

# **TALKING POINTS**

**ADDRESS BY  
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**ANNUAL CONVENTION OF  
CENTRAL INFORMATION COMMISSION**

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***“RESPONSIBILITY OF POLITICAL  
LEADERSHIP IN PROMOTING RTI”***

**ON MONDAY,  
THE 13<sup>th</sup> SEPTEMBER, 2010  
AT 1615 HRS**

**AT  
DRDO BHAWAN  
NEW DELHI**

Shri Omar Abdullah, Chief Minister, J&K,  
Shri Vinod Mehta, Editor-in-Chief, Outlook,  
Ms. Sherry Rehman, Member, National Security Committee of the National Assembly of  
Pakistan, Pakistan People's Party, Pakistan,  
Shri Wajahat Habibullah, CIC,  
Ladies and Gentlemen,

1. It gives me great pleasure to participate in the Annual Convention of the Central Information Commission. This annual gathering provides a useful forum to discuss whether the intent of the law that set out to provide 'a practical regime of the right to information to citizens' has been realized. It is important to reiterate the purpose of the Act as set out in its preamble: 'to promote transparency and accountability of every public authority' and also 'to contain corruption'.

2. This Convention is also a stock-taking occasion where all of us gather to exchange best practices and explore ways and means to harmonize various conflicting interests while "preserving the paramountcy of the democratic ideal", as set out in the preamble of the Right to Information Act,

3. In any democratic society, any level of dissatisfaction among the citizenry towards their government should be taken as a warning bell for the Government in power. Far from being a nuisance to the process of governance, it is such dissatisfaction that propels government to improve its functioning, be sensitive and empathetic to the problems of citizens and ensures efficient allocation and spending of public resources.

4. It is no surprise that the Right to Information Act is no exception to this trend. When passed in 2005, it was hailed as a revolutionary step aimed at fundamentally altering the balance of power between the government and citizens.

5. The existence of dissatisfaction is by no means a denial of the significant achievements of the RTI Act in bringing about transparency and reducing corruption. The basic tenets have been implemented and the institutional structure is being utilized by citizens. The Right to Information has become an important instrumentality to our media and civil society. What we see is the beginning of decentralization and participatory governance and a citizen-friendly orientation to government.

6. **'Information'** belongs to the public, generated with public money, served by public servants and paid out of public funds. Public participation in the democratic and governmental process is at its meaningful best when citizens have adequate access to official information. This access lays the foundation for good governance, transparency, accountability and participation. The fundamental right of freedom of speech and expression is meaningless without the requisite information about issues and subjects on which opinions are to be formed and expressed. The right to information, is, therefore, implicit in the right to free speech and is as much fundamental. Indian parliament has now enabled the citizens to exercise their fundamental right of free speech and right to information.

7. The RTI Act is a radical improvement on the relatively weak and ineffective statute to replace, the freedom of Information Act, 2002. It unequivocally confers on all citizens the right to access information and makes the dissemination of such information an obligation for all public authorities. It is in accord with both Article 19 of the Indian Constitution as well as Article 19 of the Universal Declaration of Human Rights. It seeks to ensure – Maximum disclosure and minimum exemptions consistent with constitutional provisions, an effective mechanism for access to information and disclosure by authorities, an independent appeal mechanism, penalties for failure to provide information as per the law.

8. Information literacy is part of the basic entitlement of every citizen, in every country in the world, to freedom of expression and the right to information and is instrumental in building and sustaining democracy. It, therefore, is a means of personal empowerment. It allows people to verify or refute expert opinion and to become independent seekers of truth. It provides them

with the ability to build their own arguments and to experience the excitement of the search for knowledge. It not only prepares them for lifelong learning; but, by experiencing the excitement of their own successful quests for knowledge, it also creates in young people the motivation for pursuing learning throughout their lives.

9. Problems faced by information seekers are a plenty. Information seekers many a times complain that they are dissatisfied with the quality of information being provided mainly because of the following reasons (i) Providing inaccurate information; (ii) Providing incomplete information, (iii) Providing irrelevant information and (iv) Providing cooked up, manipulated, or concocted information.

10. Problems faced by information providers are also more. As per the Act, the information has to be provided within the stipulated time. However, many Government officials felt that it is difficult to provide the information within the stipulated time because of number of reasons such as (i) The information sought by the applicant is large, (ii) The information has to be collected from a number of field offices located at different places, (iii) Ineffective record management system in the offices, (iv) The concerned officers may be on leave, or on tour, and (v) Resources like computers, printers, scanners etc. may not be available readily in many offices.

11. In regard to issue of safeguarding of RTI activists and whistle-blowers, I would like to draw your kind attention to the following report appeared in the Times of India-Editorial, 6<sup>th</sup> Aug 2010:

*“there is a recent spate of murders and physical assaults involving RTI activists in the country. It says that there were eight murders and 20 serious attacks so far this year including the brazen murder of RTI activist Amit Jethwa. Jethwa was murdered by gunmen outside the Ahmedabad high court a few days after he filed a PIL relating to illegal mining in the reserved Gir forest area. Prior to Jethwa, National Highway Authority of Inida’s Satyendra Dubey and Indian Oil Corporation’s Manjunath Shanmugham*

*were killed because they exposed corruption. These murders highlight the dangers to those who unearth the rot in the system. The RTI – whose whole objective is to impart greater transparency to the system- has little meaning if those who seek information under it cannot be protected. The same goes for whistle-blowers inside organizations where there is corruption”.*

12. The responsibility of Political leadership mainly involves various actions. RTI Act 2005 mandates timely response to citizen requests for government information. The Act empowers people to seek information from Public Authorities, thus making the Government and its functionaries more accountable and responsible.

13. It is the responsibility of Political leadership to maintain the spirit of the Act so that the common citizens would have a secure access to any type of information from the public authorities in order to promote transparency and accountability in the working of every public authority.

14. The information sought by an information seeker must be within the purview of the subject concerned. Further, the information pertaining to a particular period and which is general in nature needs to be discouraged. Instead, specific information may be encouraged to ask by the information seeker. As far as possible, the RTI should not be used as a ground to score personal points and meet personal benefit related agenda.

15. Many a times the public authority needs to steer a large number of officials to collect and collate the information. In doing so, the man power involved will be so large that the corresponding salaries of the man power involved need to be taken into account before forwarding the information to the applicant. Or else, the political leadership may provide sufficient manpower in every public authority to deal with the RTI cases.

16. RTI Act, 2005 states that “Democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain

corruption and to hold Governments and their instrumentalities accountable to the governed". Hence, it is utmost important that Political leadership needs to rise to protect those standing up against corruption.

17. Political leadership has to safeguard the whistle-blowers in organizations and political leadership should see to it that legislation is provided with some strong teeth. Political leadership should provide security to a whistle-blower or an RTI activist, if the situation is so demanding.

18. A monitoring authority made up of skilled people of impeccable integrity who are independent of the police and politics may be considered. An independent commission like this will be able to monitor the implementation of the RTI Act and submit an unbiased report to Parliament regarding the performance of public institutions in responding to information request by the public.

19. The UPA government that came to power under the leadership Dr. Manmohan Singh has taken all measures, and has left no stone unturned, to enhance the transparency of government's functioning and ensure its accountability to the people. It is our endeavour to provide a government that is corruption-free, transparent and accountable at all times, to provide an administration that is responsible and responsive at all times" and guarantee to the people of this country that "the Right to Information Act will be made more progressive, participatory and meaningful."

20. All modern societies or complex societies, they require strong and purposeful Government to steer them. In our own country, Government expenditure, both at the Central level and at the level of State and local bodies, accounts for nearly 33 per cent of our gross National Product(GNP). At the same time, the social and economic imperatives require our Government to intervene extensively in economic and social affairs. Therefore, the efficiency and effectiveness of Governmental processes are critical

variables, which will determine how our Government function and to what extent it is able to discharge the responsibilities entrusted to us by the electorate.

21. All power is a sacred societal trust – that we cannot sit on power, we have to spend it, but we must spend it taking into account the good of the largest number of people. Therefore, it becomes obligatory that expenditure conforms with the canons of efficiency and effectiveness. We all know that there are widespread complaints in our country about wastefulness of expenditure, about corruption in matters, which have relations with the functioning of our Government. Therefore, it is very important that we must ensure that our Government will effectively, purposefully and efficiently discharge the responsibilities entrusted to it. This is the guiding spirit behind this momentous measure that is the RTI Act.

22. The key to the successful functioning of any democratic polity is the ability of a citizen to observe and evaluate the functioning of elected representative and make an informed judgment of their performance. This evaluation is predicated on the easy availability of the necessary information for a citizen to arrive at an assessment. Further, our founding fathers have established an elaborate system of rights and obligations, a system of checks and balances, a system with clear division of powers at different levels of Government. This complex web, further translated into practice by our laws, procedures, policies and programmes, is the foundation of our rich, varied and vibrant polity which has earned the respect of the whole world for our ability to harmoniously match the goals of economic development and a pluralistic democratic society.

23. At the center of this intricate web is the common man, the '*aam aadmi*', whose prosperity and welfare is the core concern of our Constitution. It is this common man or common woman who is the fulcrum of our democratic system, as an observer, as the seeker of information, as the one who asks relevant questions, as the analyst and as the final judge of our performance. The UPA Government has made a commitment, not only to work for the welfare of the common man, but also to strengthen his or her role as the arbiter of our destiny. It is in this background that our Government has brought in RTI Act and the subsequent amendments to the Act.

24. I wish that our civil servants, should see the Act in a positive spirit; not as a draconian law for paralyzing Government, but as an instrument for improving Government-citizen interface resulting in a friendly, caring and effective Government functioning for the good of our people. It is with this in mind that we have removed the penalty of imprisonment through this Amendment. However, erring officials would still be subject to departmental proceedings. I appeal all civil servants to see this Act in the right spirit and hope they will only be spurred towards better performance. After all, we, the elected representative of people, bow to the wishes of people. So will it be with honest, hard working civil servants.

25. This is an innovative enactment, where there will be scope to review its functioning as we gain experience. Therefore, this is a piece of legislation, whose working will be kept under constant reviews. We will need to have a sustained effort to establish institutions and systems envisaged under the Act, to build the capacity of our civil servants to discharge their obligations and above all, inform our citizens about the new rights conferred on them. I strongly believe that the Act will see the dawn of a new era in our processes of governance, an era of performance and efficiency, an era which will ensure that benefits of growth flow to all sections of our people, an era which will eliminate the scourge of corruption, an era which will bring the common man's concern to the heart of all processes of governance, an era which will truly fulfill the hopes of the founding fathers of our Republic.

26. But we should not allow RTI to benefit few individual for their political or commercial gains. The spirit of RTI lies in the common man's benefit, and middlemen should be kept away from it. Reports about the Union government wanting to introduce restrictive provisions in the Right to Information Act are highly exaggerated. The government is only trying to improve and strengthen the scope of the Act, and in the process it discussed the issue of file notings. "But some people made it appear as though the Ministry had moved far ahead and later backtracked bowing to pressure from some activists. Even the Constitution gets amended, and that is in the best interests of the nation." One should have the same perspective about the RTI Act too,

27. The RTI Act has been rated as an important initiative in the functioning of Indian democracy. Unfortunately, we have seen newspaper reports attributing certain murders as that of RTI activists who were engaged in exposing corruption and other faults. The information we have been able to collect so far has been that in 2010 there have been eight or nine murders of people seeking information under the RTI Act. There are some cases where people have filed FIRs, too. We perceive this as a serious matter and we are trying to sensitise different sections of society about how the RTI Act functions and also to protect information-seekers.

28. At the policy level, the Government is also in the process of enacting another piece of legislation, i.e., the Whistleblowers Act. There is already a Whistleblower Resolution. We propose to give it a formal shape and legislate it so that the identity of those who disclose information on corruption and other malpractices is protected in a statutory fashion.

29. The government is keen ensure that there is adequate protection for those who give confidential information on wrongdoing. The Central Vigilance Commission will be the authority to which a person can disclose information and it will be mandatory for the Central Information Commission to protect the identity of the individual, if he or she so demands. The Whistleblowers Bill is proposed to be introduced in Parliament soon and I hope it soon becomes an Act, with the inputs of the standing committee concerned, if necessary. It is a fact that anybody who tries to expose corruption has been attacked by vested interests. It is not a new phenomenon. The RTI Act is mainly being used to expose corruption and the provisions of RTI Act could have provoked some vested interests. We have to sensitize people about the RTI Act and as also about protection available.

30. There have been complaints against various State governments of false cases being filed against RTI activists. The law enforcement machinery have to protect a person seeking information under the RTI Act. When he or she is threatened, it is the duty of the State government to ensure that he or she is provided with adequate protection. Central or State governments have to be proactive and provide protection to people and activists, who seek information and thereby create a sense of exposing corruption.

31. We should also distinguish between aggrieved persons who want to know about the decision-making process in a particular case from a person who indulges in witch hunting. But, we need to protect genuine people who need protection. There is greater responsibility with State Governments in this regard. The Central Government does not want to bring restrictive provisions in the RTI Act. RTI Act is one of the landmark achievements of the United Progressive Alliance government. The government is trying to improve and strengthen the scope of the Act. In an ideal situation, there will be no need for an RTI Act. In such a situation, the government will be so proactive in giving information to the citizens that they will get it without even asking for it.

32. We have to draw a line between privacy and openness. The primary objective is to strengthen the RTI Act. But to conclude that there should be no amendments to the RTI Act is unrealistic. Even the Constitution gets amended and that is done in the best interests of the nation. One should have the same perspective about the RTI Act, too.

33. There are some intelligence agencies that are exempted from the provisions of RTI Act. Can't the personnel matters like promotions service matters etc., not be made open? There are also the issues relating to judiciary. We may try to enlarge the scope of RTI Act and consider more areas can be covered under the provisions of RTI Act.

34. The awareness about the RTI Act is yet to catch up. Large parts of rural India have not yet understood the importance of this Act and hence they don't make use of the Act the way we expect it to be. So we have to evolve a system to reach out to those people who are illiterates and make efforts to empower them through simple means. We have evolved several programmes to achieve our objectives. Use of the audio-visual media, for an information campaign is a step in that direction. There is an attempt to make RTI available on telephone. A call centre kind of arrangement can also be thought of.

35. That all sections of the citizenry, with the support of the media, the government, must get together to ensure that the law is actually implemented in its proper spirit and it achieves what it has set out to achieve. The activist who was killed in Gujarat touched a very raw nerve – where big business was involved. It is not that democracy and free enterprise do not go together. But free enterprise does not mean exploitative enterprise.

36. To make a democratic system effective, one needs to have the right to information. As I said earlier, there are other pieces of legislation coming up, such as the Whistleblowers' Act and the Privacy Act. These days social Audit systems are envisaged and gram sabhas are empowered. The social audit is the precursor of RTI. Through social audit, one can ask questions. The non-governmental organisations [NGOs] also compete with one another to do better and the end result is better governance.

37. Complete success will only be visible many years later, if we move in right direction without getting derailed. The fact that vested interests are reacting is a proof of progress. The law itself says that separate posts cannot be created to provide information. Those who are designated as Public Information Officers tend to look at this as an extra burden. There is no incentive, no honorarium. There is only a disincentive; if they do not deliver, they are penalised. At the appellate level, the complaint can lie for months though the law says it has to be decided within 30 days. Many decisions of the commission then get caught in litigation and that takes time. In many cases, the High Courts, particularly the High Court of Delhi, has given decisions expanding the scope of the RTI. Without RTI various information/ data about the Commonwealth Games may not be accessible and flowing so freely as we see today. People have a right to know where their money is spent.

38. October 2010 marks the fifth anniversary of the Right to Information (RTI) Act. The Act and its implementation have been described in both administrative circles and civil society as “revolutionary”, “a check on corrupt practices” and “a people's intervention tool with tremendous impact”.

39. Information is Power, the Government wants to share power with the humblest; it wants to empower the weakest. It is precisely because of this reason that the Right to Information has to be ensured for all. As no right can be absolute, the Right to Information has to have its limitations. There will always be areas of information that should remain protected in public and national interest. Moreover, this unrestricted right can have an adverse effect of an overload of demand on administration. So the information has to be properly, clearly classified by an appropriate authority.

40. The usual exemption permitting Government to withhold access to information is generally in respect of the these matters: (1) International relations and national security; (2) Law enforcement and prevention of crime; (3) Internal deliberations of the government; (4) Information obtained in confidence from some source outside the Government; (5) Information which, if disclosed, would violate the privacy of an individual; (6) Information, particularly of an economic nature, when disclosed, would confer an unfair advantage on some person or subject or government; (7) Information which is covered by legal/professional privilege, like communication between a legal advisor and his client and (8) Information about scientific discoveries and inventions and improvements, essentially in the field of weapons.

41. These categories are broad and information of every kind in relation to these matters cannot always be treated as secret. There may be occasions when information may have to be disclosed in public interest, without compromising the national interest or public safety. For example, information about deployment and movement of armed forces and information about military operations, qualify for exemption. Information about the extent of defence expenditure and transactions for the purchase of guns and submarines and aircraft cannot be totally withheld at all stages.

42. I have noticed that information on the RTI Act, including the translation of the Act itself, is not available in all the 22 languages mentioned in the Eighth Schedule of our Constitution. The website of the Ministry of Personnel, Public Grievances and Pensions has the RTI Act not in all languages and covers only half of the languages. The web sites of most Information

Commissions are not multilingual covering the official languages adopted by the appropriate governments.

43. These issue needs to be addressed at the earliest. Empowerment would be meaningless if it is sought to be achieved through a language that the citizen does not understand. Section 4 (4) of the RTI Act mandates that “all materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area”. Article 350 of the Constitution also entitles every person “to submit a representation for the redress of any grievance to any officer or authority of the Union or a State in any of the languages used in the Union or in the State, as the case may be”.

44. A vast number of organizations that should have been covered under the definition of “public authority” for being owned, controlled or substantially financed, directly or indirectly, by funds provided by the appropriate government, have not come forward pro-actively to be covered by the Act. They await a case-by-case ruling by the Central or State Information Commissions to be so considered and hence covered by the Act. Currently, neither the Information Commissions nor the governments have ensured that all bodies that are covered by the definition of ‘public authority’ undertake action as listed in Chapter II of the Act.

45. Very few public authorities of the Central and State governments have followed the provisions of Section 4 of the Act in letter and spirit. It would be useful to review if cataloguing and indexing of records and data-sets has changed during the last four years in a manner that could facilitate the Right to Information under the Act. Section 4(2) of the Act calls on public authorities to provide as much information to the public at regular intervals, through various means of communication, so that public has minimum resort to the use of the Act.

46. The actual disclosure of information by the public authorities is marked by inconsistency and unevenness. There has been little innovation and adaptation to capture information in government agencies and thereafter bring about suo moto disclosure. The websites of the

central and state governments also lack technical and content standardization. There is clearly a case for putting in place detailed 'RTI Act friendly' record management practices.

47. It is important to note that Section 4 of the Act mandates every public authority to publish the manner of execution of subsidy programmes, including the amounts allocated and details of beneficiaries. This is a significant step when one considers that the total quantum of subsidies provided by the central and state governments to the citizens in the country exceeds Rs. 200,000 crores. While such a process has been initiated with respect to NREGA, significant work remains to be done on this issue.

48. Currently the Central and State Information Commissioners work in relative isolation, with each of their decisions not being available in a systematic manner or in real time to the general public or even to other Commissioners. The decisions of the Information Commissioners also do not constitute precedence for dealing with similar cases. Further, there are still doubts about the validity of decisions taken by individual Commissioners due to a notion that a full bench of the Information Commission should hear the case that comes before it.

49. An important lacuna has been the lack of a mandatory monitoring mechanism to look at the implementation of the RTI Act and to ensure that the Act is implemented in letter and spirit. Currently, the media and civil society groups are undertaking this task on an ad hoc basis. The Price Waterhouse Cooper's report has recommended periodic Third Party Audit to ensure that public authorities comply with provisions and guidelines of the Act.

50. In order to ensure the successful implementation of RTI Act, we have to collectively perform. The role of political leadership or Government of the day is highly crucial. We have to go whole hog to create awareness in rural areas. The day is not too far when we would see the successful implementation of the RTI Act.

Thank You.

JAI HIND.

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