

Freedom of information as a tool for empowerment

Providing citizens access

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Access to information and the ability to share the information can empower the people, regardless of who and where they are. Information can mobilize, increase transparency and accountability, and it is a stimulus to participation, active citizenship, life long learning and social change.

Freedom of information or the right to information is a fundamental right in protection of freedom of expression. Freedom of expression is defined as the universal right to access information held by public bodies. Freedom of information laws reflect the fundamental premise that all information held by governments, governmental institutions and local authorities is in principle, public.

The Universal Declaration of Human Rights has in its Article 19 laid emphasis on the freedom of expression. Freedom of information is intimately related to the rule of law. Citizens- whoever they may be-have to know their rights and know how to use the judicial system in order to secure them. It is not enough that individual rights exists, people must be able to enjoy and make use of them.

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 a fundamental right with the adoption of 1990 Constitution. The Right to Information (RTI), despite being guaranteed in 1990, only came to effect in July 2007, with the adoption of RTI Act 2007. The parliament passed the act in 2007, thus giving effect to people's fundamental right to seek and receive information on any matters of public importance held by public agencies.

The RTI act in Nepal is the outcome of struggle and movement of the media and press fraternity which was led by Federation of Nepali Journalists successfully. The 1990 Constitution of Nepal enshrined freedom of information as a fundamental right of a citizen which later marked immense progress in the enforcement of freedom of expression in Nepal. But unfortunately, Nepali people could not exercise this tool as a means of empowerment for themselves

The establishment of National Information Commission has also supplemented to the protection and promotion of Right to Information Act. Though Federation of Nepali Journalists time and again has advocated not keeping the Information Commission toothless, but turning the commission into a constitutional body which would help even more in the promotion and protection of Right to Information Act. The role played by civil society in Nepal and the media sector is definitely remarkable in

institutionalizing freedom of information and establishing open and fair democratic society as well fair freedom of information in Nepal.

Media which is very much influential in Nepal has to play more substantive role for the protection and promotion of freedom of information. Media has been playing a very important and crucial part in each of the movement and struggle of the country but its role in the context of freedom of information has to be more substantive. Media's active role in disseminating critical, observatory, analytical, on issues can help the government to function smoothly and transparently. In other words, media can help a culture of good governance to grow.

Society as a whole can benefit when government and authorities act in a simple and straight forward manner in compliance with the principles of freedom of information. A trustworthy service to the people can be delivered if the appropriate and well implemented legislation is followed. Similarly, a civil society can also benefit when citizens have the capability to request information and then use the information for their benefit and well being. Likewise, when free and independent media report information of relevance to people's lives, it can create public debate which eventually can turn up for the good of the society.

It seems that the political sphere and the bureaucracy were threatened by the all round pressure and they got the bill passed and implemented. The bill was made with high hopes by the political parties, but now when the time has come for its implementation, they don't seem to be supportive. Government's duty does not finish off by bringing out the related law and regulations. A democratic country has following obligations related to the right to information:

- a) Fulfill the request of its citizen to receive information.
- b) Provide certain information to the public even in the absence of the request.

Although the law has assigned these duties to the government, it has not carried out those duties. No public bodies have done anything to make information that need to be public by default and those that need to be updated every month.

The state has also not drawn its attention to the management aspect so that the bill on right to information is easily implemented. Information management is in itself a difficult process and there has been no program and policy to bring in the required investment and develop manpower.

Data shows that in India itself after the bill on Right to Information was issued 16 lakh people sought information within two years.

There is a feeling that the state who has the authority to implement the rules and laws of the country is somewhat lacking in promoting and protecting the Right to Information Act. As mentioned earlier, there has been very little done by the state in its promotion. Moreover, the trend of seeking information from the authorities is also not there among the common people. General public should not have this kind of attitude and they should be made aware about their rights which are there in the Right to Information Act. People should be told about the act and their rights and duties which are incorporated in the act. Similarly, the state holds the maximum obligation of

informing the general public about right to information. But it has been found that there is very little done by the state on this regard. The flaws and negative aspect of the Right to Information Act can also be a matter of discussion. According to the Act, government employees have the right not to issue some information as per the categorization of the information. This provision is totally against the international norms and practice which has to be reconsidered.

In order to practice and promote right to information, citizens of the country should be aware and well informed about the right to information. In country like Nepal where the literacy rate is poor, public awareness on the issue becomes even more relevant. Marginalized groups that are illiterate, poor and vulnerable women, youths and other groups of the society suffer due to lack of information access. Federation of Nepali Journalists, Freedom Forum, Article 19, IFEX and Information Commission have done lot of promotional programs in the past on Right to Information and currently Federation of Nepali Journalists with the assistance of Information Commission has been implementing public awareness program in almost 50 districts of the country among which programs on 30 districts have already been completed and FNJ is conducting programs in the remaining 20 districts.

The feedback and outcome of the program has been very positive. While conducting the program in some districts, many government officers were found ignorant about the act. FNJ also found that in other districts after the conclusion of the program, the Chief District Officers, immediately appointed the already serving employee to work as a Communication Officer. Some of the officers in the districts were also of the view that though they had already designated Communication Officer in the concerned offices, no one had approached seeking information. In such situation, again the issue that I mentioned earlier regarding creating awareness among the public becomes more relevant.

Freedom of Information not only relates to government offices but also relates to any public institution therefore, collective commitment from all sides is necessary for its implementation. Allowing access to information makes a person more responsible and obligatory. Freedom of Information promotes accountability, transparency, rule of law and people's participation which are considered as four pillars of the society. In Nepal's context, since the act is in its initial phase of implementation, a proper monitoring system would also be effective to ensure that people have the access to information and they are not being denied to seek information from public authorities.

Freedom of information gives voice to the needs and aspirations of the people and provides them access to relevant information. In Nepal's context, access to information has increased due to the growth of print and electronic media and also due to the growth of internet users and internet service providers. Media has been empowering Nepali citizens in recent days through various mediums. However, it needs to empower people who do not have access to the modern media tools be it print or electronic.

We the media fraternity believe in freedom of expression, occupation and physical security of the journalists, human rights and the rule of law. It has been expanding its prospect to protect the achievements of the historic Jana Andolan 2005-06.

We are firm in our belief that there should be press freedom in the new constitution. Nepali media is aware of the violation of press freedom and freedom of expression by the state. Therefore, it has been a major challenge and need to write the new Constitution on behalf of the people that mentions press freedom as unalterable in its preamble. This is a great responsibility for all of us who believe that press freedom should not be obstructed. Till now, we have been able to include the press freedom in the draft preamble of the new constitution.

We are not satisfied with the efforts made to address the rights of media and press freedom in the new Constitution's Fundamental Right's draft. We have expressed our dissatisfaction over the restrictive and controlling words and phrases used in the draft that is meant to control press freedom, which the policy makers can define at their convenience. Similarly, we have also expressed our differences with the approach that tries to restrict press and media through the Act.

We the media fraternity also holds different views from the system that tried to control press freedom and expression in the name of state of emergency. We have to take firm stance that the rights of press freedom should not be cut down during the state of emergency, rather the emergency needs to be clearly defined.

The new Constitution which will be promulgated any time if not on May 28 should be media friendly so that the future generation does not have to fight for the constitutional right of the press freedom.

The press and media sector in Nepal has been fighting for the professional journalism. Journalists, media persons, and every single person related to press and media have been involved in the struggle against press freedom and freedom of expression. Murder of media entrepreneurs, life threatening attacks on other media entrepreneurs, intentional attacks on journalists Uma Singh of Janakpur, Birendra Shah and JP Joshi of Bara, Tika Bista of Rukum have not stopped the media fraternity to launch struggle and movement in favor of peace, and press freedom as well as freedom of expression. The more the attacks on the journalists, the more it gives momentum to the movement of the journalists.