



Right to Information

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A Think Piece

Right to Information is fundamental to deepening democracy in Nepal. However, it challenges deep-rooted norms and practices and has led to considerable resistance by a wide range of stakeholders. Though Nepal's RTI Act (2007) establishes a strong legal precedent for RTI, it will only be meaningful when there is a full commitment to fully implementing its provisions.

Introduction

This paper is intended to inform policy makers and implementers – both within government and civil society – concerned with the Right to Information (RTI). The paper provides a narrative on how RTI has evolved in the country with some comparisons made with the international context. The paper stresses the importance of external support to RTI. This is followed by a discussion on the resistance and challenges to implementing RTI across a range of stakeholders – political parties, government and civil society. The report makes use of results and evidence coming out of key interventions funded by the Enabling State Programme (ESP). Lessons and Top Tips are drawn on

the implementation of initiatives focusing on RTI which could be useful in the design and implementation of governance-related projects in the future.

The evolution of RTI in Nepal

RTI was first prescribed as the fundamental right of the citizens in the Constitution of the Kingdom of Nepal in 1990. This was mainly through the initiative of the then Justice Laxman Aryal, a member of Constitution Drafting Committee. He felt it necessary to put RTI in the constitution to guarantee and support freedom of expression and press freedom. Other members of the committee even the Head of the committee was not aware of the importance of this right in the beginning. However, Justice Aryal succeeded in convincing other members of the Committee and thus it was put under Article 16 of the 1990 Constitution.

The RTI Act of 2007. In recent times political activists and the press have perceived RTI as a special right of the press. The press was deprived of information during the Maoist insurgency, particularly during the state of emergency period and journalists were tortured, jailed and killed from both sides for 'leaking' information. With the emergence of democracy the Federation of Nepalese Journalists (FNJ) and other civil society organisations (CSOs) working for media freedom took initiatives to introduce a specific Act in Nepal ensuring a constitutional guarantee of freedom of the press and RTI, which led to have this right included as one of the fundamental rights in the Interim Constitution of 2007. The organisations submitted a model draft RTI law to the government.

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The views in this think piece are those of the author and do not necessarily represent the views of the Enabling State Programme or the Department for International Development.

Then the government formed a task force to draft a comprehensive law to deal with RTI. The task force submitted a draft law to the government, and it was passed by parliament in 2007, with some changes by the parliamentary committee. The RTI Act became operational in Nepal on 20 August 2007 with three major objectives (see box).

RTI Act 2007 major objectives:

- To make the functions of the state open and transparent in accordance with democratic system;
- To enable state institutions to be responsible and accountable to the citizens;
- To increase the access of citizens to the information held in public bodies in a simple and easy manner.

The GoN formed the National Information Commission (NIC) with a Chief Information Commissioner and two Information Commissioners on 4 May 2008, on the recommendation of a Committee, consisting of the Minister for Information and Communications, the President of FNJ and the Speaker of the Parliament as Chair.

There are various causes for perceiving RTI as an exclusive right of the journalists. During the Absolute Monarchy the press suffered heavily with censorship, imprisonment, financial penalty, torture and harassments. After the restoration of democracy in 1990, the media community demanded a strong constitutional protection of freedom of expression and the press freedom. In that context, media actors understood RTI as a dedicated right to press freedom and a tool to media persons to collect information without hindrance.

The international dimension. The developments on RTI in Nepal have mirrored and been influenced by other country efforts on RTI, particularly India. There has been a paradigm shift in the understanding and use of RTI in the last two decades. RTI has developed as a tool for openness and transparency. An Open Government Partnership (OGP) programme among 60 countries has also taken RTI as a major agenda promoting open government. In India RTI came as an

anti-corruption tool and support to good governance where RTI and freedom of the press were considered twin prerequisites for the health and smooth working of democracy.

Ongoing issues around RTI. In Nepal had the journalists and civil society not perceived RTI for their benefits and struggled for it the process of formulation and enactment of the Act would not have received high importance. Thus, the presumption about RTI as an exclusive right of the journalists, though wrong, made it possible in Nepal to pass the RTI Act by parliament. If RTI was considered an effective tool for anti-corruption and good governance from the beginning the Act would have received strong support from civil society but at the same time it would have most likely faced strong resistance particularly from bureaucrats and politicians.

Within a legal framework RTI has been established in Nepal as a tool for promoting transparency, accountability and strengthening good governance. However, there is still some misconception by journalists, politicians, government officers and even the lawyers, to some extent, regarding RTI as a tool of journalists. As a result RTI has not been included and utilised adequately and properly in programs aiming good governance.

There is no 'open' resistance from CSOs to implement RTI and they are not in the position to deny their obligation. It seems that they are playing double roles – first as a public agency obliged to follow RTI and second to promote RTI by their nature. Some of the leading organisations such as Transparency International, Pro-Public, Institute for Governance, and international donors such as the Asian Development Bank, which are working for good governance, do not have major programmes to promote and use RTI as an anti-corruption tool. However, the World Bank's Program for Accountability in Nepal (PRAN) has considered RTI a tool to promote Social Accountability. Likewise, some organisations such as Freedom Forum, Citizens' Campaign for RTI (CCRI), Good Governance Foundation have been using RTI as an integrated approach to their work around transparency, accountability and good governance.

In this matter, two things are visible. Firstly, when the RTI Act came into force the issue of good governance was not a clear priority for CSOs and the donor community which meant that funding for RTI activism was not available. Hence very few CSOs were involved

in the RTI promotion campaign from the beginning. Secondly, CSOs themselves are not transparent, and they fear that RTI could be counterproductive for them if they are proactive to implement the Act. Mainly CSOs do not want to disclose information about the funding they receive from donors and other sources. Hence they are fulfilling their obligations only as a 'public body' by providing limited information when someone asks from their organisation as done by government bodies.

However some CSOs like Freedom Forum, CCRI, Media Initiative for Rights, Equity and Social Transformation (MIREST Nepal), Campaign for Human Rights and Social Transformation Nepal (CAHURAST) have been working in RTI and some new organisations have come up in the capital and districts with commitment on transparency and accountability.

External support to RTI

International agencies have been supporting initiatives for strengthening democracy in Nepal for many years. RTI however is quite a new area and it has not attracted many organisations for support, even though this right – to information – is crucial for making the government bodies transparent and accountable, and deepening democracy at large.

For effective implementation of the RTI Act it is essential to strengthen the record management system of the government, train government officers and equip them with proper tools. At the same time it is also necessary to make the citizens aware of this democratic right. Due to the political transition in the country, the government has other priorities to address. Hence, external support to enhance the RTI promotional activities is a necessity.

Very few international agencies are providing financial support to promote RTI. But what they have supported has proven to be strategic. This started with a review of RTI Regulations issued by the GoN. Article 19, an international human rights organisation working particularly for freedom of expression and freedom of information, supported the process of drafting the Regulations in 2008. In 2009 the World Bank worked to assess the implementation of RTI which resulted in contributing to developing a strategic document to implement RTI in Nepal in 2010-2011. This comprehensive document provides a clear roadmap for RTI intervention and scope and limitations of different stakeholders. The World Bank also provided support to

organise the First National Convention on RTI, in which international RTI activists and experts had participated. Addressed by the President and the Deputy Prime Minister, the convention was an important opportunity to share civil society concerns and to express government's commitment to implementing RTI Act. Civil society organisations and media considered this event as a strategic one for RTI promotion.

During this period some organisations like Open Society Foundation, Canadian Embassy and USAID Office of Transition Initiatives provided small funds to raise awareness about RTI. The Asia Foundation contributed some funding for improving local governance where RTI was a component.

For sometime major international donor agencies remained unconcerned about RTI because of the misconception regarding RTI's relation to the press and freedom of expression. Following the momentum of RTI implementation and decisions of the NIC in October 2011 - particularly the value added tax (VAT) bill scam case, which compelled the government to make public the names of business firms, including major firms in corporate world, allegedly involved in tax evasion by using fake VAT bills - it became clear that the RTI Act can be used to further good governance rather than limiting it to press and freedom of expression. The use of RTI in other countries, particularly India, also inspired donors to use RTI as a tool for good governance in Nepal.

Some of the donor agencies, who have been investing in the country's development and democracy, have realised, belatedly though, the importance of RTI as an effective tool for transparency and accountability in public bodies. The RTI Act has given every individual citizen an important tool to know the functions, expenditure, quality of work and programmes of all the public bodies, thus making them transparent and accountable.

UNESCO, with support from EU is collaborating with the CCRI and FNJ in a programme to build the capacity of journalists to use the RTI Act. The World Bank has also continued to support RTI with small grants to organisations working on RTI at the local level in 2012. They are raising awareness on RTI and its application/implementation in local government bodies (Village Development Committees, Municipalities and District Development Committees).

Challenges and resistance to RTI

Although the RTI Act was passed six years ago many stakeholders who are covered in the Act are not doing enough to implement it. The RTI Act defines a wide range of organisations such as political parties and NGOs as public agencies, in addition to government bodies. The public agencies have a very crucial role to implement RTI. These stakeholders have performed different roles. In many cases stakeholders have simply been indifferent. In some cases however they have shown resistance to implementing RTI. An indicator to support this is the low numbers of information officers appointed in public bodies (CCRI, 2012).

To implement RTI provisions requires considerable groundwork. The experiences of some of the countries which have an RTI Act shows that it takes some time, up to five years, to prepare all public bodies to implement

The RTI Act defines the following bodies as public bodies:

1. A body under the constitution,
2. A body established by the Act (any existing Act of Nepal),
3. A body formed by the Government of Nepal,
4. Public service providing institution or foundation established by the law,
5. Political party or organisation registered under the prevalent law,
6. Organised institution under the full or partial ownership or under control of the Government of Nepal or organised body receiving grants from the Government of Nepal,
7. Organised institution formed by the bodies established by the Government of Nepal or the law entering into an agreement,
8. Non-governmental organisations/institutions operated by obtaining money directly or indirectly from the Government of Nepal or foreign government or international organisations/institutions, and
9. Other bodies or institutions prescribed as Public Body by the Government of Nepal by publishing notice in the Gazette.

RTI. In Scotland for example the Scottish Executive set up the Freedom of Information Implementation Group, which consisted of senior officials from the Executive as well as a cross section of Scottish public authorities. The Group was set up in 2001, four years before the Scottish Act came into force, and was tasked with assisting the implementation of the Act. Similarly in Jamaica, the Government created an Access to Information Unit associated with the Prime Minister's Office with a mandate to spearhead and guide implementation and administration of the law.

In Nepal however, the Act became operational a month after the parliament endorsed the Act. In a new political situation, a new minister and civil society activists seemed to be (too much) in a hurry to implement the Act. The time was so short that none of the public bodies was ready to implement the act properly. Hence, implementation of the RTI Act has been facing resistance from almost all sectors from the beginning, some directly and most of them indirectly.

Resistance began from during initial drafting period when reviewing the draft bill the Parliament Committee added NGOs to the definition of Public Bodies to cover NGOs by the Act, the formulation of RTI regulation, the classification of government-held information and implementation by various levels of public bodies.

The first draft of the Act, which was prepared by FNJ, saw a major reaction by the Ministry of Information and Communication and the Ministry of Law and Justice which proposed a bill to make a key change in the draft. The bill was focused on restricting journalists from obtaining information. This was denounced by civil society and the government did not table the bill in parliament. It was only circulated to the members of the parliament for study.

The draft of the present Act also underwent some changes making it weaker. Its overriding effects were minimised; CSOs were added to the clause defining public bodies. In the draft bill there was a provision that if any law contradicts with RTI Act, the RTI Act will prevail. But in the Act the overriding effect over other laws was removed.

There are mainly three categories of stakeholders of RTI: information seekers (demand side), information holders (supply side) and promoters/supporters of RTI. While the demand side is not aware of the capacity of

the supply side and use of RTI, the supply side, too, seems unaware of the RTI Act and the obligations that RTI places on public bodies.

Political parties

Political parties are defined as public agencies under the RTI Act 2007, thus they are major supply side stakeholders to implement RTI in Nepal. Most of them have not appointed information officers in their offices. They deny giving information sought by the public. A number of laws, including the Constitution, the Political Parties Act, the Elections Act, govern the functioning of political parties, however the provisions of the laws are not properly followed by the political parties, mainly in the areas of transparency.

With the emergence of democracy political parties were not only supporters but also advocates of RTI. However, after coming to power they seemed reluctant to promote RTI. When political parties are not in power they advocate democratic rights such as RTI and freedom of expression, but the same party denies those rights once it assumes power. It is a common characteristic of all the political parties in Nepal.

For example when the Draft RTI Bill went to the Review Committee of the Parliament the members were reluctant to include political parties as public bodies. In reprisal the committee suggested including CSOs under the definition of public bodies. It has a long-term effect on moving forward the RTI provisions.

Political parties are not transparent in their financial activities and decision-making processes. For more than a decade there has not been an election of local bodies in districts, towns and villages. They are run by limited government officials and local mechanisms consisting of all the political parties active in that area. Political parties are thus handling the budget and programmes of local development bodies of the government, but their accountability to the people is a serious issue. Political parties are not willing to disclose donations received, expenditures made, decisions taken, and associated issues. Some of the major political parties have not even submitted their annual audit reports to the Election Commission of Nepal, though it is mandatory.

At present, political parties seem indifferent to RTI. Although they seem to ignore the agenda of RTI, they do not speak against RTI for fear of losing public support.

For example, most of the major political parties have mentioned RTI in the manifestos for the November 2013 Constituent Assembly elections. However, they are largely related to the right to freedom of expression and press freedom.

It is important to note a counter-movement in neighbouring India. There the Parliament is still considering a bill, promoted by political parties to amend the RTI Act to shield them from providing information under the RTI law. Nepalese political parties are clearly interested in what happens here to see if they can follow suit, and effectively ruin the RTI movement.

Bureaucracy

Government bureaucracy – the civil service – is a key stakeholder for implementing RTI Act. However, the bureaucracy of the country is a continuation of an age-old autocratic system and is used to work in relative secrecy. In addition, they follow the Public Service Act which is an old Act promoting secrecy. There are even some provisions in the Public Service Act in which the government employees' performance is evaluated on the basis of their efficiency to maintain secrecy. Hence the bureaucracy is not sympathetic to RTI. It is reflected in various activities of central and local levels of the bureaucracy. According to the RTI Application Tracking Survey Report 2012 conducted by CCRI: *"most of the public agencies in Nepal have not appointed information officers even though it is required by the law. The primary reason behind this lack of appointment of Information Officers and establishment of Information Section is that it is not viewed as a necessity and lack of a central agency overseeing the implementation of the RTI Act means they feel little pressure to change their views."*

The report continues: *"The behaviour of officials of Public Agencies was occasionally judged to be hostile towards applicants. The culture of secrecy within the Nepal Government and Public Agencies remains. Applicants drop their requests or stop following up by lodging complaints, fearing a worsening of their relationship with Public Agencies officials and unwanted consequences,"* as in the case of a businessperson, who filed an RTI application seeking the budget of a project run by a district level government office. He had to drop his application due to a threat of non-cooperation in his future business (*RTI Application Tracking Survey Report 2012, Citizens' Campaign for RTI, p.13*).

On another occasion a district court judge was dismissed by the Judicial Council follow allegations of his defamatory remarks against the State. The judge denied making such remarks but was not given an opportunity to represent himself to the Judicial Council before his dismissal. Additionally he was denied access to information pertaining to his dismissal. A case was filed at NIC and after a very lengthy process the judge was found to have been wrongly accused and dismissed. Eventually he was reinstated to his position (Freedom Forum, 2013).

Evidence of inaction or resistance – and the rationale behind it – to implementing RTI provisions can be seen at the central and local levels of government bureaucracy.

At the central level:

There is an acute need of a central mechanism to implement RTI Act in all the state organisations, from ministries to village development committees, which take care of the appointment of Information Officers, resources, and training for responsible officers. Despite recommendations of the NIC and support from donor agencies it has not been possible to establish such a mechanism.

Section 27 of the RTI Act has provisions for the classification of information held by government bodies. The classification guides all the government bodies to decide the kind of information that should not be disclosed. Hence it is an important starting point for implementing the Act. The Government of Nepal has done the classification twice. However, the process and content of classification did not match Section 3 of the Act, which prescribes the categories of information exempt to disclosure. The Act grants exemption from disclosure to any information which seriously jeopardises the sovereignty, integrity, national security, public peace, stability and international relations of Nepal; directly affects the investigation, inquiry and prosecution of crimes; has serious impact on the protection of economic, trade or monetary interest or intellectual property/banking/trade privacy; disturbs communal/ethnic/social harmony; and interferes with an individual's right to privacy or security of body, life, property or health.

However, while these areas are exempted under the RTI Act, information cannot be withheld without the

government providing appropriate and adequate reasons concerning whether it falls under one of these categories. The final authority on such matters is the NIC, the body that classifies information.

The objective of Classification of Information, under section 27, is to protect sensitive information. It is not for hiding information that bureaucrats don't want to make public. Both the classifications have been non-operational due to their inconsistency to follow the objectives and essence of the Act.

According to Section 5 of the Act all public bodies are required to update and make public more than 15 kinds of information about the public body including its budget and functions every three months. However, none of the government bodies have followed this provision of proactive disclosure.

It is mandatory to appoint an information officer in every public body and the chief of the body is responsible for that. However, there is reluctance in appointing Information Officers in even the central-level government bodies, providing resources for them and equipping them with skills, which is mandatory according to the Act. Most of the Information Officers, appointed so far, are from lower positions of the office who have no direct and appropriate access to the information held by that office.

Government employees are guided by the Public Service Act, which values working in secrecy. Thus the Public Service Act has become a tool of convenience for not following the RTI Act. (*Ref: A Synthesis Report of the Results Chain Analysis of the ESP Partner Portfolio, May 2013, Administrative and bureaucratic norms and system, page 29*).

At the local level:

In the absence of proper guidelines (including the lack of a clear message – or sponsorship – from the central bodies and proper classification of information held by government bodies) the officers of local level offices, from District to the Villages and Municipalities, seem confused and afraid to provide information. On the other hand there is strict hierarchy of information in the offices. Major information is held by the head of the offices and Information Officers think that disclosing any information may have a negative impact on their career.

As there is widespread irregularities and misuse of resources in local bodies, mainly due to absence of elected local government, most of the local level officers want to remain silent. In some cases, local information officers are pressurised by political parties and other senior officers not to disclose information where political parties and officers are involved in the misuse of resources and power.

Many officers want to hold back information because they think that if they open everything they will lose their power. They are always afraid that people may take undue benefit from the information. Neither they themselves use them, nor do they let others to use them. Most of the officers who want to provide information face non-cooperation from their superiors.

The Ministry of Federal Affairs and Local Development (MoFALD) has a system of evaluating the performance of all local bodies – Village Development Committees, Municipalities and District Development Committees – called Minimum Conditions Performance Measure (MCPM). However, there is no provision of RTI in the MCPM.

In addition information officers at the local level are feeling that information-related tasks are additional responsibilities to their regular job. They consider it as a duty without additional benefits.

Information is power and officials usually don't want to lose this power. They feel that RTI will limit their power. At the same time they may perceive that RTI obstructs the undue benefit that some of the officials are used to get. Some officials even consider the information demand as a blow to their dignity and interference in their job.

CSOs/NGOs

Many CSOs and non-governmental organisations (NGOs) which struggled for civil and political rights, including RTI, do not seem enthusiastic to implement RTI in their own organisations. In the initial draft of the RTI Bill they were exempted from the list of public bodies. It was during the review of the Bill that the NGOs were included in the list of public bodies which are obliged to follow RTI Act. Because of the low level of literacy and awareness common citizens cannot use RTI on their own. NGOs in Nepal have been working in different fields and delivering services and goods. Hence, their

role to promote the use of RTI is crucial. But as they are covered by the RTI Act they seem reluctant to work in this field. As a result there are very few NGOs active in the RTI movement in the country. One female activist from local Terai NGO committed to RTI filed a request with the Parliament Secretariat about the expenses of the CA members. Within 4 days she received a detailed account of the CA members' salaries, allowances and perks (Freedom Forum, 2013).

It is always good to bring many agencies under the RTI laws but in the case of Nepal this step has been counterproductive for promotion of RTI. Many NGOs, working with INGOs and donors, are not always transparent in their financial transactions. Nor are they in a position, given their popularity, to request being exempt from the RTI Act. However, they are not working for the promotion of the RTI Act and guiding the citizens to demand information held in public bodies.

National Information Commission (NIC)

The NIC is an oversight body under the RTI Act. The commissioners are appointed by the recommendations of a committee headed by the Speaker of the Parliament. The commissioners can only be removed by the parliament. NIC submits its Annual Report with Recommendations to the parliament through the Prime Minister. But the officials and budget comes from the government. Not having enough human resources and financial resource, and having human resources loyal to the government is challenging for making NIC independent, effective and proactive.

Retaining staff is a major problem for the NIC. It has never been a priority of public officials in their career rather it is regarded as a demotion when they are

A journalist from a national daily newspaper was refused information from the Judicial Council about the practices of judges in District Courts as well as the Supreme Court. Consequently the journalist appealed to NIC. The Secretary of the Judicial Council continued to deny access to the requested information from NIC. As a result, NIC fined the Secretary a symbolic NRs 1. In response the Judicial Council released the requested information to the journalist and NIC withdrew the fine (NIC, 2012).

transferred to NIC due to limited facilities. Hence NIC remained without Secretary for long time and about half a dozen of secretaries were changed within four years. Since 7 June 2013 the Commission has been without commissioners. The appointment of new Commissioners is not possible without the election of parliament and its Speaker. It has created problems in implementation and promotion of RTI in the country.

How has the Enabling State Programme (ESP) supported the implementation of RTI ?

According to ESP's theory of change the RTI is to make public bodies/institutions responsive to civil society and citizens. RTI provides the means for greater citizen participation in public matters with increased transparency and accountability, thereby contributing to inclusive governance and reducing corruption. Under the theme of Deepening Democracy DFID/ESP has been supporting the Right to Information sector since 2012, in partnership with the NIC, a government body, to oversee the implementation of RTI and the CCRI, a national NGO.

The overall objective of ESP's intervention in the RTI sector is to promote right to information and strengthen monitoring mechanisms as well as capacity to respond to demands for public information.

A notable amount of funding was available on RTI from ESP in 2012 which was spent on developing a National Strategy on RTI. The NIC has ownership of the strategy document and is taking forward the priorities as spelt out in the strategy. Additionally, ESP provided support to CSOs to launch a campaign on RTI. At present, there are two ESP-supported projects on RTI; one is carried out by NIC to facilitate implementation of the strategy; and the second is led by CCRI in collaboration with eight other NGOs/partners, namely Far-West Media Development Center (FMDC), Dhangadhi; Vijaya Development Resource Center (VDRC), Nawalparasi; Information and Human Right Research Center (IHRC), Nepalgunj; Karnali Self-Help Development Forum (KSDF), Kalikot; Integrated Development Foundation (IDF), Jhapa; Yuba Sarokar Abhiyan (YAS), Bara; HOPE Nepal, Kathmandu; and Freedom Forum, Kathmandu.

In 2012, ESP supported a joint initiative taken by CCRI and NIC, 'Enhancing Effective Implementation

of RTI in Nepal for Promoting Good Governance' and 'Development of Five-year Strategic Action Plan on Right to Information'. For the first time in Nepal a Right to Information Support Centre was established at NIC office in August 2012 with ESP support. This has helped generate interest amongst the key stakeholders in favour of RTI in recent months. Citizens now have a place from where they can get all the necessary support in seeking public information, filing RTI applications, free legal assistance and information they need on RTI.

By the end of September 2013 the Centre has received counselling to 2,900 callers with information on RTI processes and supported the drafting of nearly 300 applications demanding information, complaints to public offices and appealing to the NIC. Through counselling people got basic understanding of RTI, the process of seeking/demanding information, potential organisations where information can be sought and basic ideas on drafting RTI application. (Source: RTI Support Centre, 28 September 2013.) This has contributed to promote transparency, accountability and value for resources.

ESP's Main Accomplishment in RTI

- Functional RTI Support Centre established within NIC.
- Over 2,900 individuals received counselling on RTI processes, of which 300 received support to demand information, complain to public office and appeal to NIC.
- Increased RTI awareness among citizens and local government agencies.
- Availability of an integrated RTI MIS for NIC and local bodies of six ministries in five districts.
- Improved capacity of officials in six ministries and local agencies to respond to information requests.
- 120 journalists using RTI for investigative reporting in five development regions.
- Most of the government offices appointed public information officers at least in 15 districts.

Critical success factors of ESP projects on RTI

- 1. Importance of joint collaboration:** Due to resource/budget constraints NIC could not support CSOs in promotional activities so much. After getting support from ESP however NIC has been able to work with other organisations in various activities, such as identifying laws which contradict RTI Act, finding ways to include RTI issues in the curriculum of schools and colleges, and developing internal communication system. Since the project is implemented jointly, NIC and other RTI implementing organisations and promotional organisations are working together in various forums. Collaboration among CSOs to work on RTI across the country which is facilitating for sharing expertise and resource is increasing. CCRI has been able to collaborate with eight local NGOs; the majority of other CSOs remain not committed.
- 2. Establishing a resource and support centre:** The RTI Centre is providing technical and procedural support to the people in the information seeking process. People from any part of the country can contact the Centre by toll free phone and get different types of services for getting information.
- 3. Awareness raising through the media – naming specific days:** Raising awareness among people and stakeholders on RTI through different media programmes and publications is carried on. National Information Day (August 19) and International Right to Know Day (September 28) are some of the special occasions when NIC and other organisations discuss and promote RTI through media channels.
- 4. Increased capacity of NIC:** NIC led the development of a five-year RTI strategy in consultation with various stakeholders, including CSOs and government. The strategy guides NIC in developing suitable policies, planning activities, implementing them and showing results. It has also developed a Communication Strategy.
- 5. RTI implementation environment improved:** There have been some tangible achievements in implementing RTI which helps to improve the working environment for RTI implementation for citizens and stakeholder institutions. For example

NIC has contributed to the amendment of RTI regulation and the government has amended some clauses which facilitates the use of RTI. Local and district level campaigning and engagement on RTI have increased as has the number of RTI applications filed.

Key obstacles/challenges

- RTI has not been internalised as a cross-cutting issue by different stakeholders, mainly due to the misconception about RTI and the lack of proper knowledge of RTI.
- Commitments have not been demonstrated in actions by public agencies which show that RTI is not a priority of the government and public agencies.
- Lack of qualified human resources, both at the government as well as CSO sides, at the district level to organise RTI related events and to lead awareness and promotional campaigns.
- Very fragile political situation and election environment has side-lined the priority that RTI deserves.
- Since there has not been election of local bodies like Village Development Committees and Municipalities their programs and budgets are operated informally by an all-party mechanism, a kind of coalition of political parties active in the locality and no opposition, which is not accountable to anybody.
- Absence of Commissioners for a long time in the NIC is causing problem to submit appeal in NIC under the project activities. According to the Act the Commission comprises of three commissioners. The NIC staff, including the Secretary, have to perform administrative roles, including monitoring and involving in training and awareness raising programmes. The Act defines the role and capacity of NIC as a body for the protection, promotion and implementation of RTI Act. NIC has judicial capacity and it can impose sanctions and fine.
- Record keeping and data management is always important to implement RTI. Lack of proper and adequate data management has hindered access to information in public agencies.

Key lessons

- RTI is a key component to improving governance thus it should be incorporated as crosscutting issues in every project of every donor community and the government.
- When the awareness regarding RTI increases the demand for information also becomes higher. As a result the public agencies are compelled to be more transparent and accountable. Hence, creating awareness is an important factor to enhance implementation of the RTI Act.
- Constructive and continuous engagement with CSOs, NIC and government is necessary for effective implementation of RTI Act.
- Intervention in government agencies should be expanded to other crucial agencies like the Office of the Prime Minister and Council of Ministers and relevant Ministries like the MoFALD. It should go beyond the NIC.

Top Tips for policy makers and project implementers

- 1. Legal reform.** To meet the international obligations and standards and to address the existing flaws in RTI Act, a legal reform is needed. Particularly, it is most essential to provide overriding effects of RTI Act if any laws are contradictory with this Act. Additionally, scientific classification of information is needed to make information dissemination process smooth and hassle free as well as to make public officials confident in the information dissemination process.
- 2. Strengthen the supply side.** Awareness, orientation, and capacity of the supply side (Public Agencies) are always crucial to implement RTI effectively. Orientation on the obligation and capacity to fulfil the obligation is required for Public Information Officers. Production of necessary information, education and communication (IEC) materials and distribution amongst respective officers is important to make them aware of their obligation and role to implement RTI. Availability of required human and financial resources is most essential to implement RTI by different Public Agencies. Proper management and update always facilitate the information dissemination process, thus digitalisation of data always facilitate supply side to dissemination of information.
- 3. Strengthen the demand side.** RTI users do not know about the RTI, scope and strength. Therefore awareness raising, capacity building and support them in the process of using RTI is required. Motivation and support is needed for individual information seekers to file RTI applications in different agencies strategically. Capacity building of RTI activists and enabling them to practise RTI in every sector as a crosscutting issue are the present need. Strategic use of media is suggested to make people aware of and motivate individuals in the information-seeking process.
- 4. NIC's capacity development.** As an oversight body, the NIC has a very vital role to implement RTI. Capacity is always important to perform its role. Therefore increased capacity of NIC and active monitoring role is imperative for better RTI situation. Adequate human and financial resources are lacking in NIC thus it should be fulfilled. Continuous availability of all officers and adequate financial resource is important to make the institution functional.
- 5. Support to CSOs/NGOs and intermediaries.** Considering the context of Nepal where individuals are not in position to use RTI on their own, due to lack of awareness and empowerment, development of facilitators and intermediaries is crucial. As the activism for RTI has relied heavily on "spirit of volunteerism", which has its own limits, it needs continuous external support. It calls for capacity,

Officers are not willing to be Public Information Officers and work effectively. Thus incentives and possibly punishments need to be provided within public agencies for Public Information Officers that could motivate them to work effectively to promote people's access to information. Establishment of a Nodal Agency in a crucial ministry of the government, preferably the Office of the Prime Minister and Council of Ministers, to facilitate the implementation of RTI by appointment of Information Officers, developing human resources and providing budget is important to facilitate and take necessary action to implement RTI within the government structures.

resources and support to engage NGOs and intermediaries to make people aware of RTI and facilitate them to use it. Developing and engaging committed RTI activists to move the campaign ahead, facilitating them from different perspectives and using media and youth strategically are really important and worthy to popularise and increase the practice of RTI. Continuous engagement is always a prerequisite for increasing motivation, resources and support in this area.

6. Define journalists' role and support media.

Although RTI is not an exclusive right of the journalists and less than 20% of journalists use RTI the world over, it has been an important tool of journalism, particularly investigative journalism. The Press Council of India in March 2001, had summed up its vital use in the following words:

“At present, one of the stumbling blocks in the path of investigative, analytical and popular journalism is the difficulty in getting access to the official information. The bureaucracy, the police the army, judiciary and even the legislature guard information regarding even the most mundane subjects with astonishing zeal. Few journalists are able to break this iron curtain of the official non-cooperation. The right to Information will encourage journalists and society at large to be more questioning about the state of affairs and will be powerful tool to check the unmitigated goings-on in the public realm and will also promoter accountability. No longer will scribes have to depend on conjecture, rumour, leaks and sources other than knowledgeable sources. The legislation when enacted will pose an antidote to vested interests which try to conceal or misinterpret information or which try to manipulate media directly or indirectly to plant misinformation. Through this legislation, transparency in public, professional, social and personal sphere can be achieved.”

When the RTI Act came into force in Nepal it was assumed that it would be the best tool in a journalist's hands. However, it has not been the case. Social activists are taking a lead in acquiring information under the act and in giving it to the media. Lack of analytical and investigative reporting in the Nepali press is one of the main causes of lesser use of RTI by journalists. However, the role of journalists/media to apply RTI on behalf of common

citizens and creating awareness of RTI cannot be undermined. Over 400 local FM Radio stations, over two dozens of TV channels and thousands of newspaper published all over the country can play crucial role in providing information to the people and make people aware of their RTI. Hence there should be a sound plan and program to harness all available media in the country.

7. Technological interventions for effective implementation of RTI.

Technological enhancement and legal development should support each other. Information technology (IT) brings about openness, accessibility, connectivity and networking, and contributes to democratisation, decentralisation and as a result social transformation.

Digitisation of information and networking of all major public bodies can bring a dramatic change in the implementation of the RTI Act. It makes routinely and proactive disclosure easier. Digitisation of documents makes it easy to access the files and at the same time it minimises manipulation of files. Today almost all the information is in manual form and information is locked in files. Loss and change of documents in paper files is a major source of corruption, which can be eliminated by digitisation of proper record management system.

Digitisation is also supportive to networking and preservation of information in different data centres. Thus, by using IT the whole structure, distribution and delivery of information can be changed where everyone will have access to information when needed. It can bring a paradigm shift in the use of RTI in the country.

8. Introduce RTI as cross-cutting issue in all projects supported by donor agencies.

All the donor supported programs/projects must have an RTI perspective and RTI should be a cross-cutting issue in all projects. It should be put in any document signed between donors and project implementing partners, including the government agencies, and code of conduct as well.

9. Learning from other countries.

The experience of India, which had implemented RTI in 2005 and earlier than that in some of its states, and which has used RTI as an effective anti-corruption tool, can provide deeper learning on effective

implementation of RTI in Nepal. In some of the states of India RTI-movement started as movement of rights of the peasants and labourers and delivery of goods and services by the government agencies were made accountable. Hence RTI Act is playing an important role in deepening democracy in Indian society. Experiences of India and some other countries like Mexico and Scotland can help Nepal in many aspects.

10. Develop local monitoring and support mechanism. For overseeing the implementation of RTI and creating awareness resolve local problems of implementation there should be a local mechanism comprising of the government bodies, civil society organisations and RTI activists/ journalists. It can overcome the gap created by the absence of National Information Commission to some extent.

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