

Right to Information in the Himalayan Countries: The Nepalese Initiative

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To be informed is to be enlightened: a woman participant expressing her views at a regional workshop

Freedom of information laws, which include the right to access state held information, have existed for more than 200 years but few of these laws are more than 20 years old. Their history can be traced back to Sweden where, in 1766, the Parliament passed the Freedom of the Press Act, which required the disclosure of official documents upon request.

Colombia is another country with a long history of freedom of information legislation, where the 1888 Code of Political and Municipal Organization allowed individuals to request documents held by government agencies or in government archives. The concept of freedom of information has changed to right to information (RTI) in recent years.

RTI has both a governance as well as a rights perspective. Correct information at the right time reduces the chances to misuse resources and lessens corruption. It also helps governance systems function better, holds service providers accountable for their actions, and creates a participatory and transparent environment for people to contribute to policy formulation and the rule of law. It also gives people a legal right to demand entitlements and monitor the use or misuse of funds meant for the public good.

The right to information regime is also a means for government to empower and inform the poor about pro-poor policies and social security programmes. Public as well as private bodies, corporations, NGOs, and international institutions performing a public function that affects public rights and influences the destinies of millions should all be made responsible for providing information.

Right to information in the Himalayan region

The concept of right to information started simultaneously in several countries of the Himalayan region in the 1990s. But India is considered the pioneer in moving forward and implementing the RTI law. The Indian RTI movement, originating from Rajasthan, is well known and has attracted stakeholders in many



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Participants discussing local level activities to promote the right to information

countries, demanding the right to information. The demand for an RTI law has taken the form of a mass movement at the grassroots level in India, with a strong advocacy component.

Nepal's Interim Constitution of 2006 has made a provision on the right to information in Article 27, under the chapter on Fundamental Rights. However, the lack of a specific statute has impeded people from exercising this fundamental right.

The government passed the law in May 2005, which came into effect in October 2005. The law is regarded as a radical measure in India and contains clear rights for those requesting information and has in place a strong enforcement mechanism. Under the Act, information concerning the life and liberty of a person is required to be provided within 48 hours, and other information within 30 days. The Act's most commendable part is its enforcement mechanism. A commission in each state has been created headed by a high profile chief information commissioner as main arbitrator to oversee compliance.

In Pakistan, the Freedom of Information Ordinance was promulgated in October 2002 to provide transparency and freedom of information to all. According to the ordinance, Pakistani citizens have the right to access public records. There is widespread criticism that the ordinance has broadly defined exemptions and makes accessing information extremely difficult, however. It

does not override the Official Secrecy Act and applies only to federal records and not provincial and local records. Nearly all records may be exempted from public access by classifying them as important for national security.

In Bangladesh, there is no specific statute dealing with the Right to Information. The Bangladesh Law Commission has drafted a working paper on the Right to Information Act in 2002, but little is known of its present status. There is information that the draft Act is with the Ministry of Information for further review. Apart from these two countries there are no specific RTI law initiatives in the other Himalayan region countries such as Bhutan, Myanmar, China, and Afghanistan.

The RTI movement in Nepal

Nepal's 1990 Constitution was the first to guarantee the right to information as a fundamental citizens' right. Article 16 of the Constitution provides everyone the right to be informed on government or non-government public activities, except when the law explicitly says otherwise. The current Interim Constitution of 2006 has made a similar provision on RTI in Article 27, under the chapter on Fundamental Rights. However, the lack of a specific statute has impeded people from exercising this fundamental right.

The struggle and movement for an RTI law in Nepal was led by the media community in Nepal in the beginning. After the restoration of democracy in 1990, the government submitted a draft RTI bill in Parliament in 1992, but withdrew it after strong opposition to the bill. In 2000, the Federation of Nepalese Journalists (FNJ)

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and Nepal Press Institute (NPI) renewed the initiative to constitute an independent 10-member RTI law drafting team comprising media experts, lawyers, government officials, and members of Parliament. The team crafted and submitted a draft bill to the government, which in turn submitted the draft to Parliament, but like the bill submitted by the Law Reform Commission the effort failed because of disruptions in the operation of Parliament.

After the successful people's movement of 2006 and the restoration of the Parliament, the move to enact an RTI law regained momentum. The Freedom Forum submitted a demand letter for the immediate promulgation of the RTI law in Nepal to the Prime Minister, the Speaker of House of Representatives, and the Minister for Communication and Information. The government scheduled the bill for discussion in Parliament but had to withdraw it in mid-stream because it failed to incorporate some important features and principles of RTI. Thereafter, a taskforce was constituted to review the draft bill. The taskforce submitted the bill to the government, which made some alterations prior to putting it for Parliamentary review. Currently, the bill is in the interim Parliament.

The RTI movement in Nepal is spearheaded by the some organisations active in this field. ICIMOD, considering the importance of sharing good practices of member countries, organised a regional workshop in Rishikesh to share the experience of the India RTI movement. Representatives from four countries of the region (India, Nepal, Bangladesh, and Pakistan) participated in the workshop.



A discussion group among women in Palpa, western Nepal

The Nepalese participants of the Rishikesh workshop finalised a work plan and committed to advocate and lobby for the passage of the RTI law. They formed a 'Citizen's Campaign for Right to Information' (CCRI) to initiate the movement's activities. CCRI is a loose network of international and local NGOs, professional organisations, and experts working and interested in the subject. Freedom Forum is coordinating the campaign.

Various initiatives have been started by CCRI since 2006. The Freedom Forum organised a workshop on the RTI in October 2006 and published the draft bill for dissemination to the public. The Forum has also developed advocacy materials such as leaflets, posters, and banners promoting RTI. Currently, the Forum organises regional workshops in different parts of Nepal and a national workshop is being prepared to be held soon. The primary objectives are to raise the awareness and advocate for a pro-people right to information law.

Conclusion

An RTI law will most likely be promulgated and implemented in Nepal in the near future to achieve inclusive democracy for its citizens. However, broad sections of the society must be made aware of this legislation and strong enforcement will be needed for the law to be effectively used. Without such a mechanism, the law will only be on paper. Learning from the examples of other countries where an independent commission has worked wonders in assisting people to get information and address grievances when access has been denied is necessary.

Merely passing a bill will not do justice to information seekers until the bill-turned-law is implemented with conviction. But laws alone cannot create a climate for a democratic way of life. A law for the right to information can be effective only through people's active involvement.