

The Role of the Right to Information Law in Combating Corruption in Nepal

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Received Date: Dec 24, 2024

Reviewed Date: Jan 4, 2025

Accepted Date: Feb 4, 2025

Abstract

This article examines the vital role of the Right to Information (RTI) in addressing corruption in Nepal. As a fundamental right guaranteed by the Constitution, RTI empowers citizens to demand transparency and accountability from public institutions, which are crucial for democratic governance. The paper traces the historical development of RTI in Nepal, explores its legal frameworks, and highlights its potential as a powerful tool for exposing and curbing corruption. Through case studies, the article demonstrates how the effective implementation of RTI has contributed to reducing corruption in various government sectors. The conclusion underscores the importance of citizens actively utilizing RTI to promote good governance, reduce corruption, and foster democratic and sustainable development.

Key Words: Law, Right to Information, Corruption, Transparency, Social Accountability, Nepal

Introduction

Right to information means the right of a citizen to ask and acquire information of public interest from public bodies. Asking and getting information is the fundamental right of citizens which ultimately fosters transparency and accountability that are the parameters of democracy. Transparency and accountability can only be promoted with effective implementation of the right to information. The citizen must get to use their right to information to make governance transparent, accountable and responsible (Dahal & Acharaya, 2068).

The history of right to information is not so long in Nepal. There was the provision of right to information at article 16 of Constitution of Nepal 2047 for the first time in Nepal. With the provision of asking and getting information by a citizen about public interest, this right was assured constitutionally (Constitution of Nepal, 2047).

Law regarding the right to information could not be made after this for a long time. Meanwhile, after the people's movement 2006, Interim constitution 2063

based on this revolution also made provision of right to information. Article 27 of this constitution has guaranteed right of every citizen for asking and acquiring information from any of the public bodies (Constitution of Nepal, 2072). After this, strong voices for promulgation of a separate law on the right to information got further momentum from all quarters. They forced in a strong way for this. Journalists and media people had a major role in this. As a result, from Bhadra-3, 2064, the Right to Information Act was promulgated and enforced (Government of Nepal, 2064). Similarly, Government of Nepal promulgated Regulations on Right to Information on Magh-27, 2065 (Government of Nepal, 2065).

The uninterrupted use of the right to ask and get information is one of the pre-conditions of good governance. If the right to information is not implemented, it is possible for opaque, corrupt and autocratic governance. Thus, the implementation of the right to information plays an important role for democracy, development and prosperity. For this, the people themselves need to be alert and active for responsibility towards asking and getting information (Panday, 2024).

The successful implementation of the right to information contributes importantly to control of corruption. The right to ask and receive information from public bodies on public and individual interest has been assured legally. If anyone suspects corruption and malpractice about the activities in public bodies, the corruption and malpractice can be controlled if these types of activities are brought to publicity (Pandey, 2024).

According to the study of Corruption Perception Index by Transparency International, Nepal has been enlisted in the list of nation with excessive corruption and malpractice. Corruption has become much problematic in Nepal. Every public entity has been trapped in a smear of corruption. The government entities have the same problem. The Corruption Barometer 2013 published by Transparency International recently has shown the political parties more corrupt among all (Transparency International, 2013). Corruption has become the biggest problem from lower levels to upper level of society. In the country like Nepal where more corruption and malpractice are found, the right to information can be used for minimizing these.

Corruption is a dreadful curse for any country. Public development activities are becoming quality less due to corruption. The quality of goods and services propagated by the public entities is becoming weakened. The problem of unemployment has been increasing in the country. Due to lack of good governance, billions of money spent on the people has not been able to bring out positive impact on their living standard.

Corruption has become institutional in Nepal. Due to the protection from the political sector, the corrupt are not punished. Corruption has been promoted due to the direct involvement and protection of the political sector (Ghimire, 2070). Similarly, the judiciary is also not able to be out of this. Because of this, many have complained that actual justice has not been received. Not only judiciary, legislative, executive but entities at level are mired in corruption. Members of Legislative Parliament were involved in activities like Red Passport selling to fault bill scandal. The executive body has become hermitage of corruption.

Decentralization came with the conclusion that centralized governance leads to corruption and malpractice. Decentralization started in Nepal institutionally after 2055 B.S. Power devolution to local bodies started after the promulgation of local Self Governance Act in the same year. after promulgation of the Constitution of Nepal in 2015 the federalism is institutionalization and huge amount of budget is given to local government like rural municipalities and municipalities. In this situation, the successful implementation of the Act related to the right to information could be minimized and controlled.

Way of using the right to information for controlling corruption.

It is the responsibility of each citizen to control corruption. They can use the right to information to fulfill this responsibility. Interim Constitution of Nepal 2063 has assured for every citizen for the right to ask and receive information about any of subject of public and individual interest. Similarly, Right to Information Act 2064 has also assured this right. Citizens can co-work to minimize corruption by using this constitutional and legal right. For this, citizens can use this right to information by asking for information by giving application.

When one is clear about which information from which entity is needed, he should give application to information officer of local entity by following article 7 and 8 of Right to Information Act and process given by the act. While registering an application in this way, it is not necessary to stamp ticket. No fees should be paid for this. But the information asked should be clearly specified in the application. This information can be sent to the Information and Documentation Centre of a local entity by the applicant himself or representative or by postal service.

After the application of applicant, the information officer shall provide the information immediately if it is possible to provide immediately. If the information is not provided within 15 days of application, complaints should be made to the Chief of office. If the information officer does not provide the information, refuses to

give information, provides partial information or provides wrong information then it can be complained to the chief of office. Generally, the office chief should also decide within 7 days according to the regulations of Right to Information Act. If the office chief refuses to provide the information it shall be appealed to the National Information Commission.

Similarly, when the office chief refuses to provide the information or decides that the information could not be given to the public then the applicant can appeal to the National Information Commission within 35 days of the decision by the office chief. After the registration of application to Commission, the provision of punishment and final decision shall be made within 60 days.

Role played by the successful use of the right to information for controlling corruption.

By the practical use of the right to information, the improvement works can be done by bringing the malpractice and corruption into publicity. The reality comes out if every citizen uses the right to information and asks for information from the sectors of interest and sectors in the vicinity. Corruption comes into publicity. Then the entities like the Center for Investigation of Abuse of Authority, National Vigilance Centre and others start the investigation process. There are some examples of control of corruption using right to information which are stated below:

Right to Information saved 5 crore each year.

Nepal Oil Corporation is a government company which does transactions on petroleum products like Kerosene, Diesel, Patrol, LP gas and aircraft fuel. This company is shown to be at a great loss. In 2068, the then Import Minister Lekh Raj Bhatta said that the company would lose due to the weak management of the company itself and distribution of free coupon of fuel by the company. This news brought out a new secret of company that the company went in loss by distributing free fuel coupon and thus price of LP gas and oil got increased.

When this news came in public, chairman of Freedom Forum, Taranath Dahal asked some information from the company by using Right to Information Act 2064. He gave application on Mangsir-20, 2068 and asked for the data of free coupon distribution from Shrawan-1, 2063 to the date of application. Similarly, he also asked for attested copies of rules, directives and guidelines about free oil distribution if any.

The corporation did not provide this information. After that he complained about it to the National Information Commission. Still the information could not be received. Then after the long struggle by going to appellate, the Commission directed

the chief of Oil Corporation on Chaitra-7, 2068 to disseminate information to the demander within 15 days. Commission asked for clarification. After the direction of Commission, on behalf of executive director of Oil Corporation, Ramesh Chandra Koirala sent partial information on Chaitra-13 and Chaitra-15, 2068. The information was not complete and not according to the demand of applicant. It was stated that there werenot any directives or guidelines for distributing free oil coupons. After this, TaranathDahal reapplied to appellate of Commission for non-attested and incomplete information. Then, after the continued request of applicant, the National Information Commission gave decision on Ashad-27. According to this, it was stated that the Commission decided to call the applicant TaranathDahal and Chief of Oil Corporation on Shrawan-1 to the Commission. Three participants from Corporation including Executive Director Suresh Agrawal and Legal Advisor SurendraMahato and TaranathDahal from Freedom Forum were present according to this in the Commission.

In the discussion held, Agrawal said that the information could not be provided due to practical problems. He also stated that in the last five years, about 17 crore was spent in distributing free oil coupons and all record of this is not found. He committed that this kind of activity should be stopped.

From this information it could be seen that the Corporation had to bear a loss of more than 15 crore in 2060 to 2063 B. S. due to the distribution of free oil coupons by high profile authorities of the Corporation. After receiving this information annually more than 5 crore is being saved. As a result of this, Oil Corporation appointed Information Officer. For knowledge to general people, as the initiation, the Corporation has started the digital board in three different places in the valley showing the latest data like price of petroleum products, different expenditures, total cost, loss or profit.

Similarly, as a reformation, malpractice of distributing free coupons without any guidelines and directives has been stopped. From this, the corruption has been controlled and the exercise of good governance has been started.

Power of Right to Information

Byas Municipality of Tanahu District had been distributing Coupon illegally to leaders of political parties, cadres and local elites each year. For the district visit of central leaders of parties, municipality had to bear the unnecessary additional financial expenses by providing vehicle and fuel. By this, about Nine Lakhs Rupees had been expended in the municipality annually. Local people were unhappy with this. But they were not able to do anything about this.

Ramhari Bajagain went to the office of municipality and applied on 4th of Ashad 2070 and asked for the statement of expenditure on fuel from 1st of Baisakh 2068 to the date of registration of that application. Information officer Gokarnaraj Wagle refused to register the application. Finally, the application was registered. Bajagain got informed after 21 days of date of registration. According to the information, the fact that each year more than three lakhs' rupees were being spent for fuel in the name of leaders, cadres and other elites. It was found that no decision was made in the board meeting about this kind of fuel coupon distributed in this manner. The employees of the municipality were found to distribute coupons haphazardly without calling the board meeting.

Immediately after receiving this information, local people raised a question based on this information at a Public Hearing which was conducted on 25th of Ashad by the municipality. In that public hearing, the officials of municipality gave answers to the questions raised by the local people.

People raised questions on what the basis of distribution of fuel coupons to the leaders of different political parties and their cadres was. At the end of hearing the officials committed that from the fiscal year 2070/71, municipality shall distribute the coupon to other than its own vehicles by developing certain criteria and by calling the board meeting. While monitoring the first week of the new fiscal year, this type of trend of distributing fuel coupons was not found.

Conclusion

The effective and systematic implementation of the RTI is pivotal in addressing and mitigating corruption. RTI empowers citizens by providing a constitutional and legal framework to request and receive information from public authorities, particularly when there are suspicions of malfeasance or corruption. By leveraging this right, individuals can hold public officials accountable and ensure that governance processes are transparent.

When information is obtained through RTI requests, it can be analyzed and discussed using various social accountability mechanisms. Tools such as public hearings, social audits, and community forums play a critical role in this process. These platforms facilitate a constructive dialogue between service providers and recipients, allowing for the scrutiny and evaluation of public service delivery. This participatory approach helps in identifying and addressing deficiencies and fostering a culture of accountability.

Moreover, the dissemination of information through public communication channels, including news media, online platforms, and publications, enhances the visibility of governance issues. By bringing issues to the public's attention, the media serves as a watchdog and contributes to informed citizenry. This public scrutiny can pressure public institutions to reform and adhere to ethical standards.

The RTI is not merely a tool for accessing information but a strategic weapon against corruption. Its proper application can expose corrupt practices, thus curbing their prevalence. For instance, by revealing mismanagement, embezzlement, or undue influence in local governance, RTI helps in implementing corrective measures and enforcing accountability. Over time, this contributes to improving the integrity and performance of public institutions that have been historically plagued by corruption and inefficiency.

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