

Implementation Practices of Right to Information Act 2007: Exploring Awareness, Effectiveness and Challenges

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Abstract

Right to Information (RTI) is a basic human right of every human being. Information makes men wise and it is competent enough to cope up with the modern world. So, it is the duty of government to inform citizens about day to day happening whatever within the government. The transformation from governance to good governance is possible, if there is possibility of increasing participation of people in governance and free access of information. By realizing this fact, Parliament of Nepal has passed Right to information act, 2007 to make government, accountable, responsible, efficient and transparent. The Purpose of this Study is to analyze the RTI implementation practices, effectiveness, assess the challenges for exercising RTI in Nepal and to evaluate the public response on RTI. For this, the researcher has applied both quantitative and qualitative methods. In addition, Survey, Questionnaire and Interview in each administrative unit of all Municipalities of Kathmandu has been used as data collection techniques. This research article can be concluded that among the entire respondents were more aware about the RTI and its provisions. It shows that media persons have better knowledge than others groups of the society. After the media, common people were also aware on RTI issues. It proves that Nepalese bureaucrats possess least knowledge among the surveyed groups on RTI issues and provisions.

Key Words : Implementation, Principles of RTI, Awareness, Effectiveness and Challenges.

Introduction

Information is valuable source for problem solving, decision making, education and knowledge updating, has no boundaries. It has played significant role for the overall development of the societies since ancient time. Information is the heart of the democracy and public freedom acknowledged as the fundamental Human Right in civilized society. In 1946 declaration of United Nations General Assembly Resolution documented Right to Information (RTI) as a "Freedom of information is an essential Human Right and the standard of all the freedoms to which the United Nations is holy." As per Universal Declaration of Human Rights (UDHR) 1948 adopted RTI under Article 19 as "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." By the same token, in Article 19 of International Covenant on Civil and Political Rights (ICCPR) explain RTI as "Everyone shall have the right to hold opinions without Interference" (Neupane, 2018).

The right to information is literally associated with the citizen rights to demand and receive information from public bodies. The right to information is most commonly associated with the right to request and receive information from public bodies in regard to the matters of public importance. It provides citizens the opportunity to observe the behavior and result of the public bodies in regard to public service delivery and maintaining accountability and transparency. Access to public records is an essential requirement for a modern government, especially in a democracy. The democracy expects openness and openness is a concomitant of free society. The openness is possible only when the 'right to know' is exercisable by the people. In a democratic set up the people are sovereign, they have right to know what their representatives are doing. Hence, information is indispensable for the transparency and accountable functioning of a true democratic government. It provides an important guard against abuses, mismanagement, corruption and corrupt practices. It is also beneficial to the governments as openness and transparency in the decision-making process assist in developing citizen's trust in governmental actions and maintaining a civil and democratic society.

Over the last two decades, several developing countries have adopted right to information (RTI) laws, bringing the number of countries with such laws to more than 125. But empirical evidence on how effectively RTIs have worked, whether they have been effectively enforced, and if they have had any impact on improving accountability, is limited. This note examines how RTI laws have worked in different country contexts, drawing from an analysis of their implementation in different countries. The experiences of these countries show that implementation has faced challenges across countries, but has been especially difficult in countries where the broader governance environment is weaker on dimensions such as the rule of law, government effectiveness, voice and accountability, civil liberties, and political rights. During the implementation phase, with the erosion of the initial political momentum behind the law, the incentives for officials to comply with the new legislation also tended to erode, resulting in efforts to undermine the law. The evidence suggests that as countries with challenging governance environments and capacity limitations adopt RTI laws, they will need to both devise implementation solutions that can adapt to these limitations and undertake complementary initiatives to strengthen their broader governance environment.

Problems

Nepal enforced the RTI law in July 2007, which has been considered as the most powerful right of the people. But, despite the necessity and expected speed, it has not been implemented properly. Mass Media, Media professionals or the journalists as well as Social organizations, organizations related to people's rights, organizations against corruption and citizens are demanding public information rapidly but the government agencies are not ready to provide proper, accurate and balanced information. Comprehensive compromise provision has not managed yet.

Objective of the study

- To analyze the implementation Practices of RTI act 2007 in Nepal

- To explore the expectations, effectiveness and challenges for exercising RTI act in Nepal.

Methodology

This study has based on both quantitative and qualitative research methods. In addition, Survey, Questionnaire and Interview in each administrative unit of all Municipalities of Kathmandu district have been used as data collection techniques. Information officer and one public beneficiary from each municipality are the respondents who have been selected based on purposive sampling method. There exist 10 Municipalities and one Metropolitan city in Kathmandu District. So, sample size of respondents of the study is twenty two among them eleven information officers and eleven public or beneficiaries from each office of the municipality executive and it's surrounding. The sources of data were used both primary and secondary.

RTI and Existing Legal Provision

Right to information is guaranteed by Article 27 of the Constitution of Nepal 2015, Right to Information Act 2007, Right to Information Regulation 2009, Classification Guideline issued by the Classification Committee formed pursuant to Article 27 of the Right to Information Act. Apart from these instruments, a number of other statutes regulate right to information. Constitution of Nepal, 2015 in its article 27 has ensured Right to Information as the fundamental rights. It provides citizen the right to demand or obtain information on any matters of concern to the public. However, it does not compel to provide information which is to be protected by the law. Section 3 and 30 of Right to Information, 2007 has empowered Nepalese citizens to exercise this right to obtain information of public importance and individual concern, respectively. This Act has also made a separate provision for the classification and protection of the information in its section 27 and 28. Protection of the whistleblower and the requirement of proactive disclosure by the public agencies are considered as the remarkable provisions of this Act. Right to Information Regulation 2009 A.D was adopted in accordance with the section 38 of the Right to Information Act, 2007 for the implementation of the right embedded in the Right to Information Act, 2007.

Result and Discussion

This study has tried to explore the awareness level of the RTI among the stakeholders of Kathmandu as a sample survey. For this purpose, Information officer and one public beneficiary from each municipality are the respondents who have been selected based on purposive sampling method. Eleven information officers and eleven public beneficiaries are the sample respondents of the study.

Status to Right to information

Table 1: Status and Awareness to Right to information

Response	Frequency	%
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Information is the right of people	15	68
Public authority should respect and protect people's rights	11	50
Public body should publish timely information	15	68
RTI has been provisioned as a fundamental rights of people	10	45
Nation should provide right to information to the citizens without any intervention.	15	68
The information which is under the investigation procedures should be secret	11	50
Every people should have access about the information on public affairs.	10	45
We can ask/seek any information from any government authorities when needed.	15	68
Transparency, disclosure, confidentiality and the role of NIC is discussed in the RTI Act.	8	37
File the case for not receiving information	11	50
Any person can file the case if they do not receive information in the matter to the information officer as well as NIC office	10	45
Security areas information are prohibited to expose	8	37
Utility of information	7	32
Information should be received as per the necessities	10	45

The above mentioned table shows that Nepalese people have less knowledge about RTI but they have known that information is the right of the people which public authorities should give due respect and they should also fulfill their duties as per the requirements. It is also found out that the general people are not habituated to seek information from the concerned public authorities.

Usage Practices of Information

Table 2: Using Practices of Information

Seeking practices of Information	No. of Respondents	Percentages
Yes	10	45

No	12	55
Supplying/disclosing practices of Information		
Yes	14	64
No	8	36
Facing Problems in Getting Information		
Yes	11	50
No	11	50
Satisfaction Regarding RTI Law		
Yes	12	55
No	10	45

The table mentioned above shows that less than half, which is, 45 percent of the respondents prefer seeking information about the RTI Act. It shows that generally in Nepal, more than half of the people are not habitual to seek the information. Likewise, 64 percent information officers use to supply the information of public agencies to the citizen by using RTI act 2007 and rest of the information officers are not ready to disclose the information as per the citizens' demands. Similarly, 50 percent respondents said that they are facing problems for getting information from public institutions.

While conducting survey, 55 percent respondents including government authorities and common citizen are satisfied by the using practices of RTI Law while rest of the respondents are not satisfied in the process of RTI law implementation.

Awareness among the people on Sample municipalities

Most of the people mentioned that government should design suitable curriculum from the school level to the college level to make good practices of RTI in Nepal. They said that people has to be aware to enjoy their rights including RTI for demanding information to their concerned. The participants said that social campaign is necessary to get RTI rights. They said that central media and local media should mobilize equally for its expansions. Most of the people said that there is need of active participation of local intellectuals for its utilization. Political parties have to train its leaders on RTI issues for its proper implementation. They said that it is necessary to train information officers as well.

Table 3. Awareness on people

Particulars	No. of Respondents	%
Knowledge on Right to Information (RTI) Act of Nepal, 2007	20	90
People's awareness on Right to Information	15	68
Authority asking for justification	14	67
Receive communication of denial	10	64
Knowledge of the people on existence of international instrument of RTI	15	68
Problems faced in getting the information	12	55
People use this Act to seek information	10	45
Professional organization to exercise RTI	20	90
Aware about some of the provisions of this Act	12	55
Satisfactions of the people towards the information provided by the authority	6	27
Information received from the authority	10	45
Information received on time	18	82
Accurate information received as per the demand	12	55

Principle and Practices of RTI Act in Nepal

Article 27 of our constitution guarantees every citizen the right to seek and receive information on matters of public interest, unless secrecy of information is protected by law. Right to Information Act 2007 and Right to Information Rules 2009 require public bodies to disclose 20 types of different information proactively, including the obligation to publish essential information about each body, its functions, services, decision-making processes, details about Chief and Information Officer and financial information about the body. The information must be updated every three months.

It also grants the citizens the right to demand information on any matter of public concern. But the Act does not compel the public offices to provide information which is to be protected by the law. It goes without saying that information is important for good governance. The government should disclose the information without any public demand because accountability always promotes openness and accountability of the government system. Democratic system always follows a principle of open government. People have the right to know and analyze every action of the government.

This is why implementation of RTI Act must be a priority of all, including the political parties, the government agencies and the non-government organizations. The government agencies should adopt a principle of sharing maximum information with the public. This

promotes clarity, transparency and accountability in administration by making government more open to public scrutiny. Right to information is expected to magnify the standards of decision making by public authorities, in both policy and administrative matters by removing unnecessary secrecy surrounding the decision making process.

Civil society should actively work in promoting and maintaining the soul of Right to Information Act. But some civil societies seem to be unaware about the right to information and their obligations under RTI Act. Many of them are not clear about the procedures that need to be followed in order to exercise RTI.

General perception is that the RTI law is mainly for the media, which has resulted in general public not exercising RTI Act. A responsible civil society must be clear about what is there in RTI Act and what they should do to fully implement it. This is important because irregularity and corruption decreases if citizens' access to information increases. Undisclosed information always increases irregularity. Countries with autocratic government system are more corrupt than those with liberal, open and democratic system because in the former people have no access to information.

Sadly, in Nepal RTI has not been internalized as a cross-cutting issue by its stakeholders, mainly due to the misconception about the Act and due to the lack of proper knowledge related to this Act. Commitments have been made but they have not translated into action. This shows RTI is still not a priority of the government and public agencies. Lack of qualified human resources at the government offices at the district and local government level has made the matters worse.

Nepal has strong Right to Information Act, but its implementation aspect is very weak. Lack of awareness among people about the Act, partial understanding and tendencies of not seeking information have remained major obstacles to fully exercising RTI in Nepal. Thus all three levels of governments along with civil society organizations and general public should focus on RTI Act to ensure economic prosperity and good governance. Realizing the importance of right to information, our laws have ensured the provision of proactive disclosure, making it mandatory for public agencies to disclose information of public importance without hesitation. Public agencies should comply with these laws.

Major Findings

- RTI implementation in Nepal is affected by the political system of the government.
- Political commitment is not sufficient for the effective implementation of RTI in the context of Nepal.
- Many journalists, human rights activists, and general public still face challenges, even threats, while seeking information.
- National Information Commission has to focus on conducting a massive awareness campaign to educate the citizen about the RTI Act which can encourage citizen to participate in RTI activities.

- Local development authorities has not given focus on underprivileged group in Nepal regarding the practice of the rights contemplated under the RTI Act.
- The civil society organizations have been working for RTI campaigns through mutual efforts connecting government, civil society and media to make certain that people are attentive of their right to information and the procedures for its proper exercise.
- Implementation body has not "Proper RTI Plan" to make it accessible for the people.
- Suitable RTI campaign needs to be developed for enhancing knowledge on national and international issues on RTI and its phenomenon.
- People are facing many problems to get information using the normal channel.
- General People are not habituated to use this Act to seek information from the concerned public authorities.
- Many of citizen are not clear about the procedures that need to be followed in order to exercise RTI.

Conclusion

RTI is a major instrument to bring social change and transparency in the administrative system. The participants said that it is necessary to provide factual information as general public should be conscious about their right to receive information. RTI enhances the quality of service delivery. The basis of good governance is open and free delivery of information. Transparency, accuracy, accountability, good governance, impartiality and people's participation on government activities are the fundamental obligations of the bureaucracy in Nepal.

More than a decade after RTI Act's implementation, many journalists, human rights activists, and general public still face challenges, even threats, while seeking information. We often read about such threats in the newspapers. Unless, the state ensures that people exercise their right to know, we cannot realize the vision of open and accountable governance.

References

- Agrawal, C. (2012). Right To Information: A Tool for Combating Corruption in India. *Journal of Management and Public Policy*, 3(2), 26-38. researchgate.net
- Angel, W. (2006). *Global Sourcebook on Right To Information*. Kanishka Publishers.
- Article19. (2016). *The Public's Right to Know: Principles on Right to Information Legislation*. Article19.
- ARTICLE19. (2017). *Open Development : Access to Information and Sustainable Development Goals*. www.artcle19.org
- Bohora, S. (2013). Right to Information Act: A Key to Good Governance. *International Journal of Humanities ans Social Sciences* , 11.

- CCRI. (2015). Tool of Change: Success Stories Derived by the Use of Right to Information. Citizen's Campaign for Right to Information (CCRI).
- Dahal, T. N. (2010). Freedom of Information as a Tool for Employment, Enabling Protection and Achievement of Other Rights. World Press Freedom Conference in France. UNESCO.
- FF. (2015). Empowering Citizens through Right to Information: Success Stories from Nepal. Freedom Forum .
- GN. (2007). Right to Information Act. Government of Nepal.
- GN. (2008). Right to Information Regulation. Government of Nepal.
- HMG. (1990). Constitution of the Kingdom of Nepal 1990. HMG.
- Neupane, M. (2018). Implementation of the Principles of Right to Information in Nepal. Social Science Research Network, 23.
- Sharma, P. (2012). The Right To Information Act in India: The Turbid World of Transparency Reforms. The London School of Economics and Political Science. Unpublished PhD Thesis. <http://etheses.lse.ac.uk/579/>
- UN. (1946). United Nations General Assembly Resolution. United Nations. <http://research.un.org/en/docs>
- UN. (1948). The Universal Declaration of Human Rights. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.
- UN. (2016). UN General Assembly Resolution 59(1). United Nations.