

## NEPAL: FREEDOM OF INFORMATION AS A TOOL FOR EMPOWERMENT, ENABLING PROTECTION AND ACHIEVEMENT OF OTHER RIGHTS

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Freedom of information is lately recognized as citizen's right as compared to other fundamental rights in Nepal. It has been around two decades that the state acknowledged people's access to information as fundamental right with the adoption of the 1990 constitution. The Right to Information (RTI), despite being guaranteed since 1990, was only given effect in July 2007 with the adoption of the RTI Act 2007 in Nepal. The Parliament of Nepal passed the Act in July, 2007 to give effect to the people's fundamental right to seek and receive information on any matters of public importance held by public agencies.

The RTI Act is the outcome of approximately one-and-half decade of the movement for the RTI in Nepal led by media fraternity and civil society organizations. The 1990 Constitution of Nepal enshrined freedom of information as a fundamental right to its citizen with immense pressure on the part of media and civil society organizations. This marked immense progress in the enforcement of freedom of information in Nepal. Nevertheless, Nepalese citizen could not substantially exercise this right as tools for empowerment and enabling protection and other rights.

In addition, their efforts are also indispensably seen for the establishment of National Information Commission (NIC)-an independent body for the promotion, protection and practice of right to information on June 14, 2008 as well as on the ratification of Right to Information Regulation on Feb 9, 2009. All in all, the role played by Nepalese civil society and media is remarkable in institutionalizing freedom of information and establishing open and fair freedom of information regime in Nepal. Its promotion, protection and practice are the foundations of free, transparent and democratic society in Nepal.

Freedom of information undoubtedly plays significant role towards promotion and protection of interests of an individual and of the society to the larger extent. As freedom of information and promotion and protection of rights are inalienable parts of modern democracy, both subjects should never be seen and interpreted separately. In fact, both are the bedrock of the nation to sustain its democracy.

Media, as being the crucial part of freedom of information, has immense role to play in Nepal. During past, media has played significant role such as in the case of Humla famine and others which are identified as case studies in this study.

The role of the media in strengthening the demand side of the Right to Information Regime is important. The media occupies a critical place in the governance process. A vital part is its role in disseminating critical messages to the public and highlighting issues/concerns/ initiatives. It promotes Good Governance by facilitating people's collective action for attaining sustainable socio-economic outcomes.

A direct relationship exists between right to information, an informed citizenry and good governance; RTI provides citizens the opportunity of being informed of what government does for them, why and how it does it. The media plays a significant role especially in empowering citizens, informing them and playing a catalytic role in providing a voice to the voiceless.

In context of Nepal, the role of freedom of information may vary depending on the context and content. Notwithstanding, it is commonly agreed that it has a wider role to play in establishing open and transparent society, fulfilling peoples' interest and enabling mechanisms for sustainable democracy.

#### **❖ Changing conventional practices**

Nepal has been significantly witnessing political changes. It is still emerging as a democratic state and has been trying to shift its non democratic practices with the democratic ones. One of the major challenges has been the conventional bureaucratic and governmental mechanisms based on non democratic and reserved attitudes, reluctance for easy and timely services, and unwillingness to disclose information. With stronger media and their continuous pressure they can play a crucial role in assessing the policies and actions of the Government. It enables bureaucracy and governments channels to institutionalize democratic and open practices in their services.

#### **❖ Dissemination of information enabling participation and strengthening public voice**

Regular functions of media such as free flow of information, awareness raising, role of watchdog and access to information are vital to the functioning of a democratic government. It has even more crucial role to play in a nation like Nepal which is still striving to embrace democratic practices. No nation can claim itself to be democratic one if its system is hidden and veiled by corrupt practices. People do not know what is happening in their society if the actions of those who

rule them are hidden. Then they cannot take a meaningful part in the affairs of the society.

Modern democracy is largely based on ideals of informative and open government agencies where media has spectacular role. Modern democracy has shifted its paradigm from a mere voting to participation in the decision making. Through regular dissemination of information from media about government activities people can update and take prompt action and decision on those activities. Media is universally accepted as a 'watchdog' of the state. However, through dissemination of information they can educate, inform and create opportunities for participation of people which ultimately strengthens public voice to act like a watchdog. Access to information not only facilitates active participation of the people in the democratic governance process, but also promotes openness, transparency and accountability in administration. Nepalese people are still facing problems due to corrupt practices, mal governance, delay services etc which can be monitored and ratified by empowering people through regular information, news and correspondence on such problems.

#### ❖ **Empowering backward sections of people**

A large section of Nepalese people are backward in terms of social, economical and political aspects. One of the major reasons behind this is lack of awareness. They are unaware about their rights, remedies, facilities etc. Media as guardian of freedom of information can help by disseminating accurate information in order to secure people for their rightful entitlements. People are facing problems of poverty, starvation and basic medicine facilities due to lack of government's initiative and failure to fulfill its duty. Media can enable people to have access to government programme, make people aware of political issues and also help educate people on social, economic and environmental issues etc.

#### A case study:

In the case of killing of 170 local people in remote Humla district, including other parts of far-western due to famine and starvation, news reports were widely covered in print and electronic media.

#### Impact:

With the coverage of famine news in the newspaper and FM radio, a Public Interest Litigation (PIL) was filed by one of the advocates in the Supreme Court, asking the government take immediate action to solve problems created by the famine. The Supreme Court took the matter seriously and recognized it is the

duty of the government to supply adequate food in keeping with the obligation of the state to uplift standard of livelihood of people under the directive principles of the state enshrined in the constitution. News published regularly in the newspaper helped identify the lacking from the government in serious matter of right to food which obliged government to uplift the standard of living of the people.

❖ **Enabling local and backward sections of society:**

At present, Nepal is failing to address the demands of different backward sections of the society such as Women, Children, Youth, Dalit, Marginalized, Madhesi, Muslim etc. Among several reasons for this situation, one of the serious reasons is lack of development of proper mechanisms by which people from such communities can have their legal and necessary representation in the government. Media in the forms of F.M., news and other communication can be used as a tool of such mechanism from which people can have direct access with government and local agencies.

Community communications promoting access of information can enable people to know about their rights and remedies. It enables them to know about government's policies, plans and program of action and ongoing developments and local media can cover the issues and can empower people to take actions against it. Community radio programs are relevant in contemporary Nepalese situation where it can voice the interests of such backward communities and create pressure on government.

A case study:

Advancement of the Community Radio is one of the remarkable developments happened over the last two decades in Nepal. Around 200 community radios have been established throughout Nepal, geographical situation of which make it difficult for other media such as newspaper and television to reach people. In most cases such community radios are established with efforts of local citizenry and civil society, and they address local issues along with rights advocacy. Programs on children, mother, youth etc such as issues of right to education, maternity issues and many more domestic issues are prioritized. It has not only been able to advocate and educate people but also enabled them to know about their rights and remedies.

Impact:

Palung, one of the popular areas of Nepal in terms of agriculture has a good experience to share. There is a local/communal radio airing news related to different issues. Lately, it broadcasted daily market price of the vegetables produced there but sold in local markets of Kathmandu District, Capital city of Nepal. Vegetables were being sold in Palung at Rs.3/K.G. whereas, when the same goods was transported to adjoining district it was found to be sold on Rs. 20/K.G. It raised awareness to the local farmers of Palung and helped increase agricultural pricing and ultimately helped raise their life standards.

#### ❖ **Uplifting NGOs and CSOs as a tool for development**

Utilization of the Act by Civil Society Organizations (CSOs) assumes considerable importance in the governance process and as a bridge between the community and public agencies. CSOs can not only play an important role in monitoring public service delivery through garnering wider participation of citizens but also in generating awareness, advocating and creating critical mass to put pressure to check possible corruption in the public agencies and bodies.

Access to information not only promotes openness, transparency and accountability in administration, but also facilitates active participation of people in the democratic governance process.

Civil society can use freedom of information as a mechanism to strengthen citizenry and engage their direct role in governance. By adopting freedom of information as a tool with the support and coordination of the media and journalists the NGOs and CSOs can play significant role in development areas of individual and social interest.

#### A case study:

In order to check the activities of public authorities, one of the NGO, Freedom Forum submitted an application at the Office of the Prime Minister and Council of Ministers (OPMCM) on November 10, 2008, demanding information regarding the amount deposited in the PM Natural Disaster Relief. The NGO concluded that that the government had misused Relief Fund of Koshi flood victims. It mentioned that that the government granted the fund for other purposes and in other districts as well. Government had approved 2.5 billion for the Koshi embankment reconstruction. But without furnishing the justifiable reason, the government had provided some 10 million rupees from the Fund to other districts.

#### Impact:

After revealing the fact, Koshi flood victims took their protest to a new height. Panchanarayan Mandal, president of Koshi flood victim struggle committee, said, "They were not getting relief fund as per the budget granted in their name. Koshi Flood victims had launched fresh protest with the demand of transparency." This is just an instance which illustrates the fact that right to information can be used as a tool to check the wrongdoers of the government.

### LGCDP: A Case Study

Freedom Forum demanded information about the Local Governance and Community Development Program (LGCPD), developed with a motive of performing national activities on the basis of the principles of good governance and co-ordination.

The application filed on March 15, 2009 sought for the detail Information about the concept of LGCDP program and the copies of the related guidelines, fund collected from Nepal Government and other various bodies, policy bodies and their responsible officials and representatives, officials designated to implement the program and their responsibility, duty and working area among others. It also demanded further information with the LGCDP.

### Impact:

After receiving the information, Freedom Forum coordinated with and provided the information to the media and a number of newspaper articles were produced based on those information. It helped citizens group at many locations to monitor the disbursement of funds under this project.

The civil society organizations have also not expanded their role in promoting RTI culture in Nepal despite its strength to engage citizenry in this movement. Its efforts are not focused on making people aware on the use of RTI connecting it with different areas such as governance, livelihood, transparency and civil rights. The civil society organizations are the change agent having capacity to develop critical mass but it is not being done substantially. Civil society could use RTI to strengthen citizenry and engage their direct role in governance.

### **❖ Empowering citizens**

It gives voice to the needs and aspirations of the people and provides them access to relevant information. When people lack voice in the public arena, or access to information on issues that affect their lives, and if their concerns are not reasonably reflected in the public domain, their capacity to participate in democratic processes is undermined. In recent time in Nepal, the access to

information and accessibility of information has increased with growth of print and electronic media as well as with the Internet. Media has been empowering Nepalese citizens in recent days through different mediums. However, it needs to empower people who do not have access towards electronic and print news. In Nepal there are numerous places out of the reach of media. In such areas possible forms of media must function so that it will be able to empower the people.

In many cases media can be a tool to get the remedies when their voices are unheard and they are discriminated and exploited in different forms. Especially in societies like Nepal which is deeply rooted in orthodox and anti human-rights social activities media can be a tool to get remedies when rights are violated. Nepalese media have been prominently covering anti social issues such as child abuse, witchcraft instances etc which have provided justice to the victims.

*A case study:*

Puspa Karki, teacher at Primary Secondary School in Kailali district gave information to the media about the unconstitutional and illegal activities of the school on September, 2009. She informed media that some teachers were giving marks arbitrarily without examining the answer sheets of so-called lower caste students and school administration was acting indifferently despite having knowledge on such practices. After the disclosure of such practices in the media with her help, school administration stopped her remuneration, decided to transfer her to another school without any other reasons and even restricted her not to make attendance. She filed an application to the National Information Commission to know the details of the decision regarding her.

*Impact:*

The commission decided in favor of her and ordered the school to submit written answer with the reasons of making such decision within seven days and also ordered school to provide remuneration and count her presence during the period when she was not allowed to be served. This is one of the major examples of the protection of whistleblower after the promulgation of right to information law in Nepal. Such example will help civil-servants come forward to inform about mismanagement in the public agencies and help in the establishment of other rights, in this case of right to fair and equal treatments in the school.

❖ **Enhancing quality journalism**

Undeniably, Nepalese Media has been playing positive roles for the ensuring open, transparent and democratic society. However, it still needs to accommodate itself with professional journalism based on investigative journalism with facts and evidences. The reporting in media is still guided from the culture of 'verification' through telephone and traditional means which may at times be not factual. It may convey wrong message and ultimately may create adverse impact on any situations. Due to media indifference regarding the utilization of the Right to Information Act and many other developed principles which could be a tool to assist journalists to find accurate, balanced and credible information, people have not been motivated to use this Act and enjoy access to information. It has not been used as a catalyst to seek more information and promote investigative journalism in Nepal.

Therefore, it is an apparent need that Nepalese media shall update and revise its practices so that it can be more trustworthy and be oriented towards fact. For this, enhancement of journalist and media education needs to be undertaken so that it helps achieve interest of an individual as well as of society from the media.

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