

# Know your right

## The new government must work to remove obstacles for implementing the Right to Information Act

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With the new Constituent Assembly in place and talks underway among political parties to form a new government, there is hope for a new constitution, political stability and the resumption of the stymied development process. These are optimistic signs for deepening democracy in Nepal. However, we have, among many, one crucial unfinished agenda for institutionalizing democracy—full implementation of the Act on Right to Information (RTI).

Lately, I have been speaking to journalists to learn if things have changed since the enactment of the Right to Information Act in 2007. The complaints were the same—information is still not easily forthcoming from civil servants and politicians and at times, they are obliged to abandon their stories because sources deny or dilly-dally in giving them information.

### **RTI successes**

Yet, not all is gloom and doom. At the closing event of the UK's Department for International Development-funded Enabling State Programme, I heard stories of how the beneficiaries of the programme were using their Right to Information and benefitting from it. Som Sharma Bajgain, a journalist from Bhaktapur, narrated a story on how his team was able to lift the additional load shedding of three hours slapped on Bhaktapur residents by demanding an answer from the Nepal Electricity Authority. Similarly, Sudip Kumar Bhattarai of Banke got his landline fixed after demanding an answer from Nepal Telecom on why it was delaying the task. Another story was related to how corruption in the distribution of fertiliser was busted in Dhankuta.

The use of RTI to acquire required information and services, however, is very limited. In my understanding, there are five problems responsible for this dismal state of affairs: a lack of complete understanding of the RTI; absence of elected representatives in local bodies; weak demand for information; human resource crunch at the National Information Commission; and a lack of political will among politicians and civil servants to implement the RTI Act.

### **Hindrance to implementation**

First, both information providers and seekers lack a good understanding of the RTI Act. We need to understand that the Right to Information is a crosscutting issue. Without this realisation, information seekers, including journalists, social activists and citizens cannot take full advantage of the RTI provisions now in effect.

Second, elections to local bodies have not been held for a long time. This has left Village Development Committees without enough individuals to promote RTI. Existing individuals and local bodies do not have an incentive to promote RTI. Additionally, they are not fully held to account by the current bureaucratic arrangement to prioritise transparency.

Furthermore, the demand side of RTI is very weak. Information seekers still lack awareness about RTI, the capacity to demand information plus the motivation to do so. This is true for both individuals and journalists who benefit indirectly from RTI. Very few members of the public are aware of RTI and are able to file applications.

The National Information Commission does not currently have the capacity required to support the RTI either. Currently, the institution has no commissioners. This has further complicated the appeal process and reduced the effectiveness of the organisation. The body also lacks sufficient human resources and the budget to carry out investigations and fulfil its duties.

Lastly, there is a lack of political will among politicians and civil servants to implement the RTI Act. This results from norms of secrecy in public institutions codified in the Public Service Act. Because of these norms, political parties, ministries and organisations have failed to meet the minimum requirements of the RTI Act, such as appointing mandatory information officers with access to information and to publicising budgetary and other procedural information.

### **Information for all**

These problems must be addressed urgently if we are to deepen democracy in Nepal. The solutions are straightforward. First, people should be well informed about what Right to Information is and what it is not. Many have the misconception that it is only for journalists. This is not true. Anyone can make use of the Act. For this, a massive campaign spanning a long period has to be conducted to make people aware.

Second, our local bodies need to be filled with people's representatives who are answerable to the people—local elections are probably the most important thing that has to happen in Nepal to institutionalise democracy. With the representatives of the people in office, local bodies will be more accountable to the people, not only in delivering development but also in providing required information to the people.

Furthermore, more people need to start demanding information. They need to make a written demand for information, not just verbal. They should also be persistent in their demands. Making use of the processes for demanding information as per the RTI Act would be beneficial on this regard. As demand increases, public offices will be obliged to arrange for the dissemination of the requested information. Civil society organisations can also help in creating this demand.

Similarly, increasing the human resource capacity at the National Information Commission is very important. The first thing the upcoming government should do is appoint commissioners to the Information Commission and direct all public bodies to

appoint an information officer to produce and give away information to the people. These information officers, however, should not only be giving information when demanded but should also engage in proactive disclosure of information. One very important thing in this connection is the digitisation of information. This will not only help in the swift dissemination of information but also in its preservation—digitised data is less likely to be tampered with or be lost. Currently, tampering with documents and their loss due to various reasons are a major cause of corruption.

### **Committed to the cause**

Lastly, politicians and civil servants must have strong will to implement the RTI. Politicians should realise that it is in the best interest of the nation to promote transparency and accountability. Civil servants must also understand that, by proactive disclosure of information and meeting the information needs of the people, they are helping democracy deepen its roots in society. If the current laws are confounding officials and politicians as to which information to disclose and which not to, a thorough reclassification of information should be undertaken because the current classifications are too broad and shield corruption and reduce transparency.

To conclude, the Right to Information is fundamental to deepening democracy in Nepal. Though Nepal's RTI Act (2007) establishes a strong legal precedent for RTI, it will only be meaningful when there is a real commitment to fully implementing its provisions.

This means the Constituent Assembly and Legislature-Parliament should annul the 400 different laws, by-laws and acts that contradict the RTI Act. The upcoming government must appoint all the commissioners to the Information Commission, strength its workforce in number and capacity and allocate enough budget for its activities by placing a robust monitoring mechanism to track progress and obstacles in implementing the RTI Act. This would be the right way for the new government to build upon the Right to Information to strengthen democracy.

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