless the Council decides otherwise; monthly and annual accounts of local bodies are to be placed at a conspicuous place by the local Govt. concerned for public information and every citizen have a right to seek information from any office of the District Govt. and Tehsil and Municipal Administration etc.

45. The last and concluding Session on “**Current Assessment of RTI**” was chaired by Shri Wajahat Habibullah, Chief Information Commissioner, Central Information Commission. The other panelists were Shri Shailesh Gandhi, Information Commissioner; Dr. S.K. Sarkar, Joint Secretary, Department of Personnel and Training and Shri Shekhar Singh, National Campaign for People’s Right to Information.

46. Opening the Session, Shri Habibullah mentioned that the RTI Act, 2005, is in force since last 3 years and it is now time to make an assessment of the implementation of this Act. One assessment has been made by the Govt. of India through the Department of Personnel and Training and another is in the process of being made by Dr. Shekhar Singh of NCPRI. He hoped that the assessments

made by the above mentioned agencies would guide us into future RTI implementation.

47. Shri Shailesh Gandhi, Central Information Commissioner, in his brief address, highlighted the dangers of large number of RTI matters pending at various levels, that is, of the level of CPIOs, Appellate Authorities and the Central and State Information Commissions. He underlined the need for reducing pendency of cases at all levels lest the law should become a dead letter. He also visualized that the number of RTI applications and appeals is going to increase phenomenally and, therefore, there is need for capacity building to handle this increased work. He also showed his concern for excessive Government expenditure on the disposal of RTI applications. According to his estimate, the Govt. spends about Rs. 10,000/- in the disposal of one case. He underlined the need for evolving cost effective practices in this regard.

48. Dr. Sarkar made a power point presentation on “Implementation of RTI Act, 2005: Government’s Initiatives”. He mentioned that the Govt. of India recognizes the need to remove constraints in early implementation of the RTI Act and is keen to ensure that intended benefits out of RTI regime reach the citizens quickly. He wanted to know the factors institutional, structural, systemic, process related and analytical, which facilitate or hinder implementation of the RTI Act. He informed the House that the Central Govt. has launched a study on the implementation of RTI Act during 2008-09 by an independent agency, which has submitted its report. Some of the key findings of the agency are as follows:

- i. Out of 5 States surveyed, only Andhra Pradesh has established a mechanism for regular review of public authorities for RTI implementation;
- ii. 79.4% of the appeals received in Maharashtra in 2007 are still pending;
- iii. PIOs are not aware of the proactive disclosures done by their Departments (only 47% PIOs were aware in Maharashtra);
- iv. There is no monitoring mechanism for proactive disclosures in most of the states;
- v. There is no separate budget provision for RTI implementation at State level. Budget allocation is only for SIC and Training;
- vi. Ineffective Record Management Systems are major reasons for delay in processing of RTI applications; and
- vii. There is a low level of training amongst PIOs and Appellate Authorities.

46. In his concluding remarks, Dr. Sarkar stated that the Central Govt. was keen to act on the recommendations of various studies for facilitating access to information and creating a broad RTI awareness among the citizenry. He also mentioned that the Central Govt. realized the need for strengthening the Information Commissions.

49. Shri Shekhar Singh made a presentation on “Interim Findings of the People’s RTI Assessment 2008” on behalf of RTI Assessment and Analysis Group (RaaG) and National Campaign for People’s Right to Information (NCPRI). Shri Shekhar mentioned that a broad-based survey comprised of sample districts from

10 States viz., Assam, Andhra Pradesh, Gujarat, Karnataka, Maharashtra, Meghalaya, Orissa, Rajasthan, Uttar Pradesh and West Bengal, is being conducted by his group. 400 Public Authorities are being surveyed across the country. Some of the preliminary findings of the survey given by him were as follows;

- i. Rural residents overwhelmingly see information as key to solving village problems;
- ii. More than two thirds of the 110 applicants had mentioned that they had received a response to their applications;
- iii. Nearly 50% rural applicants had filed first appeal against the orders of CPIOs;
- iv. In rural areas, the lack of knowledge impedes second appeal;
- v. There is a low success rate in second appeals;
- vi. Only one-third of the PIOs were actually in position in the sample, the best availability being in Karnataka followed by Rajasthan. The worst availability was in Uttar Pradesh;
- vii. Many PIOs in rural areas do not know that they are PIOs;
- viii. Fear of RTI workload is unfounded;
- ix. Lack of training is a major problem;
- x. Record-keeping is slowly beginning to improve;
- xi. More than 90% information seekers are males. Of the information seekers, about 20% were members of Scheduled Tribes and Scheduled Casts and about 30% were members of Other Backward Classes. About 20% applicants were of the BPL or Antyodaya Ration Cards category.

50. Shri Shekhar Singh also discussed his preliminary findings about the survey conducted by his Group in the Urban Areas. According to these, nearly three fourths of the requesters received responses, but only in one-third cases was the responses received in the stipulated time of 30 days. About half of the information seekers received positive responses. However, the requesters are experiencing procedural difficulties in the payment of requisition fees and in photocopying documents etc. Importantly, he also mentioned that the response given by Central Govt agencies was quicker than that of the State Government agencies and that the Ministry of Environment and Forests and the Ministry of Railways stand out for the speediest responses on a large number of applications. Nearly 75% of the RTIs filed were responded to within 30 days.

51. According to his findings, at the State level, Meghalaya stands out as the quickest, the most compliant and also the politest amongst all the States surveyed in responding to RTI applications. At the District level, Meghalaya and Karnataka stand out for the quickest responses.

52. The survey he said is midway and his group would come out with comprehensive findings at its conclusion.

Valediction.

53. Shri Somnath Chatterjee, Hon'ble Speaker, Lok Sabha, was so gracious as to deliver the valedictory address to the Convention on the topic "RTI and its

Ramifications for Good Governance”. At the very outset, he mentioned that free flow of information is the fundamental pre-condition of good governance, which ensures transparency essential for strengthening democracy. The Right to Information Act enacted by our Parliament empowers the common man directly with the right to have access to information relating to various State activities which makes the Public Authorities more accountable. This law, he said, also enables the poor to solve their day-to-day problems by seeking responses from the Public Authorities, which earlier was inconceivable. He also observed that the process of implementation of this path-breaking legislation has already created considerable enthusiasm among the people and hoped that it will provide needed transparency and openness in governance and will also give a better content to the working of democracy in our country.

54. Shri Chatterjee, however, expressed his concern about the increasing pendency of RTI matters at various levels, i.e. Public Information Officers, Appellate Authorities and even State and Central Information Commissions. This, he felt, is frustrating the interest of genuine information seekers. He underlined the need for evolving mechanisms for quick disposal of matters at various levels. He also underlined the need for broad based studies for identifying and overcoming the procedural inadequacies and shortcomings that hinder effective implementation of this landmark legislation so that solutions may be found.

55. Shri Chatterjee expressed the hope that the information would begin to be sought either in larger public interest or for bonafide personal use. He cautioned that there is need to guard against people who misuse this legislation as an instrument to unsettle some well-established norms of governmental functioning, or to pursue private or personal agenda in the garb of public interest. He also underlined the need to educate the people at large to enable them to make full use of this legislation, with a sense of utmost responsibility and restraint.

56. In the concluding remarks, he appreciated the role being played by the Central Information Commission in the implementation of RTI Act, despite teething troubles.