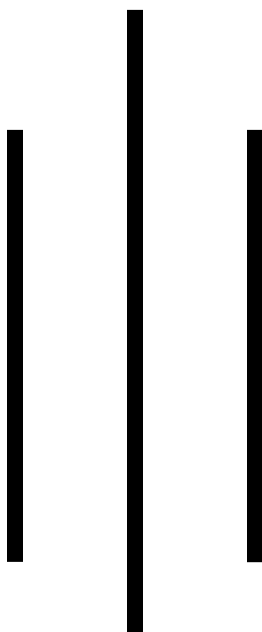


# **National Awareness Campaign on Right to Information**

Project Completion Report on Freedom Forum- ICIMOD collaboration on  
promoting national awareness on Right to Information

**(Project Period: December 2006-May 2007)**



**Freedom Forum**  
May 2007

<b><i>Contents</i></b>	<b><i>Page number</i></b>
a. Introduction and Background	1
b. Activities	1
c. Nature of Regional Workshop	1
d. Presentation, Discussion and Comments	2
e. Explanation, Discussions and comments	2
f. Issues outside the subject	5
g. Immediate Impact	6
h. Participation	6
g. Coverage	6
h. Special Achievement	6
i. Recommendations of Regional Workshop	7
j.. Resolution	8
k. National Seminar and its output	8
l. RTI Checks corruption	9
m. Observation by member of Parliament	10
n. Latest Development	10
o. Conclusion	11
p. Annexes	

# ***National Awareness Campaign on Right to Information***

## **a. Introduction and background**

Right to Information is an effective tool to secure people's rights but no effort has been made in Nepal to ensure this right through an appropriate legal mechanism. Hence Freedom Forum began the initiative to spread awareness on 'Right to Information' and gather suggestions from local opinion leaders all throughout the country.

In this connection, Freedom Forum and ICIMOD Nepal joined hands to work together on promoting Right to Information earlier this year. Freedom Forum, in cooperation of ICIMOD, organized two-day regional workshops on Right to Information in all the five development regions of Nepal as well as a national seminar in Kathmandu during the three and half months beginning the third week of January 2007.

The workshop/ seminars were aimed at raising public awareness on 'Right to Information' as a general concern related to all people, and building positive pressure on the government for introducing an appropriate and truly meaningful 'Right to Information Law' in Nepal.

## **b. Activities**

Under the project, the following activities were accomplished:

- Publication of RTI awareness materials (posters and publicity materials including the draft bill on 'Right to Information' prepared by a taskforce formed by the government.)
- Regional workshops on RTI in all five development region
- National Seminar on Right to Information in Kathmandu

## **c. Nature of regional workshops**

The regional workshop was intensively categorized into four parts--inaugural session, presentation and debates, group works and recommendations. There were altogether four thematic focuses, of which three were working papers dealing with various dimensions of Right to Information and the next was effectively a brainstorming on the recently drafted bill on "Right to Information" which has already been submitted to the Ministry of Information and Communications and is on way to Parliament for legislative procedure.

Usually, the first day of the workshop had inaugural session, followed by presentation of three working papers by the resource persons of the RTI workshops, whereas, the second-day deliberations concentrated on the study and assessment of the proposed RTI bill, its relevance and lapses as well as recommendations for improving it.

Finally the workshops ended, endorsing a set of suggestions and recommendations along with an exclusive resolution in favor of a democratic and people-friendly Right to Information Law in Nepal.

#### Dates of the regional workshops on 'Right to Information

Biratnagar (Eastern Development Region):	19-20 January 2007
Birgunj (Central Development Region):	22-23 January 2007
Pokhara (Western Development Region):	9-10 March 2007
Nepalgunj (Mid-Western Development Region):	29-30 March 2007
Dhangadhi (Far-Western Development Region):	31 March -01 April 2007

#### **d. Presentations, discussions and comments**

The following four presentations provided inputs to all the RTI regional workshops.

***1. Right to Information and Democratization***

by Kashiraj Dahal

***2. Good Governance and Information***

by Taranath Dahal

***3. Right to Information and Means of Livelihood***

by Ranjan Krishna Aryal

***4. 'RTI Draft Bill with a comparative note on the changes made by the government'***

by Kashi Raj Dahal

#### **e. Explanations/ Discussions/ Comments on the Presentations**

- As long as people fail to get access to information, state cannot function in a responsible manner as per the norms and principles of a democratic state, even though it has all the mechanisms necessary for a state.
- Right to Information is concerned not only with the right of the press; it's concerned with the right of all people. RTI is concerned with people's day-to-day life.
- Information and communication are two different things. Analysis and information leads to better understanding and positive growth of human

knowledge. So Right to Information was a relevant issue and such a right must be ensured for citizen's good.

- RTI is essential but we must also be warned against the negative tendencies of the demands for rights. We should no doubt be conscious and remain well updated with information, but at the same time we must also be able to work responsibly. Giving and using information in a responsible and constructive manner is the need of the hour.
- At a time when we are trying to write a new constitution for the nation, to decide our future ourselves, more attention should now be given to share and exercise the use of information for an effective election of Constituent Assembly (CA) and the writing of new Constitution.
- Wider discussion on RTI Draft Bill could not be possible due to constraints of time at the time of drafting it. But still there is time for debate as it is yet to be tabled in the Parliament. On the one side, there is a need for a bill on the Right to Information, and on the other there is also a need for making appropriate corrections or modifications in it.
- The government is also thinking of drafting a similar bill on right to privacy which calls on for a balanced approach. Right to privacy should not go counter to RTI. In a true democracy, laws must be able to support institutional growth of the concepts of accountability and transparency.
- RTI was essential for institutional development of democracy. As such, all service provider agencies, not just the government, come under the purview of RTI. For this, ensuring rights and skill development of those who work to disseminate information is very important. RTI bill seeks to ensure maximum information display in society--not only when people demand it but spontaneously as part of regular work.
- All information, except those that truly and clearly pose threat to national security, people or community at large, should be open and available for the general public. Misuse of information too is crime, which the proposed Bill also tries to address.
- We must be all be responsible while using and circulating information. We ought to ensure that information is used for public good.
- Right to Information was essential for Nepal even to cope with the widespread discrimination in terms of geography, gender and racial consideration. What's more, even as the nation was bracing for a new constitution to be made by people themselves, there were fears that even the future constitution might not address the real issues of nation. Right to Information could clear away many such fears.

- Those who give and receive information should both be sensible enough while dealing with a particular piece of information. The elite and the educated groups had responsible role to play to ensure fruitful use of RTI Act.
- The learned ones were somehow managing to get information but a vast majority of illiterate and uneducated people were deprived of information. Many officials had a general tendency to conceal vital information from public knowledge, which is not good.
- RTI could build informed citizenry. If people are well informed we can regulate many wrongs or negative things. Hiding public information only helps to tar the credibility of the government or the concerned party, but a constructive RTI Act could help the nation's march towards new Nepal.
- RTI law could work as a tool to guide the nation towards a culture of information exchange and dissemination. A constructive RTI Act was important but this alone would not be able to deliver in the absence of appropriate level of awareness among the people.
- RTI is one of the fundamental rights in a democratic dispensation. Its rationale had been further established after the success of the struggle for democracy. Loktantra (democracy) was in fact the product of information, hence ensuring RTI was very important at this hour.
- RTI is essential even to protect state secret. People will know which information is of sensitive nature.
- State is feeding wrong information to the people. For example, non-existing people are documented as existing (in Udaypur, as claimed by a participant). This must be challenged.
- We could promote RTI by inducting diverse aspects of Human Rights education in school curriculum.
- In the laws, some restrictive clauses tend to throttle the spirit of the main clause. RTI could neutralize them. But RTI should not be binding in exclusively personal matters.
- Proportional representation in Parliament may help bring out effective RTI.
- Uneducated people are always deprived of information and opportunities. Laws should not be made without getting them verified by the people first. We need information and action too. RTI is necessary but those who are informed must utilize the info to improve the situation of the nation.

- RTI could help end many forms of discrimination in society.
- RTI could be an important tool to eliminate corruption and check malpractices in governance. Journalists, civil society watchdogs and NGOs can use it to expose social and bureaucratic malpractices and help to eliminate corruption. Right to Information helps to promote good governance.
- Political commitment was essential for the RTI to be properly introduced.
- RTI could also help checking corruption.
- Laws and policies should now address the feelings of disabled too. Even the disabled should get access to information.
- RTI also helps human beings to acquire better professional knowledge and skill to enhance their productivity in relation to use of natural resources for supporting their livelihood.
- At a time when population growth and innovation of new technologies have affected and influenced bio-diversity and its relations with human beings, decision taken at one place or at one level may have different impacts on different stakeholders. For example, promotion of pesticides can have positive impact on producer firms but negative to many. Promotion of chemical fertilizer may affect the market of organic fertilizer. So all the people concerned have a right to know the information in his or her area of concern, so that one may take right decision/reaction at the right time.
- In the absence of RTI, none can take any precaution against the possible loss and damage.
- In a poor country like ours, many people, especially in the remote rural areas, maintain their livelihood through traditional knowledge and skills of livelihood. Such knowledge should be documented for conservation for future. RTI could also help to ensure that government policies do not infringe upon people's livelihood and earning.

#### **f. Issues outside the subject:**

Participants also liked to put forth their views or raise issues outside the main topic. Some of the topics that also figured during the program included the curiosity to know whether a women who gives birth to a child but prefers hiding the identity of the father would come under the purview of RTI; discrimination against Terai people; issue of protecting copyrights on traditional cultural features, dance etc; the ways to address the Badi issue--whether to legitimize their traditional profession or not, or how to treat them, etc.

### **g. Immediate Impact:**

Some participants said that the intensity of response in the workshop was a proof that discussions lead to ideas for social reform in a democratic polity.

Several delegates expressed the pleasure over the knowledge that RTI was not only concerned with media rights but it was related to entire citizen. This is a remarkable knowledge acquired through the workshop, they said.

*(Note: See 'Annex' for the gist (English) and actual text (Nepali) of each of the presentations, with comments and suggestions delivered in each of the five regional workshops)*

### **h. Participation**

Each workshop was attended by an average of 40-45 participants from wide-ranging fields including political and civic society leaders, lawyers, intellectuals, journalists, teachers, entrepreneurs as well as students. Inaugural sessions were attended by an average of 58-60 delegates, in which even civil servants, security officials and local administrators shared their impressions.

The participation was inclusive in nature. Women, indigenous nationalities, dalit, as well as the persons with physical disabilities joined the workshops and described those programs as "educating" and "important".

### **i. Coverage:**

The regional workshops remained memorable in that **it covered 62 of the 75 districts** of the nation. While the Biratnagar workshop marked the 100 per cent representation covering all the districts of the Eastern Development Region, the workshop in Birgunj missed only four of the 19 districts of the Central Region (Dhading, Rasuwa, Nuwakot, Chitwan.) Similarly, the Pokhara workshop covered 13 of the 16 districts of the Western Development Region (missing Manang, Mustang and Gorkha); Nepalgunj workshop covered 12 of the 15 district of the Mid Western Development Region (barring Mugu, Dolpa and Kalikot); and Dhangadhi workshop covered 6 of the 9 districts of the Far-Western Development Region (barring Darchula, Bajhang and Bajura.)

### **j. Special achievement**

Besides creating awareness among a sizable number of people on the Right to Information', the regional workshops have created a solid mass about 250 RTI activists nationwide, who have vowed to spread the message of RTI in the coming days. Even if the government or the parliament fails to pass the RTI law sooner, these activists would work to promote RTI awareness further, and join force in the ultimate promotion of 'Right to Information' campaign in Nepal.



## **k. Recommendations of Regional Workshops**

The recommendations of the RTI regional workshops concerned with the following three questions, of which two were more concerned with government and policy makers and the one with the RTI advocacy groups and citizens:

A: How to promote RTI awareness campaign at the grassroots?

B: How to do effective campaign for "RTI Law" in Nepal?

C: How to ensure effective implementation once the RTI Law is introduced?

### **i) To Government and policy makers**

#### *a. To make effective RTI law:*

- Omit restrictive clauses from the proposed bill
- Ensure maximum access to information
- Ensure total safety to whistle blowers
- Promote RTI as a culture
- Interact with government and non-governmental sector
- Bring private/public sectors both within the purview of RTI law
- Keep room for constructive amendment in future.

#### *b. To ensure its effective implementation:*

- Open Information Bureaus at local levels.
- Make the Information Commission effective and powerful.
- Open Public Information and Documentation Centers at various places where information officers will work
- Promote RTI coverage in state-owned media
- Simplify official procedures
- Make rooms for timely review of Act
- Launch awareness drives through political parties, civil societies and professional organizations at the grassroots
- Develop the system of public hearing
- Ensure fair impact assessment and dissemination
- Ensure strict action to the violators
- Connect all kinds of public information to a Central Information Network (Grid).
- Create more means of information dissemination (information/communications media).
- Incorporate RTI education also in School Curriculum.

### **ii) To advocates and citizens groups**

#### *c. To take RTI awareness drive to the grassroots:*

- Work to put constant pressure on government agencies
- Hold citizen's awareness campaign at different levels, all across the nation.
- Promote networking among the advocacy groups
- Hold school/college/community level awareness drives
- Involve in independent and effective monitoring/follow up of the RTI situation.
- Promote voluntary, community incentives to reward/honor whistleblowers
- Extend network of advocacy groups and concerned stakeholders

## **l. Resolution**

All the regional workshops summed up the proceedings and recommendations in the following three resolutions, originally passed in Biratnagar as "Biratnagar Declaration" and endorsed as special RTI resolutions at the remaining four regional workshops. The resolutions were:

1. **RTI awareness campaign be spread nationwide**
2. **RTI Law be made without tampering the spirit of the original draft submitted by the taskforce**
3. **Strict enforcement of RTI law be ensured.**

## **m. National Seminar and its output**

At the culmination of the first phase national awareness drive in this regard, Freedom Forum held a national seminar on 'Right to Information' in the Capital on Friday, April 27, 2007. The seminar was particularly focused on discussing the issue of 'Right to Information' (RTI) and the proposed bill on 'Right to Information' currently under the perusal of the Committee for Environment, Communications and Technology of the Legislature-Parliament.

Although there is still much work to be done ahead, the seminar was, in a sense, culmination of the first phase of the RTI promotion campaign initiated by the Freedom Forum in cooperation of ICIMOD.

The National Seminar specially sought to appraise the need for RTI law and the message of RTI regional workshops to the Members of Parliament, who were the ultimate source of lawmaking.

After holding extensive interaction with professionals and social sector leaders at the regional level, it was now the turn of lawmakers to understand the gravity of the issue. And the Seminar was particularly focused on apprising the Members of the Interim

Legislature-Parliament on the rationale of an RTI law and on disseminating the message of RTI regional workshops to them.

In other words, the seminar aimed at grooming the MPs on 'Right to Information' as a general concern relating to all people and preparing them to lobby for introducing a truly meaningful 'Right to Information Law' in Nepal.

The seminar was attended by more than 150 delegates from wide-ranging fields, including legislators, constitutional experts, political and civic society leaders, government officials as well as lawyers, intellectuals, journalists, teachers and entrepreneurs. More than **35 Members of the Interim Parliament** had joined the program with a highly positive note on the issue.

**Inputs to amend RTI draft bill:** Speaker Subas Nembang inaugurated the seminar amid a special function. In his inaugural address, the Speaker Nembang said the 'Right to Information' was a highly important issue and democracy cannot be complete without ensuring citizens' access to information. He thanked the Freedom Forum and expressed the hope that the seminar would be able to give considerable inputs to amend and pass the 'Right to Information' draft bill now under consideration of a Parliamentary committee.

In the view of the RTI draft bill now under the perusal of the Parliamentary committee, Mr Nembang expressed the view that the recommendations of the seminar would be helpful to make amendments in the proposed draft to suit the spirit of making a 'new' Nepal.

Notably, the Speaker had made it to this "important" seminar, notwithstanding his tight schedule to leave for Indonesia immediately afterwards, leading a Nepalese parliamentary delegation at a meeting of Inter Parliamentary Union.

**RTI checks corruption:** Dr Naniram Subedi, coordinator of transparency and good governance section of ICIMOD, also addressed the inaugural session, saying RTI law could be highly instrumental in ensuring good governance. He said irregularities have continued in bureaucracy or public sector in the name or under the cover of privacy or confidentiality. Since RTI law binds one with the responsibility to furnish clear and truthful information, corruption can be checked to a great extent, he observed. He added that the RTI law should not have any words to make the meaning 'ambiguous' and the law must also be implemented in practice.

### **m. Observations by Members of Parliament**

The national seminar was successful to achieve a number of important observations as well as commitment from the Members of Parliament.

**Significant inputs:** Member of Parliament Mahendra Pandey said the seminar had given significant inputs "to us" regarding 'right to information' and the rationale of a law to ensure this. "Personally, I would like to thank Freedom Forum for having organized this program and also for so much of good works done in this regard," he observed.

**RTI law promotes good governance:** Radheshyam Adhikari, also a Member of Parliament, expressed the view that an effective and powerful RTI law could indeed make the government more transparent and accountable, ensuring good governance. For this, RTI law must ensure that people get maximum access to information.

**Commitment for pro-people RTI law:** Kamala Panta, MP, also said that the seminar had given considerable inputs. The suggestions and ideas that figured in this seminar could "help us a lot" while discussing RTI bill and making it into a law. Thanking the organizers, she also expressed the commitment to work for a pro-people RTI law in Parliament. She also said that MPs would consult with Freedom Forum and other experts whenever they feel the need for this.

**Still room for refining the Bill:** Khimlal Devkota, also an MP, said the seminar had a comprehensive discussion on both theoretical and practical aspects of RTI in a relatively short span of time. He said it did clear much of the confusion about RTI. But he said care must be taken to prevent it from being a tool for those apt to misuse information. The weakness in the presently tabled RTI bill has been admitted even by Communications Minister (Krishna Bahadur Mahara) which suggests that we can still refine it, he said.

**RTI for consolidating democracy:** Bala Bahadur Rai, the senior-most MP (87 years) in the Legislative Parliament, said the national progress was possible only by people's concerted efforts. Going by the inputs derived in this seminar, RTI law may be able to contribute a lot in consolidating democracy. He wished success to the cause for RTI law.

**Let's pass RTI bill to protect citizens' interest:** Homnath Dahal, also a Member of Parliament and one of the instrumental figures who lobbied for RTI provision in the 1990 constitution, said the RTI bill should now be passed, for it is in the best interest of people in general. "It is fifteen years now since we tried to make RTI law in Nepal but the quest remains still unfulfilled," he said. "In 1990, when we included RTI as fundamental right in our constitution, I read an editorial in an Indian newspaper lauding Nepal's initiative despite being a recent democracy, and suggesting that India could also learn from it," he added. "But now, India has already made a law but we are still pining for it." Dahal also agreed that the law on RTI must ensure the safety of the whistle blowers.

*(Note: See 'Annex' for the detailed report of the National Seminar)*

## **n. Latest development: RTI discussion at Parliamentary Committee**

In what may obviously be a sequel to the National Seminar, the parliamentary committee on Environment, Communications and Technology has begun public discussion on the draft bill on Right to Information, currently in the process of parliamentary studies.

The Committee on Monday, May 21, 2007, held a discussion at the Parliament Secretariat amid the presence of Minister for Information and Communications, Krishna Bahadur Mahara, as well as Committee members, constitutional experts, government officials, private sector representatives and advocates of 'right to information' in Nepal. On the occasion, the draft bill submitted by a government-formed taskforce, the modifications made by the Ministry of Information and Communications, as well as the possible ways to refine the draft bill, were discussed.

Participants argued that Right to Information (RTI) was essential for consolidating democracy and ensuring good governance so RTI bill deserved immediate endorsement by the Parliament.

Freedom Forum chairman Taranath Dahal, executive member Chiranjibi Kafle and Program Coordinator Santosh Sigdel were also invited to give inputs to the discussion.

During the discussion, participants mostly underscored the need for ensuring that citizens get maximum access to information. They also stressed on protecting whistle-blowers' safety, promotion of information-giving culture and defining the confidential or highly sensitive information clearly.

During the discussion, Minister Mahara said the suggestions given by the delegates would be considered while refining the RTI draft bill.

## **o. Conclusion**

All summed up, the Freedom Forum- ICIMOD project on promoting RTI awareness nationwide has caused significant impact. Yet, in the situation when the introduction of RTI law is yet to take place, much work and campaign are still necessary. Needless to say, the future course of action in this regard can be made most pragmatic if they could be designed based on the guidelines or recommendations of the RTI regional workshops as well as the nation seminar.

*p. Annexes*

**Regional Workshop on Right to Information**  
**19-20 January 2007**  
**Biratnagar**

## **Introduction and background**

Freedom Forum organized a two-day regional workshop on Right to Information in the eastern town of Biratnagar, in Morang district, from January 19-20. The workshop was inaugurated by Appellate Court (Morang) Justice Bimendra Bahadur Karki amid a special function attended by important government officials, political and civic society leaders as well as intellectuals.

The two-day workshop was intensively categorized into four parts--inaugural session, presentation and debates, group works and recommendations. There were altogether four thematic focuses, of which three were working papers dealing with various dimensions of Right to Information and the next was effectively a brainstorming on the recently drafted bill on "Right to Information" which has already been submitted to the Ministry of Information and Communications and is on way to Parliament for legislative procedure.

The first day of the workshop had inaugural session, followed by presentation of three separate working papers by experienced professionals. Whereas, the second-day deliberations concentrated on the study and assessment of the proposed RTI bill, its relevance and lapses as well as recommendations for improving it.

Finally the workshop ended, endorsing a set of suggestions and recommendations along with an exclusive "Biratnagar Declaration" in favor of a people-friendly RTI Law in Nepal.

A total of 60 delegates representing 16 districts of the Eastern Development Region had joined the workshop's inaugural session whereas 40 participants took part in the workshops with a total sense of involvement and participation.\*

## **Inaugural Session**

**Opening:** The inaugural session of the workshop began at 8: 30 in the morning on Friday, January 19, 2007. The session was conducted by **Bijay Mishra**, Secretary of the Freedom Forum's Biratnagar branch office.

**Objective:** The Freedom Forum chairman **Taranath Dahal** shed light on the objective of the workshop. He said as long as people fail to get access to information, state cannot function in a responsible manner as per the norms and principles of a democratic state, even though it has all the mechanisms necessary for a state.

---

\* See 'Annex' for the list of participants.

Noting that the government had formed a taskforce to prepare a draft bill on Right to Information (RTI), with Kashi Raj Dahal as convener, he said Freedom Forum was going to hold such workshops in all regions so that people from all segments could be duly sensitized on the issue. "It's not only concerned with the right of the press, it's concerned with the right of all people," he said, explaining why the Forum considered it essential to hold this program.

Dahal insisted that the RTI was concerned with people's day-to-day life and hence it was necessary to create the right pressure groups, from the grassroots to the decision-making level, to intervene and influence the government policy.

As the RTI bill has already been forwarded, with some modifications by the government, the workshop was expected to know, think and assess the possible impacts and implications of the modified draft bill. It was also aimed to see how the ordinary stakeholders (people) felt about the bill and what they actually desired.

In his inaugural address, Justice of the Appellate Court Morang, **Bhimendra Bahadur Karki**, observed that even the introductory deliberations of the workshop appeared enlightening. "I felt that I knew more about the RTI through the deliberations here," he said. Information and communication appears similar but they are different things. Analysis and information leads to better understanding and information must lead to positive growth in human knowledge, he remarked.

In the present day society, people are getting more aware for their rights. However, many people still don't know what the rights and laws are. "They go to hospital for treatment but only to find the strike there; they embark on a journey only to be stalled on roads. They have no information," he tried to summarize. However, Karki also warned against the negative tendencies of the demands for rights. He said, "There are many platforms that seek rights. Some are demanding for their rights by blocking pipelines of water; is that responsible?" We must know where we are heading. We must assess what we are doing. We should no doubt be conscious and remain well updated with information, but at the same time we must also be able to work responsibly. Giving and using information in a responsible and constructive manner was the need of the hour, he said.

At a time when we are trying to write a new constitution for the nation, to decide our future ourselves, more attention should now be given to share and exercise the use of information for an effective election of Constituent Assembly (CA) and the writing of new Constitution, Karki advised.

### ***RTI Draft bill and the workshop:***

Addressing the inaugural session, **Kashiraj Dahal**, convener of the taskforce formed to recommend the draft bill on RTI, said wider discussion was not possible due to constraints of time at the time of drafting the proposed bill. But still there is time for debate as it is yet to be tabled in the Parliament. On the one side, there is a need for a bill

on the Right to Information, and on the other there is also a need for making appropriate corrections or modifications in it.

Dahal also informed that the government is also thinking of drafting a similar bill on right to privacy which calls on for a balanced approach. He expressed the view that right to privacy should not go counter to RTI. In a true democracy, laws must be able to support institutional growth of the concepts of accountability and transparency. Equality, fundamental freedoms and social harmony were the ingredients of a true democracy, which must be upheld through policies as well as practice.

At a time when the old constitution is no more prevailing and a new one yet to be written (through CA), we must be highly careful to maintain balance in the transitional crises of identity, outreach (or the penetration of the achievements of democracy to the grassroots), legitimacy (rule of law), distribution of resources (equality) and exploitation of opportunities (fair participation).

Dahal said RTI was essential for institutional development of democracy. As such, all service provider agencies, not just the government, come under the purview of RTI. For this, ensuring rights and skill development of those who work to disseminate information is very important. RTI bill seeks to ensure maximum information display in society--not only when people demand it but spontaneously as part of regular work.

Citing the spirit of the original draft, Dahal said all information, except those that truly and clearly pose threat to national security, people or community at large, must be open and available for the general public. According to him, misuse of information too is crime, so the proposed Bill also tries to address this. "We must all be responsible in using and circulating information for public good," he observed.

### ***'Right to information can fight discriminations'***

Highlighting the power of the press, **Bhogendra Yadav**, leader of Janamorchha Nepal, talked about how Hitler's press advisors believed that hundred utterance could change falsehood into truth, and how Napoleon regarded the strength of one single newspaper paper as hundred times more powerful than a party or a government.

He said the Right to Information was essential for Nepal even to cope with the widespread discrimination in terms of geography, gender and racial consideration. What's more, even as the nation was bracing for a new constitution to be made by people themselves, there were fears that even the future constitution might not address the real issues of nation. But the Right to Information could clear away many such fears, he said, adding however that those who give and receive information should both be sensible enough while dealing with a particular piece of information. The elite and the educated groups had responsible role to play to ensure fruitful use of RTI Act.



**Bishnu Dahal**, another speaker at the inaugural session, expressed the view that the learned ones were somehow managing to get information but a vast majority of illiterate and uneducated people were deprived of information. He also regretted that most officials had a general tendency to conceal vital information from public knowledge. As a person closer to Maoist ideology, he claimed that the CPN (Maoist) had a strategy towards supporting the citizen's right to information.

### ***'Be informed but be responsible too'***

**Modraj Dotel**, Chief District Officer (Morang), considered the program highly relevant, as it sought to create awareness to ensure 'right to information' in a democratic system. He said the issue is something about which even we are less aware, hence the value of the workshop. He also expressed the view that information must be handled by all the concerned parties with a sense of responsibility. He said that the 'right to information' could go a long way in promoting transparency in governance. It can promote people's participation in governance and also make the authorities to work being accountable.

**Naresh Kharel**, secretary of the Morang District Committee of CPN-UML, said as RTI was a matter of transforming our behavior and practice in the progressive direction, all should be supportive, including our party, to promote RTI. "If a decision is wrong every thing is wrong," he said, "so people must know whether things are going right or wrong way." He added that authorities often tend to hide information, the latest instance being the report submitted by the Rayamajhi Commission.

"People want to know what the Commission has recommended, but the government has not shown any willingness to make it public," he said. Highlighting the importance of informed citizenry, he said if people are well informed –not only in towns but in remote areas as well--then we can regulate many wrongs or negative things. For example, questions like how many people did the state and the Maoists actually cause to disappear during the armed conflict could be easily answered if the RTI was ensured. Hiding public information only helps to tar the credibility of the government or the concerned party, but a constructive RTI Act could help the nation's march towards new Nepal, he observed.

### ***RTI, Freedom Forum and ICIMOD...***

Also addressing the inaugural session, **Dr Nani Ram Subedi**, Coordinator of the Good Governance Section, ICIMOD Nepal, shared the views as to why ICIMOD Nepal thought it appropriate to work together with Freedom Forum in supporting the campaigns for Right to Information, in spite of its usual focus on research. Citing his knowledge about the Indian experience, he said in India people raised this issue in 2002, and within three years they made a very nice law that worked as a tool to guide the nation towards a culture of information exchange and dissemination. Nepal also started positive contemplation towards this, under the initiative of Freedom Forum. "Hence, ICIMOD ventured to extend support to this noble initiative," he said. Dr Subedi stressed that a constructive RTI Act was important but this alone would not be able to deliver in the absence of appropriate level of awareness among the people.

In his welcome address, chairman of Freedom Forum Biratnagar, Ram Prasad Sitaula, described RTI as one of the fundamental rights in a democratic dispensation. He said its rationale had been further established after the success of the struggle for democracy. "As Loktantra (democracy) was in fact the product of information, ensuring RTI was naturally very important at this hour," he remarked.

## **Workshop Sessions**

The two-day workshop was divided into three parts. On the first part was presentation of working papers on different dimensions of RTI and discussion over them, which was held on the first day. The second part dwelt on the Right to Information bill recently submitted by the government-formed panel and discussed its lapses and prospects. The third part constituted a group deliberation and recommendations to enhance the proposed RTI bill. The second and third part was held on the second day.

### **Day One proceedings** (Friday, Jan 19, 2007)

#### Session I

#### ***"Right to Information and Democratization"***

Presentation by Kashiraj Dahal

**Summary:** Democracy is power of people. People are the decisive force of a nation. They are sovereign and are the source of all state powers. As is often said, democracy is a system of governance of the people, by the people and for the people.

Rule must reflect the will of the people (social consciousness). Liberty; equality and fraternity; social harmony and tolerance; respect of human dignity; people's participation; and aware citizenry are the requisites of democratic governance.

Mr Dahal dwelt on following basic principles of a democratic nation:

- Sovereignty vested in people
- Government formed at the choice of the people
- Rule of the majority and respect for the minority
- Warranty of fundamental civil rights
- Periodical free and fair general elections
- Rule of law
- Independent and efficient judiciary
- Effective law enforcement
- Equal treatment of law
- Demarcation of state authority (government authority)
- Social, economic and political pluralism

- Understanding, cooperation
- People's representation (which ought to be responsible and accountable)
- Promotion of the culture of openness and transparency
- Presence of state (decentralization) and empowerment
- Effective mechanism to listen to public grievances
- Fair and equal distribution of resources

He concluded that an effective law on "Right to Information" could go a long way in the attainment of the above-mentioned tenets of a truly democratic nation. An effective RTI law, he said, was essential even to protect state secret. People will know which information is of sensitive nature and which ones are general.

### ***Discussion and comments***

**Nurturing democratic culture:** Democracy is a way of life. Democratization of an individual is very important. We have to evaluate ourselves as to how democratic we have been in our actions and manners. Politically, democracy with us has limited only to choose rulers. Election could not benefit people at the grassroots.

**Education and awareness drive:** More than 40 percent people among us are illiterate. This is our main challenge. Deliberation is of course necessary to find out an appropriate model of democracy in a developing country like ours.

**Remote areas need more of effective awareness drives:** The issues of rights are being raised these days but for the poor people living in remote places such as Okhaldhunga, rights are limited only in the papers. The right to information also may suffer the same plight, unless sufficient awareness activities are taken to actually reach to the grassroots. The overwhelming majority of people there are not aware of the state of affairs.

**State is feeding wrong information:** State ought to be responsible and impartial, else we shall get nothing. Guilt is not merely with political parties as appears to be noted in this working paper. The state's responsibility should be spelt out clearly. State should be encouraged to invest on viable projects, less costly projects. The State today is feeding wrong information. In Udaypur, for example, non-existing people are documented as existing. Technicians and public servants have not fulfilled their responsibilities honestly.

**RTI and Human Rights:** Even educated people are deprived of the essential information. For example, we have law against marital rape but victims continue to suffer due to lack of information. RTI could be a tool to promote awareness. We could promote RTI by inducting diverse aspects of Human Rights education in school curriculum.

**Do away with restrictive clauses:** Restrictive clauses often tend to throttle the spirit of the main clause. Even the presently modified draft bill on Right to Information has such restrictive clauses.

**RTI and the question of privacy:** Information relating to someone's privacy need not come within the purview of the RTI. For this, a clear explanation is necessary to distinguish between 'right to privacy' and 'right to information'.

**RTI vs. discrimination:** Right to Information is mostly denied by our government at present. Yes, non existing people have been listed as existing in documents. RTI should be granted with fair, equal treatment to all parts and peoples of the nation, without any discrimination.

Educated ones are taking all the benefits, while the uneducated ones are left behind and deprived. Those who have access have not paid any attention to root out discrimination--from ward to central level of the state.

**People first:** Laws should be made only after getting them verified from the people. People have the wish for food, cloth and shelter. People who toil on the soil are deprived of land. Why is the state of nation like this today? We need information and action too. RTI is necessary but those who are informed must utilize the information to improve the situation of the nation.

**Citizens must be well informed:** RTI is necessary from the grassroots to the central level. Presently citizenship distribution teams have been deputed to villages but many people are still not aware of this. Educated ones will get the citizenships anyway, but the illiterates are still bound to go without it for lack of information. Citizens must be well informed. There is a growing tendency of denying information.

**Differentiate public from non-public information:** We should try to avoid passing the blame on others and glorifying ourselves. It must be made clear as to which kind of information is public and which ones are not.

**RTI and the level of public awareness:** At present, the nation is bracing for elections of Constituent Assembly but many people don't even know what it is. Right to Information might help citizens to be more conscious about raising the level of their awareness.

## Session II

### ***"Good Governance and Information"***

Presentation by Taranath Dahal

In his working paper, Mr Dahal made the following observations:

- RTI could be an important tool to eliminate corruption and check malpractices in governance. It helps to promote good governance.
- Journalists, civil society watchdogs and NGOs can use it to expose social and bureaucratic malpractices and help to eliminate corruption.

- All countries have governance, but "good governance" is what a nation needs today.
- Good governance entails rule of law, transparency, consensus actions and decisions, equal or wider participation of people, equity and inclusiveness, accountability and responsiveness, and efficiency in service delivery. Besides these, free and fair election, strong anti-corruption struggle, sufficient governmental investment in social security/service measures, strong poverty alleviation drive, and full respect to human rights norms and values are also important.
- People cannot exercise their rights unless they are well informed. Hence the RTI is a key to good governance.
- RTI must also protect the security of those who release important information regarding irregularities and wrong policies/practices.
- Corruption impoverishes society in the long run. In Nepal important documents relating to public and social interest are regarded as confidential, which is not good.
- RTI is not just journalist's concern; it is every citizen's concern. So all sectors—including political parties, government organizations, NGOs or civil society bodies--should promote the culture of giving and seeking correct information.
- Aware citizens must now advocate for RTI as part of one's fundamental rights. RTI will only consolidate democracy by making it more transparent and accountable.

### ***Discussion/comments***

The following points were raised on the issue during the discussion session:

**Education first:** Education should be the first priority to make people able to take benefit from the state given rights. Corruption is the key element responsible for the failing performance of most of the state enterprises.

**Political commitment necessary:** Political commitment was essential for the RTI law to be properly modified and introduced.

**Transparency needed in political parties:** Political parties are non-transparent. Pressure must be exerted upon them to follow a transparent financial and political behavior.

**Teaching leaders and bureaucrats:** Message of workshop should actually reach to political leaders and bureaucrats (civil servants).

**Onus lies with educated people:** Education without honesty is meaningless. One official in DDC does not release fund without getting certain percentage in commission. One of the participants of the workshop complained that he once had to wait for as many as nine days, that too, paying a sum of 200 rupees everyday (in Rajbiraj) to get his work done. He said the job was done when all the officials involved "got their share." How corrupt! Educated ones must take care not to discriminate against each other.

**RTI could check corruption:** In many parts, especially in Terai, if someone works without bribes, it is taken with suspicion as if taking bribe alone is a proof of sincere work. Officials who are corrupt are hardly open to such concepts like RTI.

**Address the voice of the physically disabled:** People with physical disabilities should also be entitled for fair opportunity in society. Disabled women suffer doubly. Freedom Forum's initiative to promote dialogue for social inclusion is laudable.

**Even the disabled should have access to RTI:** Laws and policies should now address the feelings of the disabled too. Even the disabled should get access to information.

### Session III

#### ***"Right to Information and Means of Livelihood"***

Presentation by Ranjan Krishna Aryal<sup>†</sup>.

**Summary:** Human beings need professional knowledge and skill to enhance their productivity in relation to use of natural resources for supporting their livelihood. Population growth and innovation of new technologies have affected and influenced bio diversity and its relations with human beings.

One decision can have different impacts on different stakeholders. For example, promotion of pesticides can have positive impact on producer firms but negative to many others. Promotion of chemical fertilizer may affect the market of organic fertilizer. So all the people concerned have a right to know the information in his or her area of concern, so that one may take right decision/reaction at the right time.

In a poor country like ours, many people, especially in the remote rural areas, maintain their livelihood through traditional knowledge and skills of livelihood. Such knowledge should be documented for conservation for future. RTI could also help to ensure that government policies do not infringe upon people's livelihood and earning.

Law is binding. But many violators are going scot-free in Nepal. Laws must be in tune with international norms and practices. If national and international laws clash, international law prevails. International laws deserve knowing. State has to develop spontaneous mechanism to inform its people. Nepal is agricultural land. Much development has taken place in this sector too, wherein farmers can take benefit.

---

<sup>†</sup> Joint Secretary, CIAA

Sometimes farmers' investment choice could be contrary to viabilities due to prevailing rules and regulations. They must be well informed about it beforehand; otherwise they may suffer loss simply because they failed to have access to information.

Engaging in some occupation is everyone's goal. Whatever the occupation, information is vital. Otherwise, investment (of farmers as well as others) may go in loss. Due to lack of information, people--both farmer (producer) and user—could be cheated by middle-men who take undue profit. This is happening day-to-day. Thus, information can be used for reaping benefits for livelihood. Documentation helps storing knowledge so that rightful owners may be protected against possible piracy by others.

We have already signed WTO. Traditional knowledge could be protected under copy rights. Government policies should be clear and sustainable as well as static for a fairly acceptable duration of time. RTI could help citizens to take due precaution against the possible loss and damage.

### ***Discussion and comments***

The following points and issues were raised during the discussion session:

**Name the authority:** Authority to document traditional knowledge should be specified.

**Things may take time:** Documenting wisdom is more a question of education. It may take a long time for citizens to be fully aware about such things as documenting traditional knowledge.

**RTI not enough for everything:** RTI alone cannot address the subtle issues of biodiversity and traditional wisdom conservation.

**Right to Information possible in democracy:** RTI workshop is encouraging both from participation and 'message' point of view. Information must reach to the grassroots. RTI cannot be imagined in a non-democratic state. In Nepal, the initiative is likely to yield positive results due to democracy.

**We are equal:** We are all equal. We have no feeling of big or small, able or disabled. Inferior feelings should be wiped out from our minds.

**RTI's relation with entire citizens chief input of the workshop:** The workshop has given ample hints that 'right to information is not only concerned with journalists but with entire citizenry of a state. This is the most important part of the understanding.

**Transparency:** Transparent channeling of information is a must for a democratic government to function successfully.

**Wrong tendency among some officials:** In a notable remark, one of the participants talked of how a customs officer once got angry with him for insisting for information regarding tax evasion by a particular smuggler. This was suggestive of the attitude of some corrupt officials against the spirit of the right to information.

## **Day Two proceedings**

### Session I

#### ***'RTI Draft Bill with a comparative note on the changes made by the government'***

Presentation by Kashi Raj Dahal

In the first session of the second-day deliberation, Mr Kashi Raj Dahal dwelt on the draft bill on RTI recommended by the taskforce led by him. He also briefed on the changes made by the Ministry of Information and Communications and made a comparative assessment, with a reference to possible negative impact on the spirit of the RTI campaign.

A copy of the draft bill was made available to each of the participants of the workshop. To that, Mr Dahal added the notes on how the bill had been altered (or modified) by the government. He said, unlike the panel's recommendation, the private sector had been excluded from the list of public authorities answerable to the RTI quest; specific conditional clause in relation to keeping confidential certain sensitive information has been changed into something that helps concealing even ordinary, non-sensitive information.

He also explained why some information deserves secrecy for public interest. He said some privacy is meant for public good. For example, confidential information about national defense strategy... this is definitely something that calls for confidentiality.

He said the original draft's provision to keep data of at least 20 years before has been scraped; the recommendation for a five-member Information Commission has been modified as a 3-member one. He claimed that the original draft wanted to make the Commission highly powerful body, with the authority to take action against violators of RTI law. However, the modification has been done in a way that curbs the Commission's independence and makes it "dismissible" by the government in case of inefficiency.

According to him, the government modification in the draft bill also weakens the security of the informers (whistle blowers). In addition, those who misuse information have been made liable to more penalty than the panel had recommended. Actually, penalty for misuse has been placed higher than one who declined from giving information.



He concluded that, while some changes seem to be made for bureaucratic and administrative/procedural convenience, some are seriously negative for a truly effective and democratic RTI law.

### ***Discussion and comments***

The following points/issues were raised during the discussion session:

**RTI crucial to check wrong tendencies:** Even democratic governments stand the possibilities of concealing information. Role of RTI is crucial against such tendencies.

**RTI should not exclude foreign diplomatic missions:** RTI should also bind foreign diplomatic mission to give appropriate information.

**Appeal process may not be pragmatic:** The provision for 'appeal' may be impracticable for many people. How many victims might be able to go through the appeal process against officials not giving out the information?

**Keep records:** Information storage mechanism should be developed for a long time.....may be up to 40 years.

**Keep records for long time future reference:** State must keep records of information for generations, not just for 20-40 years. It is necessary even for the sake of national unity.

**Appoint information officers from language groups:** Information officers ought to be appointed from language groups according to regions or the place they live in, for the overall convenience of the people.

**Give information without any bias:** Officials must give information without any bias to the nature of information.

**Information on disaster and calamities also required:** RTI is a good issue. Small and poor families living in small homes or huts suffer and lose their properties during calamities. Officials must keep people well-informed or pre-informed about the possible calamities looming.

Fine against those who decline to give information must be specific. Open provision such as "up to Rs 25 000" means it could be any amount between one thousand and 25 thousand.

### **Session II:**

#### **Group-wise deliberation on proposed RTI bill**

In this session, the participants were divided into four groups wherein each of the four groups dwelt on the following three issues and prepared a set of recommendations. The recommendations were later reviewed by all participants and subsequently approved with some modifications. The recommendations could be summarized as follows.

The recommendations concerned with the following three questions:

A: How to promote RTI awareness campaign at the grassroots?

B: How to do effective campaign for "RTI Law" in Nepal?

C: How to ensure effective implementation once the RTI Law is introduced?

## **Recommendations:**

### **To promote RTI awareness campaign at the grassroots:**

- More RTI awareness drives, including workshops and seminars in rural, remote areas.
- Orientation programs at schools/colleges as well as among the illiterate masses
- Formation of network among RTI activists and exchange of information
- Media campaign highlighting Right to Information and its worth, in different languages if possible.
- Mobilize local cultural groups and other organizations to promote the message of RTI

### **To bring effective "RTI Law" in Nepal:**

- Proposed draft bill should be further studied and discussed.
- Lawmakers should be sufficiently briefed about the importance and relevance of RTI
- RTI orientation workshops should be held for Members of Parliament and political parties so that they could lobby for effective law making.
- Private and public information should be clearly delimited
- Unnecessary restrictive clauses that may aid hiding of information should be omitted.
- Rooms should be left for constructive and timely amendment in the law

### **To ensure effective implementation of RTI Law once it is introduced:**

- Role of the Information Commission should be made powerful.
- Public Information and Documentation Centers should be opened at various places where information officers will work.

- More means of information dissemination (information/communications media) should be created.
- All kinds of public information should be connected to a Central Information Network (Grid).
- Citizen's awareness campaign should be held regularly.
- Impunity should be uprooted.
- RTI should be incorporated also in School Curriculum.
- Monitoring/follow up (regular updates) of information system should be developed.
- Information committees should be formed in each VDC with punitive measures against those trying to hide information

## **Resolution**

The workshop summed up the proceedings and recommendations in the following three resolutions, described as "Biratnagar Declaration."

1. RTI awareness campaign be spread nationwide
2. RTI Law be made without tampering the spirit of the original draft submitted by the taskforce
3. Strict enforcement of RTI law be ensured

## **List of Participants**

**Regional Workshop on Right to Information**  
**22-23 January 2007**  
**Birgunj**

## **Introduction and background**

Right to Information is an effective tool to secure people's rights but no effort has been made in Nepal to ensure this right through an appropriate legal mechanism. Hence Freedom Forum began the initiative to spread awareness on 'Right to Information' and gather suggestions from local opinion leaders all throughout the country.

In this connection, Freedom Forum organized its second regional workshop on Right to Information in Birgunj, the industrial town of Parsa district in the Central Development Region. The two-day workshop was held from January 22-23, 2007.

The workshop was inaugurated amid the presence of people from wide-ranging fields including political and civic society leaders, lawyers, intellectuals, journalists, teachers, entrepreneurs and students.

The workshop was aimed at raising public awareness on 'Right to Information' as a general concern related to all people, and building positive pressure on the government for introducing an appropriate and truly meaningful 'Right to Information Law' in Nepal.

As in the first regional workshop held in Biratnagar, the two-day workshop was intensively categorized into four parts--inaugural session, presentation and debates, group works and recommendations.

The workshops deliberated on the three working papers dealing with various dimensions of Right to Information and also discussed the recently drafted bill on "Right to Information" submitted to the Ministry of Information and Communications and now on way to Parliament for legislative procedure.

The first day of the workshop had inaugural session and presentation of three working papers, whereas, the second-day deliberations concentrated on the study and assessment of the proposed bill on Right to Information, its relevance and lapses as well as recommendations for improving it.

Finally the workshop ended, outlining a set of suggestions and recommendations. It also endorsed the RTI resolution passed in Biratnagar for introducing a people-friendly RTI Law in Nepal.

A total of 57 delegates joined the workshop's inaugural session whereas 40 participants representing various districts of the Central Development Region (namely, Kathmandu, Parsa, Bara, Rautahat and Makwanpur) took part in the workshop.

## Limitation

Due to strikes and violent protest campaign of the Madhesi Janadhikar Forum (MJF) and the resulting impact in the movement of transportation and the sense of fear instilled in the minds of people, the workshops could not see as many participants as expected, especially from far flung districts. Nevertheless, the overwhelming participation from Parsa and surrounding districts, in spite of the general strike called by the Madhesi Janadhikar Forum, remained an encouraging aspect for the workshop. Interestingly, important central and regional level leaders of the MJF did themselves take part in the workshop.

## Inaugural Session

**Opening:** The inaugural session of the workshop was attended by people from wide-ranging fields including political and civic society leaders, lawyers, intellectuals, journalists, teachers, entrepreneurs and students. The session began with the opening remark by journalist Chandra Kishor Jha, who conducted the program.

**Objective:** Chairman of Freedom Forum, Taranath Dahal, in his introductory speech, shed light on the objective of the program. He said Right to Information was an effective tool to secure people's rights but no effort had been made to ensure this through an appropriate legal mechanism. Hence Freedom Forum began this initiative to spread the message and gather suggestions from local opinion leaders. He said participants from 16 districts of the Eastern region joined the workshop in Biratnagar and gathered knowledge and deliberated on various aspects of Right to Information and the process to make law on it.

He said that 'Right to Information' (RTI) is a concern not only related to journalists but to all people in general. He also made it clear that the workshop, through its output, would also serve part of the Freedom Forum's strategy to build positive pressure on the government for introducing an appropriate and truly meaningful 'Right to Information Law' in Nepal.

**Give concrete suggestions:** Addressing the inaugural session, Member of the Interim Parliament, Ajay Chaurasiya (Nepali Congress) said RTI was promised even by the 1990 constitution but no law was made to honor that promise. He expressed the hope the workshop would give concrete suggestions to government for introducing effective RTI law.

**Information is vital:** Prof. Bhagyanath Gupta, vice-chairman of the Madhesi Janadhikar Forum, said that democracy without information is unimaginable in today's world, but unfortunately many people are deprived of information today. He observed that although three democratic movements have taken place in our nation, we could never attain full achievement. Gupta also alleged that the state was feeding wrong information by dubbing the present agitation of the Forum as 'sectarian', 'pro-king', or 'petty issue'. He said even

as the hills and plains are indispensable to each other, the voice of the Terai must be listened to. He also raised question as to what would people get for them in a nation where the state's military consumes a sizable portion of nation's budget.

**Information without discrimination:** Shiva Patel, secretary of the Nepal Sadbhavana Party (Anandidevi), Parsa, said the receiver and giver of information should both be honest in the use of information. "But this," he said, "has not been the reality with us." According to him, rights—be it information or other rights—cannot be the entitlement of only a particular group or section of society. Rights must be warranted in an inclusive and non-discriminatory way to all citizens. Again, dissemination of right information is very important.

**Correct information very crucial:** Tilak Ram Luintel, president of the Maoist Intellectual Council, Parsa, expressed the view that flow of correct information was very crucial at this moment. He claimed that after the success of the democratic movement, the Royal Palace was not quiet and attempts were being made from different quarters to defame the Maoist by still charging "us" with weapons import. He said the nation at this moment should unite against all elements trying to throttle recent achievements of pro-democracy agitation and the peace process.

**Devolution of information:** Addressing the function, Kishori Kushwaha, representative of the Communist Party of Nepal (UML), said information today is mostly confined to cities and needs to be taken to villages, at least to some key pockets of villages if greater access is not possible. This is necessary to make grassroots population informed. He added that the workshop on Right to Information therefore held greater significance and the organizers deserved thanks for bringing this program to Birgunj. He observed that timely information could save us from many possible dangers, just as sincere dialogues help us resolve differences.

**Resist wrong/twisted information:** Dina Prasad Gupta, representative of the Nepali Congress, expressed the opinion that we must be aware of the elements who are trying to instigate people towards social disharmony by feeding wrong or twisted information. Terai is of course deprived in many ways but we should not use the 'language of conflict' while demanding its resolution, he said. He suggested that holding strikes every now and then to press for the fulfillment of one's demands is not appropriate. "Some people recently distributed CDs featuring contents that provoke communal disharmony. But we must try to know what the truth is and who actually are promoting such CDs as in the case of Nepalgunj. We must look at them and know them and try to make some sense out of that," he said.

On the occasion, Ajay Dwibedi, president of Nepali Congress (Democratic), Parsa district, also shared his views on the importance of making a 'Right to Information' law in Nepal.

Kashi Raj Dahal, coordinator of the taskforce formed to prepare the draft bill on Right to Information, said government as well as others ought to be very liberal in disseminating

information. He said the nation should adopt and promote the culture of giving and taking information. He observed that citizens must be well-informed and remain alert about the fact that transitional anarchy may lead to ruin of achievements of people's struggle for democracy.

## **Workshop Sessions**

### **Day one**

#### **Session I**

#### ***"Right to Information and Means of Livelihood"***

Presentation by Ranjan Krishna Aryal<sup>1</sup>.

**Summary:** Human beings need professional knowledge and skill to enhance their productivity in relation to use of natural resources for supporting their livelihood.

Population growth and innovation of new technologies have affected and influenced biodiversity and its relations with human beings.

One decision can have different impacts on different stakeholders. For example, promotion of pesticides can have positive impact on producer firms but negative to many others. Promotion of chemical fertilizer may affect the market of organic fertilizer. So all the people concerned have a right to know the information in his or her area of concern, so that one may take right decision/reaction at the right time.

In a poor country like ours, many people, especially in the remote rural areas, maintain their livelihood through traditional knowledge and skills of livelihood. Such knowledge should be documented for conservation for future. RTI could also help to ensure that government policies do not infringe upon people's livelihood and earning.

Law is binding. But many violators are going scot-free in Nepal. Laws must be in tune with international norms and practices. If national and international laws clash, international law prevails. International laws deserve knowing. State has to develop spontaneous mechanism to inform its people. Nepal is agricultural land. Much development has taken place in this sector too, wherein farmers can take benefit.

Sometimes farmers' investment choice could be contrary to viabilities due to prevailing rules and regulations. They must be well informed about it beforehand; otherwise they may suffer loss simply because they failed to have access to information.

Engaging in some occupation is everyone's goal. Whatever the occupation, information is vital. Otherwise, investment (of farmers as well as others) may go in loss. Due to lack of information, people--both farmer (producer) and user—could be cheated by middle-men

---

<sup>1</sup> Joint Secretary, CIAA

who take undue profit. This is happening day-to-day. Thus, information can be used for reaping benefits for livelihood. Documentation helps storing knowledge so that rightful owners may be protected against possible piracy by others.

We have already signed WTO. Traditional knowledge could be protected under copy rights. Government policies should be clear and sustainable as well as static for a fairly acceptable duration of time. RTI could help citizens to take due precaution against the possible loss and damage.

### ***Discussion and comments***

Participants raised the following points and issues on the issue of "RTI and livelihood" during the discussion session:

**Maximum information to people:** RTI seems to be an effort to make sure that people are provided with a maximum of information desired by them by the State and responsible authorities.

**Legal protection:** If an RTI law is made, people are legally assured of important information which could indeed play vital role in upgrading their livelihood.

**RTI serves the interests of laymen too:** The paper helps us to understand that the 'Right to Information' is related not only with those who are learned and educated, but with all people, all the same. Actually, people from all spears of life, including farmers, laborers and workers in other sectors, could get information concerned with them and may take benefit equally, if RTI law could be made as per the spirit of democracy.

**Law and its enforcement mechanism both essential:** Law on RTI alone would not suffice for information to be so liberally and democratically available to all citizens. For this, strict enforcement mechanism too is equally necessary. The role of an independent and powerful information tribunal or Commission, for example, may help to maintain balance in case the law is flouted.

**RTI for all citizens:** It is pleasure to admit that the issue borne by this paper helped us to know that Right to Information is not only for journalists and media people; it's for all the citizens. So far, many of us were had the impression that it was a topic concerned with those working in information media.

**RTI to make profits or minimize loss:** Everyone can enhance productivity and income or at least people can minimize loss if they are informed or answered properly about their concerns, doubts or questions.

**Introduce the law and tell citizens about it:** Law should be made and citizens should be made aware on how to reap benefits from this law. Unless citizens are aware, they cannot take benefit from the prevailing laws.



## Session II

### ***"Right to Information and Democratization"***

Presentation by Kashiraj Dahal

**Summary:** Democracy is power of people. People are the decisive force of a nation. They are sovereign and are the source of all state powers. As is often said, democracy is a system of governance of the people, by the people and for the people.

Rule must reflect the will of the people (social consciousness). Liberty; equality and fraternity; social harmony and tolerance; respect of human dignity; people's participation; and aware citizenry are the requisites of democratic governance.

Mr Dahal dwelt on following basic principles of a democratic nation:

- Sovereignty vested in people
- Government formed at the choice of the people
- Rule of the majority and respect for the minority
- Warranty of fundamental civil rights
- Periodical free and fair general elections
- Rule of law
- Independent and efficient judiciary
- Effective law enforcement
- Equal treatment of law
- Demarcation of state authority (government authority)
- Social, economic and political pluralism
- Understanding, cooperation
- People's representation (which ought to be responsible and accountable)
- Promotion of the culture of openness and transparency
- Presence of state (decentralization) and empowerment
- Effective mechanism to listen to public grievances
- Fair and equal distribution of resources

He concluded that an effective law on "Right to Information" could go a long way in the attainment of the above-mentioned tenets of a truly democratic nation. An effective RTI law, he said, was essential even to protect state secret. People will know which information is of sensitive nature and which ones are general.

### ***Discussion and comments***

Participants raised the following points and issues on the issue during the discussion session:

**RTI to institutionalize democracy in true sense:** Practically or frankly speaking, a law on Right to Information could indeed help in institutionalizing democracy, which today exists only in papers. Such a law could make the actors of democracy such as leaders, political parties, officials as well as administrators, responsible and sincere.

**Life-blood for a democratic polity:** RTI appears to be the life-blood of a democratic polity. Officials must not run away from the duty to inform people on valid questions and confusions.

**RTI law could correct flaws in democratic practice:** The RTI awareness drive and Nepal's relentless struggle for democracy need not be viewed in isolation. Many a time, our democracy suffered due to some lapses. Right to Information could go a long way in checking or correcting such lapses.

**Take RTI awareness drive at local levels:** RTI awareness drive should be taken to local levels (rural parts) too. Local political leaders, officials and administrators also need to know about what RTI law is and how it can work.

**Orientation necessary for concerned leaders, officials:** Present tendency of shying away from giving information could be reformed by giving due orientation to concerned political leaders, policy makers, ordinary officials and bureaucrats. Reasoned discussion leads to democratic behavior.

**Stress on up-to-date information system:** The public information to be circulated must be kept in up-to-date order. It should be complete in itself.

**Parliamentary documentation in RTI line:** Even the documentation of parliamentary activities should be in line with the RTI perspective to ensure that elected representatives are contributing appropriately from their sides to the democratization processes.

### Session III

#### ***"Good Governance and Information"***

Presentation by Taranath Dahal

As in Biratnagar, Mr Dahal made the following observations through his working paper, on which more than a dozen participants gave their views and comments:

- RTI could be an important tool to eliminate corruption and check malpractices in governance. It helps to promote good governance.
- Journalists, civil society watchdogs and NGOs can use it to expose social and bureaucratic malpractices and help to eliminate corruption.
- All countries have governance, but "good governance" is what a nation needs today.

- Good governance entails rule of law, transparency, consensus actions and decisions, equal or wider participation of people, equity and inclusiveness, accountability and responsiveness, and efficiency in service delivery. Besides these, free and fair election, strong anti-corruption struggle, sufficient governmental investment in social security/service measures, strong poverty alleviation drive, and full respect to human rights norms and values are also important.
- People cannot exercise their rights unless they are well informed. Hence the RTI is a key to good governance.
- RTI must also protect the security of those who release important information regarding irregularities and wrong policies/practices. This is also called the security of the "whistle-blowers".
- Corruption impoverishes society in the long run. In Nepal important documents relating to public and social interest are regarded as confidential, which is not good.
- RTI is not just journalist's concern; it is every citizen's concern. So all sectors—including political parties, government organizations, NGOs or civil society bodies--should promote the culture of giving and seeking correct information.
- Aware citizens must now advocate for RTI as part of one's fundamental rights. RTI will only consolidate democracy by making it more transparent and accountable.

### ***Discussion/comments***

The following points were raised on the issue during the discussion session:

**RTI awareness drive essential in rural, backward areas:** Rural and backward areas are often affected by corruption promoted by different agents. Greedy officials take to wrong means of earning and trouble poor villagers. It would be better if such awareness workshops could also be held in rural parts of the country for the benefit of ordinary people.

**Law must be strictly binding to all:** Officials usually tend to think that law is binding only to people other than themselves. All laws, including the one on RTI that may come in the future, should be strictly binding to all the citizens of the country.

**Sense of responsibility:** Officials must develop sense of responsibility in them. Corrupt tendencies should be avoided and people must not be given unnecessary trouble.

**People first:** People should have the power to examine their elected representatives. If officials work by keeping people above them, much of the problem of corruption could be solved, paving the way for good governance.

**Citizens' pressure could help bring RTI law:** Citizens are the supreme implementing force. RTI law could also be made and implemented through if citizens exert consolidated efforts.

**Taking initiative to work against those who hide information:** Advocacy leaders such as Freedom Forum should also take initiative to work against those who hide information. Such work could be done by opening branch offices at local levels where participants of the workshop could play vital role. Barely desiring the participants to be "active for RTI cause" would not work unless a clear work plan and agendas are fixed.

**NGO coordination:** NGOs can also promote good governance. Forming an NGO coordination committee or a similar network of organizations could also help the purpose. Once the RTI law is made, monitoring should also be done to ensure its effective implementation.

**Barriers to good governance:** Barriers to good governance do exist right within our circle. Old tendencies have not changed. Chief District Officer looks after public offence cases, just as one who is hardly open to information is appointed Regional Administrator. How is fair trial possible in this situation?

**Question of commitment:** Even democratic forces did not think it 'fit' to include media persons in the arms management processes. Not even simple information has been given to them. What can we make out of this?

**Strict enforcement of law necessary:** We have officials around us who have denied citizenship certificates to people even when they have furnished all necessary documents and fulfilled legal criteria. RTI law may also be flouted if strict enforcement mechanism is not made.

**Information gap in the process of weapons management:** It is regrettable that the government and the Maoists denied media access to the details of the peace process. What harm would be there if Nepalese media were allowed to acquire full information as the foreign monitors regarding the arms management processes? Obviously, they must be hiding some information.

## **Day Two**

The second day proceeding began with a brief review of the previous day's activities. Four participants made the short remarks, in which they appreciated the workshop for it helped to clear many confusions regarding Right to Information. The relation of RTI with general people was the major clarity, they said. They however expressed some grievances over the fact that the workshop was held on a festival day. "I had to sacrifice the

temporary family interest for this workshop, although it proved worthier," said one participant. Coincidentally, it was Saraswati Puja or Sri Panchami (Advent of Spring and the day of the Goddess of Knowledge and Education).

The second day proceeding had two sessions—first, deliberation on proposed RTI draft bill and the next was a group-work based assessment of the bill along with recommendations.

### Session I

#### ***'RTI Draft Bill with a comparative note on the changes made by the government'***

Presentation by Kashi Raj Dahal

In the first session of the second-day deliberation, Mr Kashi Raj Dahal dwelt on the draft bill on RTI recommended by the taskforce led by him. He also briefed on the changes made by the Ministry of Information and Communications and made a comparative assessment, with a reference to possible negative impact on the spirit of the RTI campaign.

A copy of the draft bill was made available to each of the participants of the workshop. To that, Mr Dahal added the notes on how the bill had been altered (or modified) by the government. He said, unlike the panel's recommendation, the private sector had been excluded from the list of public authorities answerable to the RTI quest; specific conditional clause in relation to keeping confidential certain sensitive information has been changed into something that helps concealing even ordinary, non-sensitive information.

He also explained why some information deserves secrecy for public interest. He said some privacy is meant for public good. For example, confidential information about national defense strategy... this is definitely something that calls for confidentiality.

He said the original draft's provision to keep data of at least 20 years before has been scraped; the recommendation for a five-member Information Commission has been modified as a 3-member one. He claimed that the original draft wanted to make the Commission highly powerful body, with the authority to take action against violators of RTI law. However, the modification has been done in a way that curbs the Commission's independence and makes it "dismissible" by the government in case of inefficiency.

According to him, the government modification in the draft bill also weakens the security of the informers (whistle blowers). In addition, those who misuse information have been made liable to more penalty than the panel had recommended. Actually, penalty for misuse has been placed higher than one who declined from giving information.

He concluded that, while some changes seem to be made for bureaucratic and administrative/procedural convenience, some are seriously negative for a truly effective and democratic RTI law.

### ***Discussion and comments***

The following points/issues were raised during the discussion session:

**Stress on quick information:** Information is crucial. RTI law should provide for giving information as soon as possible. It may be fair to expect information either the same day or the following day for a seeker.

**Yes or no, put it clearly:** Categories of information must be specified clearly. Seekers must be able to know the accessibility of information in 'yes or no' form. In case the answer is 'no' then reason should also be furnished.

**Government modification limits access to information:** The Original draft bill seems to stress on ensuring maximum access to information to citizens. But the modified portions have ruined its spirit. Bill must be reviewed in line with the recommendations of this workshop and passed for the general good of citizens and the democratic system.

**Understand the spirit of RTI quest:** The original RTI draft bill, its intention, the modification made by the government and its weaknesses all should be discussed seriously with concerned stakeholders, including Members of Parliament, before passing the modified bill. It is very important that legislators understand the principles underlying the quest for 'Right to Information'.

**Intensive discussion with leaders, MPs:** Orientation for political actors-- from local to central level—is equally necessary for helping to make effective RTI law and its implementation in Nepal. Now that the bill is already prepared, stakeholders, including lawmakers, must hold intensive discussion and pass the bill to ensure maximum access to information.

**Information in its original form:** Information should be made available in 'original' form.

**Judiciary under the purview of RTI law:** Even information of the Judiciary should come under the purview of 'Right to Information' Law.

### **Session II:**

#### **Group-wise deliberation on proposed RTI bill**

In this session, the participants were divided into three groups. Each of the three groups dwelt on the following three issues and prepared a set of recommendations. The recommendations were later reviewed by all participants and subsequently approved with

some modifications. As in Biratnagar, the recommendations concerned with the following three questions:

A: How to promote RTI awareness campaign at the grassroots?

B: How to do effective campaign for "RTI Law" in Nepal?

C: How to ensure effective implementation once the RTI Law is introduced?

## **Concluding Session**

In the concluding session, several participants made a review of the workshop. They said the workshop had been both educating and motivating. Lady participants, who also had an impressive presence, expressed their observation in a similar note. Bisheshta, one of the lady participants, said the workshop changed her view on RTI in an unforgettable manner. According to her, the two-day workshop was successful to make them aware about the "importance, urgency as well as the scope of RTI" for consolidating people's rights as well as democracy.

## **Recommendations:**

### **To promote RTI awareness campaign at the grassroots:**

- RTI awareness drives, including workshops and seminars, should be taken to remote districts and villages.
- Orientation sessions with political activists, community leaders, students as well as illiterate masses at local level.
- Formation of network among RTI activists and other stakeholders
- Campaign and coverage through local, community based media.

### **To bring effective "RTI Law" in Nepal:**

- Proposed draft bill should be further studied and discussed.
- Lawmakers should be sufficiently briefed about the importance and relevance of RTI
- RTI orientation workshops should be held for Members of Parliament and political parties.
- Draft bill should be passed by omitting restrictive clauses that may aid hiding of information.

### **To ensure effective implementation of RTI Law once it is introduced:**

- Information Bureaus should be opened at local level.

- Information Commission should be made effective and powerful.
- Public Information and Documentation Centers should be opened at various places where information officers will work.
- Citizen's awareness campaign should be held regularly.
- Networking among the advocacy groups
- Strict action to the violators.
- Effective monitoring/follow up of the RTI situation.

## **Resolution**

The workshop also unanimously endorsed the three RTI resolutions passed in Biratnagar.

1. RTI awareness campaign be spread nationwide
2. RTI Law be made without tampering the spirit of the original draft submitted by the taskforce
3. Strict enforcement of RTI law be ensured

## **List of Participants**



**Right to Information  
Regional Workshop, Pokhara  
March 9-10, 2007**

## **Introduction and background**

Freedom Forum organized a two-day regional workshop on Right to Information in Pokhara, the regional headquarters of Western Development Region, from March 9-10, 2007. The workshop was the third in the series of RTI (Right to Information) workshops under a national awareness campaign for Right to Information launched with the cooperation of ICIMOD. Attended by important government officials, political and civic society leaders as well as intellectuals, the two-day workshop deliberated on the proposed draft-bill on Right to Information as well as on three working papers presented by three resource persons, namely, Kashiraj Dahal, Ranjan Krishna Aryal and Taranath Dahal, and concluded with a set of recommendations.

The workshop was categorized into four parts—the inaugural session; presentations and discussions; group works on the draft of the RTI bill now in Parliament; and recommendations or suggestions. The presentations concentrated on four crucial areas--three relating to concept papers dealing with various dimensions of Right to Information and one concerned with the recently drafted bill on Right to Information which has been submitted to the Ministry of Information and Communications and is on way to Parliament for legislative procedure towards endorsement.

The first day of the workshop had inaugural session, followed by presentation of three separate working papers by experienced professionals. Whereas, the second-day deliberations concentrated on the study and assessment of the proposed RTI bill, its relevance and lapses as well as recommendations for improving it.

A total of 54 delegates representing 16 districts of the Western Development Region joined the workshop's inaugural session whereas 45 participants took part in the workshops with full concentration.

## **Day One Proceedings**

### **Inaugural session**

The program commenced with the welcome remark by Freedom Forum Chairman Taranath Dahal. He said the workshop was an attempt to create public awareness on RTI as it was "essential" for the creation of a "truly democratic and transparent" society. He said the nation required a law that guaranteed citizen's access to information. Citing Thomas Jefferson who once said democracy was an 'ongoing process and could never be fully achieved, he said RTI law was the basis to protect the achievement of democracy.

RTI law, in terms of its influence, is often regarded as a legal document, next to Constitution in a political system. It makes the corrupt officials or forces to clear way for a transparent and democratic system. He said 13 countries in the world were in the process of making RTI law in the world.

Dahal briefed the delegates on the things to be discussed and deliberated during the two-day workshop.

Representatives of various political parties and civil society as well as administrative bodies addressed the inaugural session. On the occasion, they expressed the view that the achievement of democratic struggle could not be satisfactorily protected unless citizens are empowered with "right to information."

Representatives of major political parties, including Nepali Congress, Communist Party of Nepal (UML), Nepali Congress (Democratic) and Rastriya Prajatantra Party joined the program with keen interest. They observed that the country's democratic exercise during the past suffered greatly due to the state's failure to empower people through 'right to information'. Considering the worth of the workshop, a leader of Nepali Congress (Democratic) even made a request to provide rooms to more of their participants in the deliberation.

Some speakers during the inaugural session saw RTI significant also from the point of view of the upcoming elections of Constituent Assembly (CA). They said "right to information" could be helpful not only to consolidate democratic process but to defeat the forces that are trying to foil the CA polls. Some of the speakers also passed comments over Maoist forces, saying they were still not supportive in disclosing details about how they spent the money given by the government.

## **Issues and ideas relating to RTI**

Speakers during the inaugural session raised the following issues and ideas.

- Right to information is a serious, sensitive, as well as important issue for people, which could enhance democratic culture within a system.
- Nepalese democratic practice in the past failed to yield desired fruits as the state was not serious to ensure citizen's right to information," he observed.
- The goals of democracy would remain unfulfilled unless the state ensured "right to information" for all citizens.
- "Right to information" was necessary, exposing social evils like corruption and building clean and transparent system.
- Right to information was related not only to the press but to the people in general. Irresponsible conducts on part of the responsible officials could affect or even put the

lives of ordinary people in risk. Right to information could check such eventuality.

- RTI is inherent right of citizens but authorities always cherish negative attitude in this regard.

- All kinds of information should be accessible to the people except for a few, highly sensitive ones.

- Interim Constitution also accepts RTI as people's basic right. But journalists, by virtue of their job and skill to bring information to the people, could gain greater benefits from RTI law.

- The RTI sensitization workshop was highly relevant and timely.

RTI is a long cherished goal of the conscious Nepalese. It is not just the concern of media.

- Freedom Forum deserved thanks for having taken the initiative towards nationwide sensitization drive on Right to Information.

- The practice of dodging information is irresponsible and suggestive of something wrong. RTI law could put brakes on such tendencies.

- RTI sensitization drive must also reach to the policy making level.

Door-to-door campaign is necessary for making people aware and putting pressure on government for introducing a sincere RTI law.

- Present age was the age of transparency and none deserved the practice of concealing information.

- Even through media people were leading the campaign, lobbying for the right to information, the cause underlying is concerned with the entire citizenry.

- Each individual should be clean. As RTI was capable of exposing the bad conduct of corrupt politicians and officials, civic society and press both play vital role in promoting RTI awareness drive among people.

- People's sovereignty is recognized even by security bodies. RTI empowers people but the use of information must be made in a responsible way. Irresponsible dissemination of information could cause huge loss.

- RTI could promote accountability and transparency in society. Tendency to flout rules must be checked with appropriate measures.

- Some donors are calling for public audits for our own available mechanisms have lost credibility. RTI could restore the lost credibility.

- RTI workshop may also raise public awareness towards holding of the CA polls in a free and fair manner without any fear amongst the people.
- Workshop on RTI was necessary for political leaders. If political parties desire a disciplined system, they must help to bring an effective RTI law in Nepal.
- Political parties have a crucial role to internalize the inputs of the workshop. Unless RTI is there, goals of democracy will remain unfulfilled.
- RTI awareness workshops should be extended to reach to the grassroots. RTI law could ensure a better generation for tomorrow.

## **Objective and challenge of RTI law:**

Addressing the inaugural session, Kashiraj Dahal, coordinator of the government -formed panel to recommend a draft bill on RTI, said there were two causes behind the initiative to make a draft bill—to establish people's sovereignty and consolidate democracy.

He said four elements were generally opposed to RTI-- families who tend to govern a state through biological rather than ideological preference; those who want to harm the democratic principle and RTI quest; people with vested economic motives; and fundamentalists who don't entertain flexibility in policies as well as practice. He also briefed the delegates about some modifications made in the proposed bill by the government, which would curtail the scope of RTI law. He expressed the hope that the RTI deliberations would also help the process of drafting a bill on privacy—that also is in the offing.

The opening session was conducted by Pradip Ghimire, general secretary of the Freedom Forum.

## **Workshop sessions**

This session was divided into three segments, each one dealing with separate working papers by our resource persons.

### **Session I: "Right to Information and Democratization"**

Presentation by Kashi Raj Dahal

**Summary:** Democracy is power of people. People are the decisive force of a nation. They are sovereign and are the source of all state powers. As is often said, democracy is a system of governance of the people, by the people and for the people.

Rule must reflect the will of the people (social consciousness). Liberty; equality and fraternity; social harmony and tolerance; respect of human dignity; people's participation; and aware citizenry are the requisites of democratic governance.

Mr Dahal dwelt on following basic principles of a democratic nation:

- Sovereignty vested in people
- Government formed at the choice of the people
- Rule of the majority and respect for the minority
- Warranty of fundamental civil rights
- Periodical free and fair general elections
- Rule of law
- Independent and efficient judiciary
- Effective law enforcement
- Equal treatment of law
- Demarcation of state authority (government authority)
- Social, economic and political pluralism
- Understanding, cooperation
- People's representation (which ought to be responsible and accountable)
- Promotion of the culture of openness and transparency
- Presence of state (decentralization) and empowerment
- Effective mechanism to listen to public grievances
- Fair and equal distribution of resources

He concluded that an effective law on "Right to Information" could go a long way in the attainment of the above-mentioned tenets of a truly democratic nation. An effective RTI law, he said, was essential even to protect state secret. People will know which information is of sensitive nature and which ones are general.

### **Discussion and comments**

The following points or issues were raised during the roundtable discussion:

1. Issues of social discrimination have not been duly addressed due to gap in information. Authorities think that people themselves should be responsible for getting information.
2. Implementation side too should be effective, once the RTI law is made and introduced.
3. Had there been a good information mechanism, the Royal Palace massacre might not have kept people under a spell of confusion.
4. Transparency should be maintained at all levels—not just government but also non-governmental and private sectors.
5. Dissemination of information may be difficult if many people rush for, or demand it at the same time.
6. Action against those officials who decline to give information must be clearly spelt out. RTI draft bill has done a good job by providing for action against non-givers of non-sensitive information.

7. There should not be any preconditions, whatsoever, in the RTI Law to be introduced. However, some conditions may be valid in the case of information that are of "sensitive" nature.
8. Anti-discrimination laws must be strongly implemented with appropriate and strict punitive measures.
9. Grassroots-democracy should be promoted. Devolution of power is essential. Model of a state polity should be discussed and decided only after enough homework.
10. Some information deserves instant disbursement, whereas some may take time. But there should not be any unfair and intentional delay in giving out of information sought by the people.
11. Provision of public relations officers in all offices might help a lot in efficient flow of information.

## **Session II: 'RTI Draft Bill with a comparative note on the changes made by the government'**

Presentation by Kashi Raj Dahal

In the second session, Mr Kashi Raj Dahal dwelt on the draft bill on RTI recommended by the taskforce led by him. He also briefed on the changes made by the Ministry of Information and Communications and made a comparative assessment, with a reference to possible negative impact on the spirit of the RTI campaign.

A copy of the draft bill was made available to each of the participants of the workshop. To that, Mr Dahal added the notes on how the bill had been altered (or modified) by the government. He said, unlike the panel's recommendation, the private sector had been excluded from the list of public authorities answerable to the RTI quest; specific conditional clause in relation to keeping confidential certain sensitive information has been changed into something that helps concealing even ordinary, non-sensitive information; He also explained why some information deserve secrecy for public interest. He said some privacy is meant for public good. For example, confidential information about national defense strategy... this is definitely something that calls for confidentiality.

He said the original draft's provision to keep data of at least 20 years before has been scraped; the recommendation for a five-member Information Commission has been modified as a 3-member one. He claimed that the original draft wanted to make the Commission highly powerful body, with the authority to take action against violators of RTI law. However, the modification has been done in a way that curbs the Commission's independence and makes it "dismissible" by the government in case of inefficiency.

According to him, the government modification in the draft bill also weakens the security of the informers (whistle blowers). In addition, those who misuse information have been made liable to more penalty than the panel had recommended. Actually, penalty for misuse has been placed higher than one who declined from giving information.

He concluded that, while some changes seem to be made for bureaucratic and administrative/procedural convenience, some are seriously negative for a truly effective and democratic RTI law.

### **Discussion and comments**

The following points and issues figured during the discussion that followed the presentation:

- Journalists may expose corruption with high risk but the guilty may continue to go scot-free. Hence, it is highly necessary that appropriate ways are found to take action against the guilty.
- If and when an RTI law is introduced, monitoring of its implementation side is also very important.
- Boundary to bind information to media workers may also be necessary.
- Some issues which encounter lots of debates may also be taken to referendum before making law. Plebiscite is possible, as even the interim constitution accepts this.
- Misuse of information must be checked with due action.
- Bureaucratic system is affecting politics. Tendency to tamper with the original draft on RTI may be an example of this.
- Less confidence in bureaucracy might have led them to chop provisions.
- Unhindered access to freedom of press and freedom of expression is necessary. Media freedom is also essential, no matter whatever is the medium.
- Laws must be pragmatic to be enforceable.
- Constant awareness drive is essential. Discussion always helps to make good decision. Decisions (laws) must ensure social justice.
- Working papers submitted in the two-day workshop are a huge capital/resource on right to information.

Concluding this session, moderator Taranath Dahal said the RTI concept was first brought to House of Representatives in 1993. That time it talked of fewer rights. Moreover, it was the general impression that RTI was press people's cause or interest. It was a wrong perception, because RTI concerned with all people. He said people, or citizens, cannot afford to complain over media for not giving coverage to their interests/issues. People themselves ought to be empowered for information they need from the state.

### **Session III: "RTI and People's Livelihood"**

Presentation by Ranjan Krishna Aryal

**Summary:** Human beings need professional knowledge and skill to enhance their productivity in relation to use of natural resources for supporting their livelihood. Population growth and innovation of new technologies have affected and influenced bio diversity and its relations with human beings.

One decision can have different impacts on different stakeholders. For example, promotion of pesticides can have positive impact on producer firms but negative to many others. Promotion of chemical fertilizer may affect the market of organic fertilizer. So all the people concerned have a right to know the information in his or her area of concern, so that one may take right decision/reaction at the right time.

In a poor country like ours, many people, especially in the remote rural areas, maintain their livelihood through traditional knowledge and skills of livelihood. Such knowledge should be documented for conservation for future. RTI could also help to ensure that government policies do not infringe upon people's livelihood and earning.

Law is binding. But many violators are going scot-free in Nepal. Laws must be in tune with international norms and practices. If national and international laws clash, international law prevails. International laws deserve knowing. State has to develop spontaneous mechanism to inform its people. Nepal is agricultural land. Much development has taken place in this sector too, wherein farmers can take benefit.

Sometimes farmers' investment choice could be contrary to viabilities due to prevailing rules and regulations. They must be well informed about it beforehand; otherwise they may suffer loss simply because they failed to have access to information.

Engaging in some occupation is everyone's goal. Whatever the occupation, information is vital. Otherwise, investment (of farmers as well as others) may go in loss.

Due to lack of information, people--both farmer (producer) and user—could be cheated by middle-men who take undue profit. This is happening day-to-day. Thus, information can be used for reaping benefits for livelihood. Documentation helps storing knowledge so that rightful owners may be protected against possible piracy by others.

We have already signed WTO. Traditional knowledge could be protected under copy rights. Government policies should be clear and sustainable as well as static for a fairly acceptable duration of time. RTI could help citizens to take due precaution against the possible loss and damage.

## Discussion and comments:

The points and issues that figured during this session were as follows:

- Foreign seeds that don't reproduce are getting consumed here. It might affect our own productivity.
- 'Saligram'(holy stones) and many other things (items) are lacking patent identity of Nepal. Lack of awareness among us about the value of such relics is helping others (foreigners) to take benefit.
- The indigenous *Jethobudho* rice (traditionally cultivated in Pokhara and surrounding areas) goes to Germany from here. Who is to ensure copy rights? We must take such important awareness drives to the grassroots.
- Similarly, the indigenous seed-able cauliflower of Bhaktapur is being replaced by non-seed-able Indian cauliflower. Who is to blame?



- Likewise, *Anadi* (a kind of paddy), white corn, etc also can be protected by us. We must be cautious and should not give the seeds of such products to foreigners who can cheat us of our patent rights. A good information system is always helpful for documenting traditional knowledge as well as products.
- Effective RTI law could bring about a drastic change not only in agriculture but also in many other fields. It can lead our society towards economic or entrepreneurial development.
- "Right to Information" is a very good issue relating to the people and their everyday life. But we must reach to the concerned authorities to press for the enforcement of law for such a good purpose.
- We should go on registering our knowledge and local, indigenous products. Due to many forms of scientific tests, including DNA test, others cannot always rob us of our resources if only we can prove our originality. There is system for this. Government ministries can take the role in facilitating such registration.

## **Attention of Local Media**

The issue of Right to Information seemed to have made a good impact among local intellectuals on the very first day of the workshop. Reporters from local FM radios sought appointment from the workshop resource persons to broadcast their views from radios. Freedom Forum Chairman Taranath Dahal as well as taskforce coordinator of RTI draft bill, Kashi Raj Dahal, were interviewed by local FM. Obviously, the message of RTI awareness reached to a broader audience through the airing of their interviews.

## **Day Two Proceedings**

The second-day proceedings started with the brief review of the previous day's work. About a dozen participants described both the inaugural and the two workshop sessions as "insightful" and "knowledgeable". However, they stressed on modifying the paper on RTI's relations with livelihood of people so that it could be more elaborate.

Participants also expressed grievances over the "tightness" of the program, and requested the organizers to ensure that each session followed a brief break so that participation could be more active and attentive. The ultimate focus was on the need to take such programs, or its message, to the grassroots.

After that the second-day workshop commenced. Human Rights activist Chandrā Shrestha chaired the session and Freedom Forum chairman Taranath Dahal presented his working paper on RTI in relations to good governance.

### **Session I: "Good Governance and Information"**

Presentation by Taranath Dahal

In his working paper, Mr Dahal made the following observations:

- RTI could be an important tool to eliminate corruption and check malpractices in governance. It helps to promote good governance.
- Journalists, civil society watchdogs and NGOs can use it to expose social and bureaucratic malpractices and help to eliminate corruption.
- All countries have governance, but "good governance" is what a nation needs today.
- Good governance entails rule of law, transparency, consensus actions and decisions, equal or wider participation of people, equity and inclusiveness, accountability and responsiveness, and efficiency in service delivery. Besides these, free and fair election, strong anti-corruption struggle, sufficient governmental investment in social security/service measures, strong poverty alleviation drive, and full respect to human rights norms and values are also important.
- People cannot exercise their rights unless they are well informed. Hence the RTI is a key to good governance.
- RTI must also protect the security of those who release important information regarding irregularities and wrong policies/practices.
- Corruption impoverishes society in the long run. In Nepal important documents relating to public and social interest are regarded as confidential, which is not good.
- RTI is not just journalist's concern; it is every citizen's concern. So all sectors—including political parties, government organizations, NGOs or civil society bodies--should promote the culture of giving and seeking correct information.
- Aware citizens must now advocate for RTI as part of one's fundamental rights. RTI will only consolidate democracy by making it more transparent and accountable.

### **Discussion/comments**

The following points and issues were raised during the discussion session.

- The paper is good. It talks about the potential benefits of RTI in terms of good governance and transparency. But when would such a law come into existence is still a big question.
- Mechanisms of acquiring information at the local level should be clearly spelt out.

- Officials have a tendency to misuse budget for personal benefits. Quite often, budgets allocated for development works peter out without the work being finished. RTI law, if ever made, should also focus on eliminating such practices.
- RTI was recognized even by the 1990 constitution but due to missing law it could not be ensured. Introducing RTI law was therefore essential.
- Authorities sometimes tamper with facts. For example, local administration at a certain district once described an offence conspicuously done by the 'state' as one committed by the 'rebels' and the victim was given compensation as a rebel-victim. Although the compensation money was bigger, the victim felt that true justice was denied to him.
- Public awareness is vital for introduction of RTI law and its effective implementation. We must work out effective work plan to promote awareness on RTI. Citizens are not aware enough even to utilize the available information system, for example, civic charter.
- However, a law on 'right to information' could be one of the most effective tools to eliminate corruption.

## **Session II: Group-wise deliberation on proposed RTI bill**

The participants were divided into three groups and each of the groups dwelt on one of the following issues and prepared a set of recommendations on which the remaining two groups also put forth their comments during presentations. The participants of the workshop discussed all these issues and recommended a set of suggestions summarized below.

The issues discussed were:

A: How to promote RTI awareness campaign at the grassroots?

B: How to do effective campaign for "RTI Law" in Nepal?

C: How to ensure effective implementation once the RTI Law is introduced?

## **Recommendations:**

### **To promote RTI awareness campaign at the grassroots:**

More campaigns should be launched at local, regional, and district levels, preferably in local languages. Awareness campaign from village to central levels is necessary. Consultative programs should be held with representation of MP's from concerned districts, political parties and others, who should know about the value of 'right to information'.

### **To bring effective "RTI Law" in Nepal:**

Access to information should be encouraged legally.  
Personal information too should be accessible to 'concerned' person.  
Control over information should be eased.  
Public information should be accessible anyone without any hassles.

**To ensure effective implementation of RTI Law once it is introduced:**

- Role of the Information Commission should be made powerful.
- Public Information and Documentation Centers should be opened at various places where information officers will work.
- More means of information dissemination (information/communications media) should be created.
- All kinds of public information should be connected to a Central Information Network (Grid).
- Citizen's awareness campaign should be held regularly.
- Impunity should be uprooted.
- RTI should be incorporated also in School Curriculum.
- Monitoring/ follow up (regular updates) of information system should be developed.

**Resolution**

The workshop summed up the proceedings and recommendations in the following three resolutions.

1. RTI awareness campaign be spread nationwide
2. RTI Law be made without tampering the spirit of the original draft submitted by the taskforce
3. Strict enforcement of RTI law be ensured.

**List of Participants**

**Regional Workshop on Right to Information**  
**29-30 March 2007**  
**Nepalgunj, Nepal**

As part of the project to promote national awareness on Right to Information through special regional workshops in Nepal, Freedom Forum held a mid-western regional workshop on Right to Information in Nepalgunj on 29-30 March 2007. The workshop was attended by more than 50 delegates from 12 districts of mid western region.

## **Inaugural Session**

**Failure to pass RTI law in the past was unfortunate:** The workshop was inaugurated by Krishna Prasad Upadhyaya, chief judge of the Appellate Court, Nepalgunj. In his inaugural address, Upadhyaya said that the failure to make Right to Information (RTI) law was indeed an unfortunate thing for Nepal. Now that initiative has been taken, constant lobbying by professionals could inspire authorities to make the law, he opined. Upadhyaya had joined the program as the chief guest in spite of ill health (slight sickness) due to the issue of the workshop which was both new and important

**Effective RTI law workshop's aim:** Introducing the subject matter and shedding light on the objective of the program, chairman of the Freedom Forum Taranath Dahal said the workshop was aimed at discussing the issue of Right to Information and gathering suggestion for introducing effective RTI law in Nepal. He said RTI was acknowledged as fundamental right even by the 1990 constitution and an attempt was made to draft a law. But the process was stalled later partly due to biased thinking that only media was concerned with it.

All public works or activities should be open for the knowledge of the people, he said. Hence, people need 'right to information'. It helps citizens to feel that they are sovereign; it helps to empower them. He also informed the delegates that a bill was recently drafted, but the government has changed some wordings and clauses in a manner that tampers with the spirit of the quest for 'right to information'. He said the government modification tries to curtail people's access to information.

Dahal also informed the delegates of the workshop that Freedom Forum planned to hold a comprehensive discussion and workshop with MPs in the Capital, taking into special consideration the output derived from the regional workshops in all five development regions of the country.

He stated that RTI was instrumental both to consolidate democratic processes and empower citizens. "It is a way to awareness revolution," he said. During the workshop, we will discuss three working papers as well as the bill now in Parliament. As the bill still is to be passed, program could go a long way in rectifying its lapses, said Mr Dahal. He described the (proposed) RTI law as the "second constitution" which would promote citizen's access to "files," empowering people in the real sense of the word.

**RTI and the role of government:** Addressing the function, Padam Shahi, one of the participants, expressed the view that the RTI was an essential thing but those with power

to disseminate information must not do it in a way to cause or provoke communal disharmony or conflict in the society. He was of the view that information should be disseminated in a factual and balanced manner.

**Citizens need to know many things:** Also addressing the function, Krishna Karki, representative of the Nepali Congress (Democratic), said information was not only the things printed or broadcast by media or newspapers. There are many things about which citizens need to know. Therefore information is necessary for every citizen. Media may have different portrayal of the same events or information. People must be able to get the right one which is possible only if there is 'Right to Information.' This workshop, he said, could go a long way in helping people in this regard.

**Information and the role of media:** Narendra Jung Peter, representative of the CPN (Maoist), said information could be a problem as well as solution in a given circumstance. Information is very powerful, but sometimes it can cause disaster. Therefore information must be handled with prudence by the users. Media's role is always crucial for this reason. But the role could be equally vulnerable if information is handled carelessly. Petered explained how a single letter, or one slight error of judgment, could invite terrible consequences due to difference in message contained in a particular piece of information.

He claimed that NGOs and INGOs are mostly engaged in distractions, diverting from the main issues and concentrating on distracting concerns. Big media houses have much of such error of judgment, he said, adding that out of their commercial preference, they are tampering with many parts or aspects of the information. Media-fed information cannot be always fully credible. But RTI gives access to authentic information.

**RTI and sustainable democracy:** One of the guest speakers representing Nepali Congress, Banke, said the state often tends to be uncooperative to inform people properly. Conscious masses have a great role to play. RTI could be a tool to develop a credible information system in the country. Democracy is rule of Law and the RTI drive, in my understanding, seeks to ensure a system through a clearly defined legal framework. Wishing success to the workshop, he said when a law is there to bind officials with the responsibility to respect people's right to know, and then only a system could be more durable.

**RTI awareness needed in rural parts too:** Badshah Verma, acting president of Nepali Congress, Banke, said information should not be restricted by the government. Such programs need to be taken also to the villages so that even laymen could know how they can gain information on issues that directly relate to them.

**RTI drive deserves support:** Suresh Kumar Paudel, a legal professional, said he and many others used to think that RTI was only concerned with journalists and media people. Listening to the statements made hereby various speakers I now realized that it is concerned with all of us, even the laymen. That the media people are receiving threats is a challenge to information. People hardly get information upon demand. This is all because we have no RTI law. Freedom Forum deserves thanks and support for initiating such an awareness drive. We, the legal professionals extend our full support and solidarity for the cause of introducing an effective RTI law in Nepal.

**Role and responsibility:** Prem KC, a journalist and representative of the local Federation of the Nepalese Journalists, sarcastically remarked that officials express commitment during such programs but do not implement their words in practice. He also regretted that even a political force like Maoist which is "about to join government" has publicly alleged that we the media are manipulated by Americans. Is it the right information they are feeding the public? Irresponsible statements should not be uttered, he said. There are forces that are bent on taking the lives of those who disseminate information. Suggesting ways to rectify mistakes if any is acceptable and welcome, but issuing threats to life against journalists (as well as others) is undemocratic and opposed people's right to information.

**RTI law essential:** Prahlad Karki, vice president of Nepal Bar Association, described the 'Right to Information' as "very important" issue. He also regretted that the RTI could not be ensured due to absence of law in the early 90's despite constitutional provision. He described the RTI workshop as part of the awareness drive concerned with the interest of all citizens. He said RTI law was essential to legally protect the right of citizens (to acquire information.) Absence of law on RTI cannot bind the officials to provide information. As a result, they can hide or decline to give the right information. With this law, people can even verify the authenticity of information supplied by media or other parties. This would also increase sense of responsibility and accountability not only among officials but also citizens. He expressed the hope that the workshop would produce concrete outputs.

**RTI the best tool to promote democracy, transparency:** Kashi Raj Dahal, Coordinator of the taskforce preparing RTI draft bill, said at a time when nation is bracing for Constituent Assembly polls, national re-organization and greater social inclusion, RTI could be the best tool to promote democratic and transparent system. He said ideology, rather than 'biology' should be allowed to rule the world. Certain sections, opposed to democratic norms and practice, don't want to give information, as they want to serve their own interest by hiding information. He said that RTI law could root out such forces. Information is the soul of democratic rule and reason the best tool to use RTI, he added.

## **Workshop session**

### **Day One (29 March 2007)**

#### **Session I**

In the first session of the workshop, constitutional expert Kashi Raj Dahal presented working paper on "Right to Information in Democratization Process of the State"

He said the present struggle is aimed at consolidating people power. So people must be empowered. RTI was one of the most important tools towards this. His presentation also tried to address some of the new issues that have been figured in the RTI discourse since the beginning of the RTI awareness campaign in Biratnagar.

He said identity crises, the discrimination and marginalization factors (distribution) and lack of access have caused various sections to raise voice and take to streets now.

State should disseminate maximum information for public consumption by itself, by developing a clear system or procedural mechanism for it. All public enterprises should be accountable, he observed. According to him, concerned authorities ought to update and dispatch their information for the public, without requiring them to ask for it.

Bureaucracy ought to be trained properly to ensure that the state policies are meant for empowering people and are properly implemented.

Information that needs to be confined or whose immediate disclosure could create serious negative consequence should be spelled out in a clear way.

### ***Discussion and comments***

The following issues and comments were raised on the topic during discussion:

**Political leaders should not feed wrong information:** Politicians often give conflicting information/data to the people. Such a tendency only helps to confuse the minds of people rather than inform them rightly.

**Free, fair and non-biased:** Information should be dispatched freely and fairly but biased reportage is not good.

**Check misuse of information:** Information may be used for wrong purpose. It must be checked.

**Information and disappearance:** RTI law should also seek to make it possible for citizens to rightfully demand authentic information on people disappeared during the decade-long conflict.

**Information and the motive:** Information should not be demanded with wrong motive. General reason could be spelled out while demanding.

**RTI and undisclosed probe reports:** Probe panels' reports have often been left undisclosed. If there had been an RTI law in place, such tendencies could have been discouraged and all reports would have been published.

**Charges for information:** Cost for informative documents should be minimal; it should not be more than real expenses involved. Actually, information should be made available to people free of cost.

**RTI and democratic struggle:** Achievement of democratic struggle cannot be fulfilled without ensuring "right to information".

**Govt indifference undemocratic:** One participant observed that the workshop made him wonder if the present government was democratic. He said RTI is so essential and important and yet our government has not taken due step to make RTI law in Nepal.

**RTI and media:** Media may have bias regarding some kinds of information. Real or authentic information can be achieved by anyone if RTI law is there.



**Tap digital scope for disseminating information:** The working paper did not cover the great scope of digital age. Information could be updated in website.

**Media freedom and responsibility:** Media should have freedom, fairness and credibility. Responsibility and transparency are also equally important. Media ought to be free but not freak or reckless.

**Question of authenticity:** Information should be authentic. Disparity in the information filed by government radio and FM radios cast doubt on the authenticity. Ensuring authenticity is very important to maintain credibility.

**Help the system:** Pretentious activities should be avoided. For example, when the government admitting accountability towards Parliament does not act accordingly, it does not help to create proper atmosphere for democratization of state.

## Session II

In the second session, Ranjan Krishna Aryal presented his working paper on RTI in relation to people's livelihood. In his working paper, Mr Aryal explained how RTI could help even the laymen to improve livelihood by gathering necessary information about their occupation, new technologies, rules, etc, from the concerned parties.

He said producers as well as consumers can take benefit out of RTI Act.

Even we Nepalese need to go to competition in the international market after joining WTO. What benefit shall we get, and how? People can find answers to this and many other questions if there were an effective RTI Act.

### *Discussion and comments*

**Paper less exhaustive:** Livelihood concerns with the entire life cycle-- from birth to death. The paper appeared a bit incomplete. A more detailed review of RTI in relation to livelihood concerns could have been better suited for this workshop.

**Paper helpful:** The paper sheds some light on how Right to Information could be helpful in acquiring information to enhance one's income generating scope.

**Ordinary farmers need frequent awareness drive:** Only educated and clever people can utilize RTI to improve their productivity. Ordinary farmers and peasants will require frequent orientation or awareness drives to make them know about the scope.

**RTI and (intellectual) property rights:** Many farmers are deprived of patent rights on their property. If we are informed, at least some documentation could be reserved. RTI ensures people's interest—whatever their profession—by making the authorities answerable by law.

## Session III

In the third session which was chaired by Dr Arun Koirala and moderated by Jay Krishna, **Mr Taranath Dahal** made his presentation on '**RTI in relation to good governance**'. Here is the summary of his paper:

- RTI could be an important tool to eliminate corruption and check malpractices in governance. It helps to promote good governance.
- Journalists, civil society watchdogs and NGOs can use it to expose social and bureaucratic malpractices and help to eliminate corruption.
- All countries have governance, but "good governance" is what a nation needs today.
- Good governance entails rule of law, transparency, consensus actions and decisions, equal or wider participation of people, equity and inclusiveness, accountability and responsiveness, and efficiency in service delivery. Besides these, free and fair election, strong anti-corruption struggle, sufficient governmental investment in social security/service measures, strong poverty alleviation drive, and full respect to human rights norms and values are also important.
- People cannot exercise their rights unless they are well informed. Hence the RTI is a key to good governance.
- RTI must also protect the security of those who release important information regarding irregularities and wrong policies/practices. This is also called the security of the "whistle-blowers".
- Corruption impoverishes society in the long run. In Nepal important documents relating to public and social interest are regarded as confidential, which is not good.
- RTI is not just journalist's concern; it is every citizen's concern. So all sectors—including political parties, government organizations, NGOs or civil society bodies--should promote the culture of giving and seeking correct information.
- Aware citizens must now advocate for RTI as part of one's fundamental rights. RTI will only consolidate democracy by making it more transparent and accountable.

### ***Discussion/comments***

The following points were raised on the issue during the discussion session:

**Role-model nation:** RTI could be an effective tool for good governance but there may not be any nation which has established itself as a role model of RTI as of yet.

**Role models are relative:** No country is perfect in all aspects but we can rate nations according to various tenets of good governance. We can improve ourselves in much of the indicators of democratic norms and values.

**Possible non-cooperation:** In a country where ministers hardly want to disclose their property, RTI may not receive as much cooperation as desired. However, we should not step back from the mission to make people aware on the rationale of the RTI law.

**Seriousness needed:** It is a highly relevant paper. The points or issues raised here could be instrumental in making a transparent society, if implemented seriously.

**Women's participation:** Women's participation could not be optimum in the workshop.

**Protection to whistle-blowers:** Whistle blowers are being punished in one way or other, especially in responsible government offices. It must be checked.

**Stress on self-evaluation:** We in this workshop too should be self evaluative about the transparent and accountable behavior.

**RTI and spendthrift leaders:** A politician spends as much as 90 million rupees in his daughter's marriage. However, none can question how he earned all that money. RTI could bind the concerned to disclose truth.

## **Day Two (30 March 2007)**

As in other regional workshops, the second-day program began with a brief review of the previous day's activities. Participants, mainly ladies, reviewed the workshop as highly educating and important. Some of the participants regretted the tendency of some delegates to take the program as an opportunity for passing time, for they often played truants during sessions. They said attentive and sincere participation was must at such programs. As the aim of the workshop cannot be fulfilled without individual honesty and sincerity, people who are not keen do not deserve representation in such seminars, they observed. Yet, the first day activities were generally reviewed as impressive and educating.

### **Session I**

The first session of the second day workshop dwelt on four main issues:

- Presentation on the proposed RTI bill
- Draft bill sent to Parliament with modification by the government
- Comparative analysis between the original and modified draft
- Point wise deliberation on the differences between the two drafts.

### ***'RTI Draft Bill with a comparative note on the changes made by the government'***

Presentation by Kashi Raj Dahal

In the first session of the second-day deliberation, Mr Kashi Raj Dahal dwelt on the draft bill on RTI recommended by the taskforce led by him. He also briefed on the changes made by the Ministry of Information and Communications and made a comparative

assessment, with a reference to possible negative impact on the spirit of the RTI campaign.

As in other regional workshops, a copy of the draft bill was made available to each of the participants of the workshop. To that, Mr Dahal added the notes on how the bill had been altered (or modified) by the government. He said, unlike the panel's recommendation, the private sector had been excluded from the list of public authorities answerable to the RTI quest; specific conditional clause in relation to keeping confidential certain sensitive information has been changed into something that helps concealing even ordinary, non-sensitive information.

He also explained why some information deserves secrecy for public interest. He said some privacy is meant for public good. For example, confidential information about national defense strategy... this is definitely something that calls for confidentiality.

He said the original draft's provision to keep data of at least 20 years before has been scrapped; the recommendation for a five-member Information Commission has been modified as a 3-member one. He claimed that the original draft wanted to make the Commission highly powerful body, with the authority to take action against violators of RTI law. However, the modification has been done in a way that curbs the Commission's independence and makes it "dismissible" by the government in case of inefficiency.

According to him, the government modification in the draft bill also weakens the security of the informers (whistle blowers). In addition, those who misuse information have been made liable to more penalty than the panel had recommended. Actually, penalty for misuse has been placed higher than one who declined from giving information.

He concluded that, while some changes seem to be made for bureaucratic and administrative/procedural convenience, some are seriously negative for a truly effective and democratic RTI law.

- Many things intact but some key provisions altered.
- Public agencies, unlike the taskforce's recommendation, have been defined in a way to exclude companies opened as private limited.
- Confidentiality should not be the weapon for officials to hide any information and misuse this provision.
- The scope of "sensitive" information that deserves to be kept confidential has been widened contrary to the taskforce's recommendation.
- Information updates had been recommended for at least 20 years, but it has been deleted.
- Information should be available in the original (un-tampered) form, in intelligible (local) language, if necessary.
- Fee ought to be reasonable.
- Independent Information Commission provision, unlike the taskforce's recommendation, has been made "dismissible" by the government.
- Fine against officials violating RTI has been approved but the same has been doubled in case of those who abuse information.
- Compensation provision has been deleted.

## ***Discussion and Comments***

**Judgment of right/wrong difficult:** How to define right use and wrong use of information, what is the basis to judge this?

**RTI law may not work after new Constitution:** Law may not sustain when Constitution changes. Time is for making the Constitution—the chief law. Without constitution first, law may not materialize.

**Binding provision missing in the draft:** Binding provisions for the giving out of desired information is missing in the proposed bill.

**Sensitive info deserves permanent seal:** Highly sensitive info on national security, for example the one threatening sovereignty, can be kept confidential for ever. No need to confine them within 30 years.

**Protection of whistleblowers a must:** Whistleblowers often get punished or threatened, especially when information gets published in some media outlets. It is necessary to ensure their safety.

**Commissioners' selection on merit base:** Experience and age bar for Commission members is unfair. Even persons with less years' experience could work better. Selection in the Commission should be made on the basis of qualification.

## Session II (group work)

In the second session, the workshop participants, divided into three groups, deliberated on the following three areas and made a set of recommendations:

- a. How to make effective RTI law?
- b. How to ensure its effective implementation of RTI Law once it is made?
- c. How to take RTI awareness drive to the grassroots?

## **Recommendations**

After intensive deliberation for two days, delegates from mid western region concluded that Right to Information is part and parcel of people's fundamental rights and it must be ensured by a concrete and unambiguous law.

To ensure this, the following recommendations have been made for the government, policy makers and the citizens' groups.

### **i) To Govt and policy makers**

- a. *To make effective RTI law:*
  - Multi-sectoral pressure campaign
  - Political lobbying
  - Whistle blowers safety
  - Interaction with government and non-governmental sector
- b. *To ensure its effective implementation:*
  - Citizens' awareness campaign
  - Media coverage

- Simplification of official procedure
- Timely review of Act
- Awareness drive through political parties, civil societies and professional organizations at the grassroots
- Public hearing
- Constant pressure on government agencies
- Impact assessment and dissemination

## **ii) To advocates and citizens groups**

### *c. To take RTI awareness drive to the grassroots:*

- Network extension involving concerned stakeholders
- Balanced and inclusive awareness activities at local levels
- Incentives and inspiration to whistleblowers
- Local publicity campaign on RTI as fundamental right
- School-level awareness drives
- Formation of special group of advocates at institutional level to support or facilitate quick and efficient dissemination of information

## **Resolution**

The regional workshop in Nepalgunj also unanimously endorsed the 'Right to Information' resolution passed in Biratnagar.

1. **RTI awareness campaign be spread nationwide**
2. **RTI Law be made without tampering the spirit of the original draft submitted by the taskforce**
3. **Strict enforcement of RTI law be ensured**

**Regional Workshop on Right to Information**  
**31 March-01 April, 2007**  
**Dhangadhi (Kailali), Nepal**  
(Venue: Hotel Vidya)

## **Introduction and background**

As part of its national awareness drive on Right to Information, Freedom Forum held the fifth and the last of its RTI regional workshop series in Dhangadhi of the Far-Western Development Region from 31 March-01 April, 2007. The workshop was attended by more than 55 delegates from six of the nine districts of far western region.

The workshop was mainly aimed at promoting citizens' awareness on 'right to information' and gathering suggestions for introducing an effective and democratic 'Right to Information' Law in Nepal.

As in other regional workshops, the two-day program was intensively categorized into four parts--inaugural session, presentation and debates, group works and recommendations.

The workshop deliberated on the three working papers dealing with various dimensions of Right to Information and also discussed the recently drafted bill on "Right to Information" submitted to the Ministry of Information and Communications and now on way to Parliament for legislative procedure.

The first day of the workshop had inaugural session and presentation of three working papers, whereas, the second-day deliberations concentrated on the study and assessment of the proposed bill on Right to Information, its relevance and lapses as well as recommendations for improving it.

Finally the workshop ended, outlining a set of suggestions and recommendations.

## **Inaugural session**

The inaugural session was opened by Shiva Raj Yogi, a journalist and the local coordinator of the program. Gopal Prasad Parajuli, Chief Judge at the Appellate Court, Mahendranagar, was the chief guest.

Welcoming the participants and guests at the workshop, Freedom Forum Chairman Taranath Dahal said 'right to information' was essential for Nepal as it was the soul of democracy. Even to the audience of far western region, he reiterated that RTI awareness drive had to be launched to press for an effective RTI law in Nepal that is still missing despite constitutional acceptance since 1990.

He said the workshop would help to wipe out the general misconception that RTI relates only to the media or journalists. He added that the three working papers on different

themes and aspects, the proposed bill and changes made by the government in it shall be discussed during the workshop. He said a democratic RTI law could make citizens feel that they are really sovereign and powerful. "Citizens are entitled for authentic information on issues of their concern," he observed, adding that goals of democracy cannot be achieved without sustaining democratic processes.

On the occasion, speakers from various political parties as well as members of civil societies, government and non-governmental organizations and intellectuals expressed the view that the issue of 'Right to Information' was highly relevant in the given state of the nation. They wished the program success.

Those expressing their views in the inaugural session included Buddi Sagar Chaudhari of NC Kailali, Dirgha Sodari of CPN (UML), Bir Bahadur Budhamagar of the National Human Rights Commission, journalist Karna Shah, Dirgharaj Ojha, member of the Board of Directors of Gorkhapatra Corporation, Haripriya Bhandari, president of Nepal Women's Organization, Kailali and Kashiraj Dahal, coordinator of RTI draft bill taskforce.

**Who serves hiding information?** Coordinator of the Taskforce on RTI Draft Bill, Kashi Raj Dahal, thanked the Freedom Forum for taking the draft-bill recommended by the panel led by him into an open debate and discussion among stakeholders across the nation. He said hiding information was autocratic, totalitarian tendency, whereas democracy keeps the information open.

Shedding light on the types of people who are conventionally opposed to RTI, he said those wishing to run nation as if by family inheritance, those who want to take economy under their grip, those opposed to social reform, and religious/political fundamentalists don't want information to be easily accessible to the people.

Dahal observed that media freedom is in fact a legacy of the people's right to information, which the media must clearly understand. People's right to information is the umbrella right. RTI was essential to nurture the hard earned achievement of democratic struggle. It is essential to make the clear constitutional and political framework for the future course of the nation, to ensure highest degree of social inclusion.

He said ideology should determine the state polity and RTI upholds and helps to implement democratic principles into practice.

**RTI for fair justice system:** In his inaugural address, Gopal Prasad Parajuli, chief judge of the Appellate Court, Mahendranagar, said even in Stone Age, people felt the value of information. He expressed the view that sources of information must be protected and upheld by all. RTI is an extensive issue that helps to make rulers truly loyal to the people. Right information at right time could avert many dangers and save loss of lives and property. 9/11 in America and recent carnage in Rautahat, Nepal tolled heavily due to lack of small information. "Justice is the first virtue of a society" some scholar once said. RTI has close link with justice system. Without proper information, justice delivery



cannot be fair. Nation without RTI is an uncivilized nation. RTI takes nations from darkness to light. Parliament must be transparent. Parliamentary information need not be confined or regulated.

**All sectors concerned with RTI:** Mr Parajuli said that when questions come, tongues should answer (with clarity) not the head (passive gesture). Poverty alleviation, education, economy, society –all sectors are concerned with RTI . State ought to be dynamic and cooperative to ensure RTI. Decisions should reach people before it is practically put to force. He said information is a pipeline which, if kept unsystematic, could create problems. RTI could go a long way in guiding the nation towards a progressive path.

At the close of the inaugural session Freedom Forum Chairman Taranath Dahal regretted that despite constitutional provisions for RTI, restrictive clauses have been placed in proposed RTI draft bill to curb it in the true sense.

## **Workshop sessions**

### **Day One**

#### **Session I**

#### ***'Role of RTI in the democratization process'***

Presentation by Kashi Raj Dahal

The gist of Mr Dahal's presentation is as follows:

Present struggle is aimed at consolidating people power. So people must be empowered. RTI is one of the most important tools towards this. This presentation also tries to address some of the new issues that have been figured in the RTI discourse since the beginning of the RTI awareness campaign in Biratnagar.

Identity crises, the discrimination and marginalization factors (distribution) and lack of access have caused various sections to raise voice and take to streets now.

State should disseminate maximum information for public consumption by itself, by developing a clear system for it. All public enterprises should be accountable and they should update and dispatch information for public without requiring them to ask for it.

Bureaucracy ought to be trained properly to ensure that the state policies meant for empowering people are properly implemented.

Information that needs to be confined or whose immediate disclosure could create serious negative consequence should be spelled out in a clear manner.

## ***Discussion and Comments***

Delegates from various districts raised the following points over the paper and the theme of democratization process during the discussion that followed the presentation.

- Varying provisions in Constitution and corresponding laws and regulations is hindering effective implementation of RTI and many other laws.
- Impunity must be terminated to ensure implementation of laws. People are hiding information and they are not punished by law.
- Rule of law must prevail in order for the RTI initiative to be fruitful.
- Freedom Forum deserves thanks for this awareness initiative, because, we so far held the view that RTI had more to serve the interest of media persons rather than people in general.
- It is now time that people themselves raise voice for the right to information.
- Elements opposed to RTI are further encouraged by the general 'culture of silence' among us.
- It is regrettable that information is given only as an exception amongst us.
- Officials are biased. Lack of responsibility hinders the goal of RTI.
- Bureaucracy must develop professionalism.

## **Session II**

### ***'Right to Information and good governance'***

Presentation by Taranath Dahal

#### **Summary:**

RTI could be an important tool to eliminate corruption and check malpractices in governance. Journalists, civil society watchdogs and NGOs can use it to expose social and bureaucratic malpractices and help to eliminate corruption. Right to Information helps to promote good governance.

All countries can have governance but good governance is what a nation needs today. Good governance entails rule of law, transparency, and consensus action, equal or wider participation of people, equity and inclusiveness, accountability and responsiveness, and efficiency in service delivery. Besides these, free and fair election, strong anti-corruption struggle, sufficient governmental investment in social security/service measures, strong poverty alleviation drive, and full respect to human rights norms and values are also important.

People cannot exercise their rights unless they are well informed. Hence the RTI is a key to good governance. RTI must also protect the security of those who release important information regarding irregularities and wrong policies/practices.

Corruption impoverishes society in the long run. In Nepal important documents relating to public and social interest are regarded as confidential, which is not good.

RTI is not just journalist's concern; it is a citizen's concern. So all sectors, including political parties, government organizations, NGOs or civil society bodies should promote the culture of giving and seeking correct information.

Aware citizens must now advocate for RTI as part of one's fundamental rights. RTI will only consolidate democracy by making it more transparent and accountable.

***Discussion and comments:***

**Rural parts lack access:** Information—even ordinary, basic information about major national issues-- has not reached to the rural parts. It must be taken there and NGOs, political parties and others have a major role to play in it.

**Constant lobbying is necessary:** It may take time but constant lobbying is necessary for bringing RTI law in Nepal.

**Quality participation necessary:** Weak people cannot be imposed in the name of participation. Promote quality participation. Crucial or meaningful participation desired.

**Develop conflict management skills:** Developing conflict management skill also is part of good governance. We must focus on this too.

**Media for women's awareness:** Media can play crucial role in promoting women's awareness to fully benefit from the 33 percent allotment of candidature for women.

**Fair inclusion:** Political leadership ought to internalize the issue of inclusion and should not impose one-party domination in any ministry

**No problem for RTI law:** Information, expression, and press and publication have been recognized as fundamental rights even in the incumbent interim constitution. So there should not be any problem introducing an appropriate law on RTI.

**Authorities must pay attention:** RTI holds special significance for media people, although it is the concern of all citizens. Such issues deserve attention from authorities.

**RTI and violence against women:** This workshop is a matter of happiness for people from far west, as it seeks to make us aware on the value of information and our right over them. Nation needs democracy, and democracy needs informed people. It is helpful even to fight violence against women. We are getting biased or one sided, and inauthentic information. RTI could pave the way for authentic information.

### Session III

#### ***'RTI and people's livelihood'***

Presentation by Ranjan Krishna Aryal

In his working paper, Mr Aryal made an appraisal on RTI in relation to people's livelihood. He explained how RTI could help even the laymen to improve livelihood by gathering necessary information about their occupation, new technologies, rules, etc, from the concerned parties, if an RTI law was in effect.

He said producers as well as consumers can take benefit out of RTI Act, once it is made and put into force.

After joining WTO, even we Nepalese had to increase competence to vie in the international market. But we need a lot of information on how we could gain skill and reap benefit. What benefits shall we get, and how? People can find answers to this and many other questions if there were an effective RTI Act in place.

#### ***Discussion and comments***

**RTI for securing copyrights:** In the present age of technological innovation, many shrewd people could tactically rob us of natural ownership over our own resources by securing copyrights for themselves. Through RTI, interests of farmers and others could be protected.

**RTI can protect people's resources:** Workshop may prove catalytic in breaking the misconception that RTI is only journalists' concern. It is people's concern. People's resources are being encroached upon by others. They must know things. RTI helps to know such things.

**More elaborate discussion necessary:** The paper tells something about role of information to farmers and ordinary people in relation to their occupation. But the issue requires a more elaborate discussion on the issue. The paper answers only a few questions in this regard.

**Special awareness drive:** Special awareness drive is necessary to make people aware about RTI and the scope of better livelihood. This paper helps to make some sense how RTI is related to general people.

#### **CD on RTI**

After the discussion session, the workshop participants also viewed a CD on Right to Information, prepared by the Freedom Forum as part of its awareness campaign.

#### **Day Two**

Day two opened with reviewing the previous day's workshop and its pluses and minuses. Among the plus points was clarity of the issue of 'right to information' as a general, fundamental issue linked to all citizens. Lapses were lack of mike in the hall and low preparedness among the participants to involve in critical interaction.

## Session I

This session concerned with the draft bill recently prepared by the 'right to information' taskforce and sent to parliament by the government.

The session was chaired by Nina Jairu, a participant from Dadeldhura who represented the dalit community. RTI taskforce coordinator Kashi Raj Dahal made a presentation on the draft bill, along with a critical assessment of the modification made by the Ministry of Information and Communications.

The critical assessment had the following substantive thrust:

- Many things intact but some key provisions have been altered.
- Public agencies, unlike the committee's recommendation, have been defined in a way to exclude companies opened as private limited.
- Confidentiality should not be the weapon for officials to hide any info and misuse this provision.
- The scope of 'sensitive' information that deserves to be kept confidential has been widened contrary to the Committee's recommendation.
- Information updates had been recommended for at least 20 years, but it has been deleted.
- Information should be available in the original (untampered) form, in intelligible (local) language if necessary.
- Fee ought to be reasonable.
- The provision of Independent Information Commission, unlike the panel's recommendation, has been made 'dismissible' by the government.
- Fine against officials violating RTI has been approved but the same has been doubled in case of those who misuse information.
- Compensation provision has been deleted.

## ***Discussion and Comments***

1. All should get information. Fees should not be imposed upon asking for information.
2. Media persons should be absolved of fee burdens.
3. The same information may relate to various laws. Duality must be avoided.
4. Whistle blowers must be protected.
5. Information Commission's role and duties must be clear.
6. Inclusiveness must be defined clearly.

7. Price and investment research should be allowed.
8. Private companies also should be responsible for information giving, lest properties might be concealed under them
9. Public policy and private policy demarcation must be clear.
10. Private sector privileges not for cheating people or trying to dodge responsibility or answerability. Hence they too should be equally answerable to citizens.
11. It is government's responsibility to regulate private sector when they break norms.
12. Bill is not complete in itself; we have to reform laws (including RTI once it is passed) as per the need of the time in the future.
13. Financial punitive measure should aim at reforming the guilty rather than imposing financial torture.
14. Even Parliament should hold serious debate over the issue.
15. Informants should not spread rumors or create confusion.
16. Informants, including journalists, must be protected with some insurance policies by the state.

## Session II (Group work)

Delegates were divided into three groups that discussed the weaknesses in the proposed Bill sent to the Parliament, points for suggestion for its reform, and the role they may be able to play for ultimately getting the law introduced.

After an intensive mutual interaction for about 45 minutes, the delegates drew a set of recommendations to government/policy makers and advocacy groups based on the three questions as follows.

- a. How to make effective RTI law?
- b. How to ensure its effective implementation once introduced?
- c. How to take RTI awareness drive to the grassroots?

## **Recommendations**

After holding intensive deliberation on the significance of right to information, delegates of the two-day workshop from far western region concluded that the Right to Information is people's fundamental right and it must be ensured by a concrete and unambiguous law. To ensure the Right to Information in our country, the workshop has made the following recommendations to the government, policy makers and the citizens' groups.

### **i) To Govt and policy makers**

- a. *To make effective RTI law:*
  - Awareness and pressure group
  - Encompass private sector
  - Most provisions in the draft bill okay
  - Incentives to whistle blowers

- Cause need not be specified
- Delete restrictive clauses from some articles
- Facilitating campaign through Govt media on RTI

*b. To ensure its effective implementation:*

- network formation
- incentives to information givers
- nationwide campaign on RTI
- Special trainings and other programs to promote RTI awareness in rural areas

## **ii) To advocates and citizens groups**

*c. To take RTI awareness drive to the grassroots:*

- political, social level awareness programs
- formation of publicity teams at VDC /DDC levels
- Cooperation and coverage by media colleagues

## **Roundup observations**

**Effective program:** Prior to the formal closing of the program, Tula Chand, chairperson of the Nepal Jaycees Dhangadhi, spoke on behalf of the participants and said the workshop was really successful to educate the participants that RTI was not just media persons' concern. "We knew this and we have felt empowered," she said. She also thanked Freedom Forum for bringing such an important program in a place like Dhangadhi, notwithstanding distance and heat. "I will utilize the knowledge in districts at my capacity," she observed.

**RTI Act ahead of CA polls:** On the occasion, constitutional expert and the coordinator of the taskforce on RTI draft bill, Kashi Raj Dahal, spoke on behalf of the resource persons. He said if RTI Act comes before CA polls, we can hope for the best that polls would be fair and many irregularities can be checked. He said that political parties must have a clear roadmap for steering the nation through the right path. The workshop closed with vote of thanks by Forum chairman Taranath Dahal, and endorsing the RTI resolution passed in Biratnagar.

## **Resolution**

1. **RTI awareness campaign be spread nationwide.**
2. **RTI Law be made without tampering the spirit of the original draft submitted by the taskforce.**
3. **Strict enforcement of RTI law be ensured.**

**National Seminar on Right to Information  
Kathmandu, Nepal  
(April 27, 2007)**

## **Introduction and background**

Freedom Forum held a national seminar on 'Right to Information' in the Capital on Friday, April 27, 2007. The seminar was particularly focused on discussing the issue of 'Right to Information' (RTI) and the proposed bill on 'Right to Information' currently under the perusal of the Committee for Environment, Communications and Technology of the Legislature-Parliament.

In a sense, the seminar was the culmination of the first phase of the RTI promotion campaign initiated by the Freedom Forum in cooperation of ICIMOD. The National Seminar specially sought to appraise the need for RTI law and the message of RTI regional workshops to the Members of Parliament, who were the ultimate source of lawmaking.

## **Objective / rationale**

Although 'Right to Information' is an effective tool to secure people's rights, no concrete measure seems yet in the offing to ensure this right through an appropriate legal mechanism. Freedom Forum began the initiative to spread awareness on 'Right to Information' and gather suggestions from local opinion leaders all throughout the country earlier this year. In this connection, regional workshops were held in all five development regions from January-March, 2007.

The regional workshops deliberated on RTI, taking into consideration its various aspects. The workshops concluded that a pro-people law on 'right to information' was necessary in Nepal to empower people and ensure sustainable growth of democracy.

After holding extensive interaction with professionals and social sector leaders, it was now the turn of lawmakers to understand the gravity of the issue. The cause for RTI was not only related to media or the information sector, but to all people—from the grassroots to the center. So an effective RTI law would be in the greater interest of the nation and its people.

Therefore, the Seminar was particularly focused on apprising the Members of the Interim Legislature-Parliament on the rationale of an RTI law and on disseminating the message of RTI regional workshops, to them. The seminar aimed at grooming the MPs on 'Right to Information' as a general concern relating to all people and preparing them to lobby for introducing a truly meaningful 'Right to Information Law' in Nepal.



## Participation

The workshop was attended by more than 150 delegates from wide-ranging fields, including legislators, constitutional experts, political and civic society leaders, government officials as well as lawyers, intellectuals, journalists, teachers and entrepreneurs. More than **35 Members of the Interim Parliament** had joined the program with a highly positive note on the issue.

## Inaugural session

**Freedom Forum and RTI:** The program was conducted by Freedom Forum general secretary Pradip Ghimire. Shedding light on Freedom Forum's involvement in RTI campaign since the past one year, he said, the campaign was launched to 'empower people and nurture democracy' as democracy cannot be complete unless we ensure citizens' access to information.

**Inputs to amend RTI draft bill:** Speaker Subas Nembang inaugurated the seminar amid a special function. In his inaugural address, the Speaker Nembang said the 'Right to Information' was a highly important issue and democracy cannot be complete without ensuring citizens' access to information. He thanked the Freedom Forum and expressed the hope that the seminar would be able to give considerable inputs to amend and pass the 'Right to Information' draft bill now under consideration of a Parliamentary committee.

In the view of the RTI draft bill now under the perusal of the Parliamentary committee, Mr Nembang expressed the view that the recommendations of the seminar would be helpful to make amendments in the proposed draft to suit the spirit of making a 'new' Nepal.

Notably, the Speaker had made it to this "important" seminar, notwithstanding his tight schedule to leave for Indonesia immediately afterwards, leading a Nepalese parliamentary delegation at a meeting of Inter Parliamentary Union.

**MPs have mandate to pass RTI bill:** Raghav Raj Regmi, member of the Citizen's Campaign for Right to Information, expressed happiness over the fact that the RTI campaign—from a lukewarm stage last year, had reached the stage of drafting a bill at governmental initiative at the moment. At the citizen's level, he said, three things were vital, i.e. promotion of citizen awareness, introduction of law and its implementation. He said the MPs of the day had the mandate of the popular movement for getting the RTI bill passed. He also claimed that the bill would be an exemplary one in the entire South Asia, if it is introduced as per the spirit of the RTI campaign.

**RTI checks corruption:** Dr Naniram Subedi, coordinator of transparency and good governance section of ICIMOD, said, his organization joined hands with RTI campaign with the conviction that

RTI law could be highly instrumental in ensuring good governance. He said irregularities have continued in bureaucracy or public sector in the name or under the cover of privacy or confidentiality. Since RTI law binds one to furnish clear and truthful information, corruption can be checked to a great extent, he observed. He added that the RTI law should not have any words to make the meaning 'ambiguous' and the law must also be implemented in practice.

**RTI bill as a trial for political parties:** Bishnu Nishthuri, president of the Federation of Nepalese Journalists (FNJ) said a law on RTI was a long-raised demand of the FNJ, for which Freedom Forum has now effectively campaigned. Although RTI was not only a concern of journalists, it would enhance journalists' access to information and upgrade their professional role. He expressed regrets over the fact that the political parties were not cooperative with the RTI cause in the past. "However, this time, RTI draft bill has come to the political parties as a momentous trial," he observed.

Nishthuri also called upon the legislators to help to get the bill passed if they ever thought that they were fighting for the emancipation of the people. But he also said that the draft has been "mutilated" by the Ministry and needs to be restored as per the recommendation made by the Taskforce before making it into a law.

**RTI empowers people at the grassroots:** In his observation, the Press Council Nepal chairman, Rajendra Dahal, apprised the delegates that the quest for RTI law was made for the sake of people in general rather than for the press in particular. "The nation has already spent over 700 million dollars for electricity, yet there is not much in terms of relative gains. A law on RTI could help to check irregularities by making the authorities legally answerable," he said.

"Those with old mentality may not like RTI as it empowers even the grassroots population and offers platform for them to argue with high-ranking officials," he added. Recalling to an Indian experience, he said much of the old, feudal structure had been demolished within the past two years thanks to the introduction of an RTI law there.

**Government also positive:** Secretary at the Ministry of Information and Communications, Shankar Prasad Koirala, said that the government was committed to bringing the RTI law as the 'right to information' was warranted by the Constitution. (It may be noted that Article 27 of the Interim Constitution recognizes 'right to information' as people's fundamental rights.) He said the Ministry was ready to make necessary amendments in the draft bill, as per the advice of the experts and scholars in this regard. Even though the MoIC might have coordinated the drafting of the bill, he said at least his Ministry has no confusion that RTI bill is for all people in general. He also admitted that all the organs of the state would come under the purview of RTI Act once it is introduced. "Personally, I feel that the bill is designed with a view to encourage the public sector to give the relevant information to the public as efficiently as possible," Mr Koirala observed.

**Law and its effective implementation both essential:** Legislator Radheshyam Adhikari expressed the view that the more the RTI law is effective the more the level of accountability and transparency on part of the government. While the need for the RTI law is intensely felt, we have to work for it in a way to ensure that citizens get maximum access to information, he said. He added that the law and its implementation were essential for the 'right to information' to be really secured. He expressed commitments to consider the suggestions of the Seminar, but at the same time, said that political parties should also demonstrate some willpower and the bureaucracy needs to be equally cooperative for the RTI law to be effective.

## **Presentations**

In the second part of the Seminar, four presentations were made—three on various aspects of RTI and one on the RTI regional workshops held by Freedom Forum and the recommendations thereof. What follows are the excerpts of the presentations:

### ***'Right to Information' and democratization'***

Gist of the presentation by Kashiraj Dahal

- Democracy cannot be strengthened without consolidating democratic processes at the grassroots. RTI bill aims at empowering people, making the government more responsible, and ensuring citizen's access to information.
- RTI law ought to be made, considering the "maximum disclosure" principle, so that citizens can get wider access to information. Not only that, the access must be efficient or quick. People should be provided information as early (expeditiously) as possible.
- Information that are of 'sensitive' nature and need to be kept confidential must be marked clearly. 'Confidential' tag must not be open for misuse.
- Safety of whistle-blowers (people who give out information) is very important. The draft bill's original recommendation in this regard—should be retained.
- The independence of the proposed Information Commission should not be weakened.

## **Discussion and comments**

- **Encompass Pvt Ltd:** The 'Right to Information' Law should be made applicable also to such organizations that are opened under the Company Act. This is necessary to make them responsible as they claim to be doing public service.
- **Promotion of info culture:** Encompassing the private sector as well under the purview of the RTI law was essential to promote a culture of giving information at this age of privatization and globalization.

- **Law binds state domain:** As RTI has been warranted as fundamental rights in the Constitution, law in this regard binds the state domain under its influence. As such, the private sector may not be forced to come under its purview.
- **Commissioners' appointment not by PM:** Prime Minister may not be the right person to appointment of the Commissioner for the proposed Information Commission, as this might mix up Legislative role with the Executive.
- **No domination of Executive:** There should be any provision that might establish the domination of the Executive over the Information Commission. Only then can the Commission be made independent.

### ***Making law on Right to Information***

Gist of the presentation by Dr Ram Krishna Timalaena

- In a democratic society, State has to own the responsibility to inform people on most issues, on its own, without needing the citizens to ask for it.
- We should be clear whether we want RTI law for Nepalese citizens or for any person.
- RTI shall bind organizations to give information, based on their 'public function' test. 'Private function' organizations may not come under its purview.
- RTI law also stands the risk of being evoked for business motive. Similar trend have given rise to "reverse RTI cases" in some countries, e.g. USA.
- Private information normally falls under "Right to Privacy" --whether it is for acquiring that information or protecting its confidentiality.
- Access to deliberative government institutions, e.g. meetings, should be promoted. Access to public places, such as hospitals, forums, prisons should also be ensured.
- Public-interest information should be available free-of-cost.
- Information that has been published, or is about to be published, may not be provided in person, but the seekers of such information could be given appropriate replies or advices to help them be informed.
- Massive public orientation/ trainings may be required to educate the people as to how to make constructive use of RTI law once it is introduced.

## Discussion and comments

**Encompass NGOs/INGOs:** Many national and international non government organizations are powerful and they are almost functioning as parallel governments. Therefore it is logical to argue that they too should be brought within the purview of the RTI law.

**Access factor:** Published information may not necessarily be accessible or available in some places (for example, in remote villages). In such cases information must be provided by the concerned officials without hesitation.

**Appropriate replies:** Appropriate replies/information should be given depending on the urgency of the information for the seeker.

**Discuss more:** RTI is important. It seems, we are already somewhat late in advancing the cause of Right to Information. The issue actually calls for detailed and comprehensive discussion at the governmental level and massive awareness drive is essential at the grassroots level.

**Introduce soon:** RTI law is so important that it deserves to be introduced as soon as possible. If there are any barriers, we should not even hesitate to amend laws or constitution itself to pave the way for the RTI bill to be transformed into an effective law.

**Make it balanced:** RTI bill is no doubt important. Yet, we should make this law in such a way that none may require to lodge complaints or file case against the RTI law.

**Bind political parties too:** Political parties are the most non-transparent in our context, yet they are the ones who shout for transparency. When shall they improve? RTI law can compel them to be transparent and systematic provided that even political parties are brought within the purview of the RTI law.

**Non-contradictory:** RTI and Privacy laws are not contradictory to each other. RTI should be introduced, respecting one's right to privacy.

**How about simultaneous RTI and Privacy laws?** Would not it be better if RTI and Privacy laws were both introduced simultaneously?

**Don't wait for other things:** Privacy law may take some time. It is better if RTI law is introduced without waiting for the Privacy law.

### ***'Right to Information' and its relation to people's livelihood***

Gist of presentation by Ranjan Krishna Aryal

Laymen, who have no organized strength, can benefit from RTI law, in which public authorities would furnish information either voluntarily or upon demand.

None can claim individual ownership over natural resources, such as forest, river, mountains and mines. All people can take collective benefits from such resources. RTI can help them be informed better in this regard.

RTI can educate people as to what belongs to them and what scope their enterprise or products bear.

In India, when they had RTI Act, some people described it as if the fruits of democracy were felt only after this law was introduced. It made people so conscious and hundreds of officials of ill reputation left their jobs fearing questions from people.

RTI law compels for better documentation system which could be a boon to us. This is because our documentation system is very poor and data and information cannot be received so easily.

### ***Right to information: Output of regional workshops***

Gist of presentation by Chiranjibi Kafle

During the two and half months beginning the third week of January, 2007, Freedom Forum held two-day regional workshops in all five development regions, in which more than 250 delegates representing 62 districts participated. Participants included political and civic society leaders, lawyers, intellectuals, journalists, teachers, entrepreneurs as well as students, with a balanced involvement from the perspectives of gender, indigenous nationalities, dalit as well as the physical (dis)abilities.

The workshops made the following recommendations:

#### **i) To Government and policy makers**

##### **a. To make effective RTI law:**

- Omit restrictive clauses from the proposed bill
- Ensure maximum access to information
- Ensure total safety to whistle blowers
- Promote RTI as a culture
- Interact with government and non-governmental sector
- Bring private/public sectors both within the purview of RTI law
- Keep room for constructive amendment in future.

##### **b. To ensure its effective implementation:**

- Open Information Bureaus at local levels.
- Make the Information Commission effective and powerful.

- Open Public Information and Documentation Centers at various places where information officers will work
- Promote RTI coverage in state-owned media
- Simplify official procedures
- Make rooms for timely review of Act
- Launch awareness drives through political parties, civil societies and professional organizations at the grassroots
- Develop the system of public hearing
- Ensure fair impact assessment and dissemination
- Ensure strict action to the violators
- Connect all kinds of public information to a Central Information Network (Grid).
- Create more means of information dissemination (information/communications media).
- Incorporate RTI education also in School Curriculum.

## **ii) To advocates and citizens groups**

### *c. To take RTI awareness drive to the grassroots:*

- Work to put constant pressure on government agencies
- Hold citizen's awareness campaign at different levels, all across the nation.
- Promote networking among the advocacy groups
- Hold school/college/community level awareness drives
- Involve in independent and effective monitoring/follow up of the RTI situation.
- Promote voluntary, community incentives to reward/honor whistleblowers
- Extend network of advocacy groups and concerned stakeholders

## **Resolution**

The regional workshops further summed the proceedings and recommendations in the following three resolutions:

1. **RTI awareness campaign be spread nationwide**
2. **RTI Law be made without tampering the spirit of the original draft submitted by the taskforce**
3. **Strict enforcement of RTI law be ensured.**

## **Observations by Members of Parliament**

**Significant inputs:** Member of Parliament Mahendra Pandey said the seminar has given significant inputs "to us" regarding 'right to information' and the rationale of a law to

ensure this. "Personally, I would like to thank Freedom Forum for having organized this program and also for so much of good works done in this regard," he observed. At the same time, he also advised the media community to shun 'partiality' while covering the news to ensure really free and fair dissemination of information.

**RTI law promotes good governance:** Radheshyam Adhikari, also a Member of Parliament, expressed the view that an effective and powerful RTI law could indeed make the government more transparent and accountable, ensuring good governance. For this, RTI law must ensure the people get maximum access to information.

**Commitment for pro-people RTI law:** Kamala Panta, MP, also said that the seminar had given considerable inputs. The suggestions and ideas that figured in this seminar could help a lot "for us" while discussing RTI bill and making it into a law. Thanking the organizers, she also expressed the commitment to work for a pro-people RTI law in Parliament. She also said that MPs would consult with Freedom Forum and other experts whenever they feel the need for this.

**Still room for refining the Bill:** Khimlal Devkota, also an MP, said the seminar had a comprehensive discussion on both theoretical and practical aspects of RTI in a relatively short span of time. It has cleared much of the confusion. He said RTI is a good and necessary cause but care must be taken to prevent it from being a tool for those apt to misuse information. The weakness in the presently tabled RTI bill has been admitted even by Communications Minister (Krishna Bahadur Mahara) which suggests that we can still refine it.

**RTI for consolidating democracy:** Bala Bahadur Rai, the senior-most MP (87 years) in the Legislative Parliament, said the national progress is possible only by our concerted efforts. Going by the inputs derived in this seminar, RTI law may be able to contribute a lot in consolidating democracy. He wished success to the cause for RTI law.

**Let's pass RTI bill to protect citizens' interest:** Homnath Dahal, also a Member of Parliament and one of the instrumental figures who lobbied for RTI provision in the 1990 constitution, said the RTI bill should now be passed, for it is in the best interest of people in general. "It is fifteen years now since we tried to make RTI law in Nepal but the quest remains still unfulfilled," he said. "In 1990, when we included RTI as fundamental right in our constitution, I read an editorial in an Indian newspaper lauding Nepal's initiative despite being a recent democracy, and suggesting that India could also learn from it," he added. "But now, India has already made a law but we are still pining for it." Dahal also agreed that safety of whistle blowers must really be ensured.

## **Closing**

Following the MPs' observations, Freedom Forum chairman Taranath Dahal thanked all the delegates as well as those who helped in organizing the seminar and formally concluded the program.



# सूचनाको हक सम्बन्धी विधेयकको तुलनात्मक विश्लेषण

□ तारानाथ दाहाल

लोकतन्त्रको प्राणवायु र असल शासनको प्रमुख आधार भन्ने गरीएको र नागरिकको मौलिक हक मानिएको सूचनाको हकलाई व्यवहारमा कार्यान्वयन गर्न सरकारले विघटित प्रतिनिधिसभामा यससम्बन्धी विधेयक प्रस्तुत गरेको थियो । अन्तरिम संविधानअनुसार उक्त विधेयक अन्तरिम व्यवस्थापिका संसदको विचाराधीन हुन पुगेको छ । अहिले सो विधेयक संसदको वातावरण सञ्चार तथा प्रविधि समितिभित्र छलफलमा छ ।

सूचनाको हकसम्बन्धी ऐन बनाउन एक दशकदेखि जनस्तरबाट माग हुँदै आइरहेको छ । लोकतन्त्र बहालीपश्चात् पुनः यससम्बन्धी माग सरकारसमक्ष गरियो । सरकारले सूचनाको हकसम्बन्धी ऐन बनाउने प्रतिबद्धता गर्‍यो । तर प्रस्तावित विधेयकको रूपमा लोकतान्त्रिक मान्यताविपरीतको पुरानै शाही सत्ता कालको मस्यौदा छलफलका लागि सार्वजनिक भयो । सर्वत्रबाट त्यसको विरोध भयो ।

लोकतान्त्रिक सरकारले यस विषयका वकालतकर्ता विशेषज्ञहरूको सल्लाहमा अर्को मस्यौदा बनाउन एक कार्यदल गठन गर्‍यो । कार्यदलले दुई महिना लगाएर व्यापक अन्तरक्रिया र वृहद अध्ययन पश्चात् ३४ दफाको मस्यौदा प्रतिवेदन सरकारलाई बुझायो । सरकारले त्यसैको आधारमा भनी ३६ दफाको मस्यौदा संसदमा दर्ता गर्‍यो । संसदमा पुगेको विधेयकमा केही सैद्धान्तिक पक्ष छुटेको र केहि दफालाई अर्थको अनर्थ हुने गरी बड्गाएर संसदमा प्रस्तुत गरिएको देखिएको छ । कार्यदलले दिएको प्रतिवेदनलाई संकुचित बनाएर विधेयक प्रस्तुत गर्न यस सम्बन्धी विषयको दर्शन नबुझेको कर्मचारीतन्त्रले खेलेको सुनिन्छ ।

संसदमा पुगेको मस्यौदामा विवाद पत्‍यो । यतिसम्मकी सुझाव दिने कार्यदलमाथि नै प्रश्न उठाउने काम केही सञ्चारकर्मीहरूले गरे । त्यस्ता टिप्पणीहरू मूलतः दुई प्रकारका थिए । एक यो ऐन सञ्चारकर्मीहरूकै लागि हो । र, उनीहरूलाई सूचना संकलनमा कुनै कार्यविधि आवश्यक पर्दैन, अर्को यो ऐनले सूचना दिन नपर्ने विषयहरूको सूचीलाई व्यापक पारेको छ । यसबाट बढीभन्दा बढी सूचना प्रवाहको सिद्धान्त सीमित हुनेछ ।

अघिल्लो प्रकारको टिप्पणी नबुझेर आएको हो । किनकी सूचनाको हकसम्बन्धी कानून वा ऐन सञ्चारकर्मीहरूका लागि मात्र बनाइँदैन । यो आमनागरिकलाई सूचनामा प्रत्यक्ष पहुँच सुनिश्चित गर्ने सिद्धान्त हो, शासनलाई खुला, पारदर्शी र जिम्मेवारी बनाइ नागरिक शासनलाई व्यवहारमा रुपान्तरण गराउने कानून हो । यो मौलिक हक प्रचलन गराउने आमनागरिकको सरोकार भएको कानून हो । त्यसैले सूचना प्रवाहको कार्यविधि नै नतोकिएको सूचनाको हकसम्बन्धी ऐन बन्नै सक्दैन, संसारका कुनै पनि देश जहाँ यससम्बन्धी ऐन छ, त्यो हेर्दा यो पक्ष खुलस्त हुनेछ । नबुझी गरेको त्यस्तो टिप्पणीले आम जनतालाई भ्रमित पारेको छ ।

दोस्रो प्रकारको टिप्पणी भने एकदमै जायज छ । संसदमा प्रस्तुत गरेको विधेयकले बढीभन्दा बढी सूचना प्रवाह गर्नुपर्ने सिद्धान्तलाई घात गरेको छ । सूचना दिन नसकिने अपवादका क्षेत्रलाई व्यापक पारेको छ । कार्यदलले दिएको सुझाव र त्यस सुझावअनुसार सूचना तथा सञ्चार मन्त्रालयले क्याबिनेटमा पेस गरेको प्रस्तावभन्दा संकुचित प्रावधान संसदमा पुर्‍याइएको छ । त्यो पनि बडो चलाखीपूर्वक केही शब्दहरूलाई भिक्किदिएर अपवादका व्यवस्थालाई व्यापक पारिएको छ ।

**के फरक छ त ?**

१. कार्यदले यो ऐन लाई 'तुरुन्त प्रारम्भ हुने' ऐनका रूपमा प्रस्ताव गरेकामा संसदमा पुगेको विधेयकमा यो ऐन प्रमाणीकरण भएको पैतालीस दिनमा प्रारम्भ हुने पारिएको छ । ऐन जारी भएपछि प्रभावकारी रूपमा कार्यान्वयन गर्न आवश्यक पूर्वाधार बनाउनका लागि यो समय राखिएको हो भने यो व्यवहारीक सुधारनै हो ।

२. कार्यदलले प्रस्ताव गरेको मस्यौदाको दफा ३ मा भएको सूचनाको हक सम्बन्धी सैद्धान्तिक व्यवस्थाका प्रावधान हटाइएको छ । मुख्य रूपमा सार्वजनिक निकायले 'आमनागरिकसमक्ष अधिकतम सूचना प्रवाह गर्ने' सिद्धान्त अवलम्बन र पालना गर्नुपर्ने दायित्वलाई पूरै मेटाइएको छ । अन्य सिद्धान्तहरूलाई दायित्व शीर्षकमा राखिएको छ । यो संविधान पछाडि समाज र राज्य प्रणालीलाई लोकतान्त्रिक बनाउने सबैभन्दा महत्वपूर्ण ऐन हुने हुनाले सैद्धान्तिक आधार हरु ऐनमा राख्दा त्यसबाट स्पष्टता बढ्ने तथा यो ऐनको सर्वोच्चता कायम गराउन सहज हुन देखिन्छ ।

३. संसदमा पेस भएको विधेयकले दफा ३ मा सूचनाको हक हुने अन्तर्गत सूचना प्रवाह गर्न नपर्ने अपवादका चार विषयहरू राखिएको छ । दफा ३ को उपदफा ३ को क, ख, ग, घ र ङ अन्तर्गत यो व्यवस्था विश्वव्यापी रूपमा मानिएको अपवादको सिद्धान्तमा पर्ने विषय नै छन् । तर यी अपवादका क्षेत्रलाई पनि नियन्त्रण गरी ती विषयसँग सम्बन्धित सूचना भनेर मात्र पुग्दैन, त्यस्ता सूचनाले तत्काल र स्पष्ट रूपमा खतरा ल्याउने भएमात्रै सार्वजनिक गर्न नपर्ने मानिन्छ ।

कार्यदलले दिइको मस्यौदा विधेयकको दफा ४ को उपदफा ४ मा लेखिएको छ -“उपदफा ३ मा उल्लेखित सूचनाले राष्ट्रको अस्तित्वमा खतरा वा गम्भीर क्षति वा नोक्सानी पुऱ्याउने स्पष्ट र तत्काल खतरा भएकामा बाहेक सार्वजनिक निकायले त्यस्तो सूचना प्रवाह गर्ने दायित्वबाट पन्छिन पाउने छैन ।”

यो व्यवस्थालाई संसदमा पेस भएको विधेयकमा पूरै हटाइएको छ । जसले गर्दा सूचना प्रवाह गर्न कर नलाने चार क्षेत्र व्यापक रूपमा देखापर्छ । यस्तो प्रतिबन्धात्मक व्यवस्था नराखेमा अपवादको परिभाषा र व्याख्या व्यापक हुने खतरा रहन्छ । र, सूचनाको हक ज्यादै नियन्त्रित हुन जानेछ । यो ऐनको मुल उद्देश्यनै के कति सूचना (सार्वभौम नागरीकको हितमा ) नियन्त्रणमा राख्ने भन्ने विषयको टुङ्गो लगाउनु भएकाले यो कुरा स्पष्ट रूपमा सीमा निर्धारण हुनैपर्छ ।

४. संसदमा प्रस्तुत विधेयकमा भएको सबैभन्दा ठूलो कमजोरीको विषय भनेको सूचनादाताको संरक्षणसम्बन्धी प्रावधान नराखिनु हो । कार्यदलले सुझावका रूपमा प्रस्तुत गरेको विधेयकमा दफा २९ मा यससम्बन्धी व्यवस्था गरिएको छ । ५ वटा उपदफामा विस्तृत रूपमा सूचना दाताको संरक्षणको व्यवस्था गरिनुको मूल तात्पर्य नै सूचना संस्कृतिलाई प्रबर्द्धन गर्नु हो । सूचनाको हकसम्बन्धी कानुनको मुख्य लक्ष्यनै गोप्यतावादी संस्कृतिलाई कर्मचारीतन्त्र (ब्युरोक्रेसी) बाट समाप्त गर्नु हो । भ्रष्टाचार, अनियमितता र गैरकानुनी काम भएको छ वा हुँदैछ भने त्यस्तो सूचना खुला गर्न राष्ट्र सेवकलाई प्रोत्साहित गर्न नै सूचना दाताको संरक्षण गरीनुपर्ने प्रावधान प्रस्तावित गरिएको हो । सूचनादाता (whistleblower) लाई संरक्षण प्रदान गर्नुपर्ने मान्यता सूचनाको हकसम्बन्धी कानुनको सिद्धान्तको रूपमा स्थापित छ ।

यो व्यवस्थालाई नराख्ने हो भने सूचना प्रवाह गर्दा दण्डित हुनुपर्ने, आफूभन्दा माथिको बक्रदृष्टिमा पर्नुपर्ने र सूचना प्रवाहमा बढीभन्दा बढी खुलापनको संस्कृति अभिवृद्धि गर्न सकिदैन । सूचनादाताको संरक्षण नभएको ऐन लंगडो हुनेछ । सूचना प्रवाह गर्न सूचना अधिकृतहरू अग्रसर हुने छैनन् । र, कर्मचारीतन्त्रमा हाकिमको 'भय' बाँची रहनेछ । तसर्थ सूचनाको हकसम्बन्धी ऐन पारित गर्नु अगाडि छुटेको यो मुख्य पक्षलाई कसरी विधेयकमा समावेश गर्ने हो, विधायिकाले अग्रसरता लिनुपर्छ । सूचनाको हकसम्बन्धी कानुनको अभिन्न पक्षलाई विधेयकबाट हटाएर त्यससम्बन्धी अर्को कानुनको निर्माण गर्नुको कुनै औचित्य हुँदैन ।

सूचनाको खुलापन प्रत्याभूति नागरिकको मौलिक हो । र, यसलाई संकुचित गर्न खोज्दा आमरूपमा खुलापनलाई प्रबर्द्धन गर्न मद्दत पुग्दैन । सूचनाको हक एउटा विस्तृत विधिशास्त्र हो । त्यो विधिशास्त्र नबुझी यस सम्बन्धी ऐन बनाउन सकिदैन । सूचना संस्कृति प्रवर्द्धन गर्न सूचना दिनुलाई कर्तव्य र दायित्व को रूपमा अङ्गीकार गर्न सक्नुपर्छ ।

५. संसदमा सरकारले प्रस्ताव गरेको विधेयकको अर्को गम्भीर कमजोरीको पक्ष हो । व्यक्तिगत सूचनाको प्रवाहसम्बन्धी व्यवस्था नराख्नु । कार्यदलले गरेको मस्यौदाको दफा ३२ मा यससम्बन्धी व्यवस्था छ । तर यो पूरै हटाइएको छ । आफूसँग सम्बन्धित व्यक्तिगत सूचना सूचनाको हकको अभिन्न पक्ष मानिन्छ । कतिपय सूचना सार्वजनिक सरोकारका हुँदैनन् तर व्यक्ति स्वयंका त्यस्ता सूचना सार्वजनिक निकायमा हुन सक्दछन् ।

जस्तै अस्पतालमा रहेका विरामीका रेकर्ड, परीक्षा नियन्त्रण कार्यलयमा रहेका मार्कसिट वा परीक्षाको उत्तरकापी, व्यक्तिगत विवरण, यस्ता अनेक विषयसँग सम्बन्धी सूचना हुनसक्छन् । ती सूचनामा सम्बन्धीत व्यक्तिको पहुँच सुनिश्चित हुनुपर्दछ । यो विषयको गम्भीरता बम्झै नबुझी हटाइएको छ । यसको अभावमा सूचनाको हकसम्बन्धी कानून अपांग हुन पुग्दछ । अन्तिम संविधानले २०६३ ले व्यक्तिगत सूचनालाई सम्बन्धीत व्यक्तिको हकमा सार्वजनिक सरोकार सरहकै मानेको छ । यो व्यवस्था छुटाउँदा अन्तरिम संविधानको व्यवस्था प्रतिकूल ऐन बन्न पुग्नेछ । लोकतन्त्रको अन्तिम उद्देश्य नागरिकलाई सवैभन्दा वलियो बनाउने नै हो । व्यक्तिगत सूचनामा पहुँच नदिएँदा 'व्यक्ति' कमजोर हुनेछ ।

६. उपरोक्त गम्भीर पक्ष छुटेको बाहेक केही पक्षमा विधेयकलाई अझ संकुचित गर्न खोजिएको छ । त्यसका लागि दफा ३४ थपिएको छ । असल नियतले गरेको कामको बचाउ शीर्षकमा जथाभावी व्यख्या गर्न सकिन खालको प्रावधान राखेर सूचना प्रवाह गर्नुपर्ने दायित्व भएका तर सूचना दिन इन्कार गर्ने गैर जिम्मेवार अधिकारीलाई उन्मुक्ति दिने बाटो खुला गरिएको छ, यो हटाउनुपर्छ ।

७. संसद्मा विचाराधिन विधेयकको दफा ३५को एउटा प्रावधान त भन आपत्तीजनक छ । विधेयकको दफा २ ले सार्वजनिक निकायको दायरामा राखेको एउटा पक्षलाई संकुचित बनाउन यो दफा थपिएको हो । सूचनाको हकसम्बन्धी ऐनले प्राइभेट लिमिटेड कम्पनीहरूलाई सूचना दिन बाध्य नहुने गरी उन्मुक्ति दिने प्रस्ताव छ । सो दफामा भनिएको छ -

**सूचना दिन बाध्य नहुने :** 'यस ऐनमा जुनसुकै कुरा लेखिएको भए तापनि प्रचलित कानूनबमोजिम सूचना दिन बाध्य हुने छैन ।'

यो हास्यास्पद प्रावधान हो । किन यस्तो उन्मुक्ति प्रालिलाई दिइएको हो, सूचनाको हकका वकालतकर्ताहरूले यसमा गम्भीर षड्यन्त्र लुकेको देख्दछन् । यो अनियन्त्रित पुँजीवादलाई बेरोकटोक खुला छाड्ने नियतबाट आएको कुरा हो । अहिलेको दुनियाँमा राज्यका कैयौँ भूमिका निजी क्षेत्रले लिएको र लिइरहेको छ । यस्तो सूचनाको हकबाट प्रा.लि.हरूले उन्मुक्ति पाउने हो भने सर्वसाधारण नागरिकको पहुँच सार्वजानीक सरोकारका विषयमा नियन्त्रित हुनेछ ।

उदाहरणका लागि, काठमाडौँको खानेपानी भाडामा लिन गइरहेको कम्पनीले यसका उपभोक्तालाई कुनै सूचना दिन बाध्य हुनेछैन । निजी क्षेत्रका कारखाना, बिजुली उत्पादक, विद्यालय-महाविद्यालय, अस्पताल, ठेकेदार, कम्पनी, बहुराष्ट्रिय कम्पनीहरू, जस्ता अनेक निकायका सार्वजनिक सेवा सम्बन्धी कार्यको सूचनामा नागरिकको पहुँच हुनसक्ने छैन । यो व्यवस्थाले नागरिक हस्तक्षेपको क्षेत्रलाई ज्यादै साँघुर्याउनेछ । राजनीतिक, दल, सहकारी संस्था, र गैरसरकारी संस्थाहरूलाई समेत सार्वजनिक निकायको दायरामा प्रस्तावित गरेको अवस्थामा निजी कम्पनी (प्रा.लि.) हरूलाई उन्मुक्ति दिनु उचित छैन । सरकारी पक्षको तर्क के छ भने, 'प्रा लि. हरू पारीवारीक स्तरका प्रतिष्ठान हुन् र यिनले सूचना दिन सक्दैनन् त्यसैले दायित्वमुक्त राख्न खोजिएको हो । यस्तो तर्क दिएर कानून भन्दा माथि कसैलाई राख्न सकिदैन । यस्ता प्रा.लि.मा सार्वजानीक सरोकारका विषय प्रशस्तै रहेको हुन्छन् ।

सूचनाको हकसम्बन्धी विश्वमा प्रचलित दुई मान्यता छन् । भारतलगायतका कतिपय देशमा सरकारी निकायलाई मात्र सार्वजनिक निकायका रूपमा राखिएको छ भने दक्षिण अफ्रिका र अस्ट्रेलियालगायतका कतिपय देशमा सार्वजनिक निकायको परिभाषा व्यापक गरिएको छ । यदि अग्रगामी, प्रभावकारी र प्रगतिशील कानून बनाउने हो भने सार्वजनिक निकायको क्षेत्र व्यापक बनाउनुपर्ने मान्यतालाई स्वीकार्नुको विकल्प छैन । हामीले कुन बाटो रोज्ने ? निर्णय गर्नुपर्ने जिम्मा विधायकहरूमा छ ।

माथि उल्लेख गरीएका विषय बाहेक केहि अन्य पक्ष पनि सुधार गर्न आवश्यक छ । ती हुन् -

१. सूचनाको हक सम्बन्धी ऐनको महत्वपूर्ण सिद्धान्तहरू सरल कार्यविधी, छिटो निर्णय, अधिकतम सूचना र स्वतन्त्र पूनरावेदन निकाय पनि हो । त्यसैका लागि राष्ट्रिय सूचना आयोगको प्रस्ताव गरीएको हो । यो आयोग यस कानूनको प्रभावकारी नियमनका लागि हो । यो मिडीया अधिकार प्रवर्द्धन गर्ने आयोग होइन । सूचना प्रणालीलाई जीवन्त बनाइ प्रत्येक नागरीक लाई शिघ्र र अधिकतम सूचनाको हकदार बनाउने

आयोग हो । सूचना प्रवाहमा रोकावट भए नगरिकलाई तत्काल न्याय दिलाउने निकाय हो । त्यसैले यसको नियुक्ति गर्दा वा त्यसका लागि सिफारिश गर्दा मिडीयाको दृष्टीमा मात्र हेरिनु हुदैन । प्रस्तावित विधेयक मिडीयाको नजरबाट बढि प्रभावित देखिन्छ । यसलाई व्यापक दृष्टिबाट विचार गर्न आवश्यक छ ।

२. सूचना आयोग तत्कालै गुनासो सुन्ने , छानविन गर्ने ,निर्णय गर्ने ,सूचना संस्कृति प्रवर्द्धन गर्ने गल्ती भए दण्डित गरेर सुधार गरिहाल्ने उद्देश्यले बनाईने हुनाले त्यसको निर्णय कार्यन्वयन नै हुन नसक्नेगरी पुनारावेदनको व्यापक सीमा बनाएर हरेक पुनरावेदन अदालतमा पुनरावेदन जान सकिने बनाउँदा ऐनको उद्देश्य हासिल गर्न आयोगले सहयोग पुऱ्याउन सक्दैन । ढिलो न्याय प्रणाली भएको हाम्रो अदालती काम कारवाहीले गर्दा सूचना नदिए वापत दण्डित भएका हरूले जोगिने उपाय बढि पाउने छन् । सूचना दिन अलमल ,अटेर र अस्वीकार गर्ने प्रवृत्तिलाई यस्तो व्यवस्थाले अप्रत्यक्ष रुपमा मद्दत पुऱ्याउनेछ ।

३. सूचना नदिएमा र त्यस्तो रोकावट सूचना आयोगको दृष्टिमा गलत ठहरिएमा सूचना नदिने निकाय तथा व्यक्तिलाई न्युनतम प्रतिदिन रु २५० दण्ड तिर्नु पर्ने भागीदार बनाउन आवश्यक छ । बढीमा २५ हजार रुपैया सम्म जरिवानाको प्रस्तावले मात्र पुग्दैन । यसतर्फ पनि सुधारका लागि विधायकहरुको ध्यान जानुपर्छ ।

४ सूचना दुरुपयोग सम्बन्धी व्यवस्थालाई निकै कडा बनाइएको छ । सूचनाको प्रयोग सट्टा दुरुपयोग गरी देश र नागरीकको अहित हुने काम गर्नु सानो अपराध पक्कै होइन । तर यस्तो व्यवस्थाको दुरुपयोग गरी सूचनाको खुला संस्कृतिलाई निस्तेज पार्ने स्वच्छाचारी प्रवृत्ति पनि देखा पर्न सक्छ । सूचनाको दुरुपयोग गर्नेलाई कारवाही गर्ने विषयलाई सूचनाको हकको कानुनले भन्दा अन्य कानुनले निरुत्साहित पार्ने तर्फ सोच्नु पर्दछ ।

५ ) विधायिकामा माननीय सदस्यहरुले विभिन्न बुँदामा संशोधन प्रस्ताव दर्ता गराउनु भएको छ । केहि प्राविधिक विषय छन् ,सार्वजानीक निकायको परिभाषा , अपवादको क्षेत्र , सूचनादाताको संरक्षण जस्ता महत्वपूर्ण विषयमा संशोधन प्रस्ताव छन् । ती उपयुक्त छन् । तर केहि विषय भने छुटेका छन् । तसर्थ समिति भित्रको छलफमा संशोधनप्रस्तावहरुमा पनि छुटेका विषय समावेश गर्नेगरी संशोधन गर्न पहल हुनु जरुरी छ ।

#### अन्तमा,

यो ऐनलाई ल्याउनुपर्छ भनेर वर्षौदेखि आवज उठाउँदै र यस विषयमा रुचिका साथ अध्ययन गरिरहेकाहरुले बुझेको सिद्धान्तमा आधारित रहेर गरिएको मस्यौदालाई बिनाआधार र तर्क तलमाथि गरेर लंगडो विधेयक संसद्मा पुऱ्याईएको छ । यसलाई त्यत्तिकै पारित गर्ने काम अन्तरिम विधायकहरुबाट हुने छैन भन्ने आशा राखिएको छ । यो ऐन शीघ्र वन्नसकेमा लोकतन्त्र सही अर्थमा नागरीक-लोकतन्त्रका रुपमा सुदृढ हुन सक्नेछ । □ □

# राज्यको लोकतन्त्रीकरणमा सूचनाको हक

- काशीराज दाहाल<sup>#</sup>

“लोकतन्त्र” भन्नु नै जनताको शक्ति (Power of People) हो । राज्यको निर्णायक शक्ति जनता हो । जनता नै सम्प्रभु र राज्य शक्तिको श्रोत हो । जनताका चाहना बमोजिम जनताकै सहभागी द्वारा निर्माण गरिएको संवैधानिक एवम् कानूनी व्यवस्थाका आधारमा राज्य सञ्चालन गर्नु लोकतन्त्र हो । जनताको निम्ति जनताद्वारा जनताको सरकार नै लोकतान्त्रिक राज्यको स्वरूप हो । लोकतन्त्रका मूलतः देहायका पूर्वावस्थाहरू (Requisites of Democracy) हुन्छन्:-

- सरकारले जनताको इच्छा बमोजिम काम गर्नु पर्दछ (Action of Will) । जनमतको कदर र सम्मान गर्दै सामाजिक सर्वस्वीकृत मान्यता (Social Consciousness) अनुरूप राज्य व्यवस्था सञ्चालन गर्नु पर्दछ ।
- लोकतन्त्र स्वतन्त्रता, समानता र भ्रातृत्वको उपज हो (Democracy is the Product of Liberty, Equality & Fraternity) । राज्यले जनताको अधिकार र स्वतन्त्रताको सुनिश्चितता गरी भ्रातृत्व र सद्भावको व्यवहार प्रवर्द्धन गर्नु पर्दछ ।
- बहुलवादको सिद्धान्तलाई सम्मान गर्दै राज्यले सबैको विचार र भावनालाई कदर गरी सबै प्रति सहिष्णुताको व्यवहार गर्नु पर्दछ (Democracy demands a spirit of Tolerance) ।
- राज्यले व्यक्तिको मर्यादालाई सम्मान गर्दै (Respect of Human Dignity) व्यक्तिको सर्वाङ्गिन विकासका निम्ति अवसरको सुनिश्चितता गर्नु पर्दछ ।
- लोकतन्त्रको सार भन्नु नै राज्य व्यवस्था र राज्यको निर्णय प्रक्रियामा जनताको व्यापक सहभागिता (People's Participation) हुनुपर्दछ । समावेशी प्रतिनिधित्व र जनसहभागिताको अभावमा लोकतन्त्रले गतिशीलता प्राप्त गर्न सक्दैन । जनताले आफ्नो सहभागिताबाट नै राज्य व्यवस्था प्रति अपनत्व र स्वामित्व ग्रहण गर्दछ । जसका कारण लोकतन्त्र प्रति आस्था, विश्वास र भरोसाको आधारको रूपमा राज्य व्यवस्थालाई ग्रहण गर्दछ ।
- नागरिक समाजको सजगता र जागरुकतालेनै लोकतन्त्रलाई उर्जा प्रदान गरी रक्त सञ्चारण गर्दछ । सरकारलाई स्वेच्छाचारी र निरङ्कुश बन्नबाट रोक्दछ ।

लोकतन्त्रका आधारस्तम्भका रूपमा (Pillars of Democracy) र राज्य व्यवस्थाको लोकतन्त्रीकरणको संस्थागत सृष्टीकरणका निम्ति देहायका सिद्धान्तहरूलाई आत्मसाथ गर्दै त्यसको व्यवहारिक प्रचलनको अनुभूति जनताले गर्न सकेमानै लोकतन्त्रको भविष्य सुनिश्चित हुन्छ ।

- क. जनतामा निहित सार्वभौमसत्ता
- ख. शासितको सहमतिमा सरकारको निर्भरता
- ग. बहुमतको शासन र अल्पमतको सम्मान
- घ. आधारभूत नागरिक अधिकार र स्वतन्त्रताको प्रत्याभूति
- ङ. आवधिक रूपमा स्वतन्त्र र निष्पक्ष निर्वाचन
- च. कानूनी शासनको अवलम्बन र प्रयोग
- छ. स्वतन्त्र र सक्षम न्याय प्रणालीको सुनिश्चितता
- ज. राज्यको काम कारवाहीमा कानूनको उचित प्रकृयाको पालना

<sup>#</sup> लेखक संविधानविद् एवम् पूर्व सचिव न्यायपरिषद् तथा नेपाल सरकारद्वारा गठित सूचनाको हक सम्बन्धी कानून निर्माण कार्यदलको संयोजक हुनुहुन्छ ।

- भ. कानूनको अगाडि समानता र कानूनको समान संरक्षण
- ज. सरकारको शक्ति र अधिकारको सीमाङ्कन
- ट. सामाजिक, आर्थिक र राजनैतिक बहुलवाद
- ठ. सहमति, सहयोग र सहिष्णुताको मूल्य मान्यताअनुरूप राज्य सञ्चालन
- ड. प्रतिनिधिमूलक, जवाफदेही र उत्तरदायी सरकार
- ढ. राज्यको काम कारवाहीमा खुला र पारदर्शी संस्कृतिको अवलम्बन
- ण. स्थानिय तहसम्म राज्य शक्तिको निक्षेपण र सशक्तीकरण
- त. जनताको गुनासा सुन्ने र उपचार प्रदान गर्ने प्रभावकारी संयन्त्रको व्यवस्था
- द. सार्वजनिक सेवाको निष्पक्षता, तटस्थता र सक्षमताको विकास
- ध. राज्यको श्रोत साधनमा सबैको समान र न्यायोचित वितरण, आदि ।

राज्यव्यवस्थाको लोकतन्त्रीकरणको सुन्दरतम पक्ष भनेकोनै नागरिकको सशक्तीकरण, क्षमताको अभिवृद्धि, विशिष्टीकरणको विकास, विधिको शासनको प्रवर्द्धन र नागरिकको जीवन, स्वतन्त्रता र सुखको सुनिश्चितता हो । राज्यको लोकतन्त्रीकरणबाट नागरिक स्वतन्त्रताको सुनिश्चितता, संवैधानिक र सीमित सरकारको निरन्तरता, समानताको संरक्षण, अवसरको प्रत्याभूति, मानवअधिकारको सम्मान, राजनैतिक, आर्थिक र सामाजिक न्यायको समान प्रचलन तथा समतामूलक समाजको निर्माण हुन्छ । शासकको निरङ्कुशता र स्वेच्छाचारीताको अन्त्य नै लोकतन्त्रको आदर्श हो । लोकतन्त्रमा संवैधानिक र कानूनी तरिकाबाट सरकारको परिवर्तन हुने र राज्य व्यवस्था लोकतान्त्रिक मूल्य, मान्यता र मर्यादा प्रति समर्पित भई सञ्चालन हुने गर्दछ ।

कुनै राज्यले संविधान एवम् कानूनत लोकतन्त्रको मान्यतालाई अवलम्बन गर्दैमा राज्यको लोकतन्त्रीकरण हुन सक्दैन । परिपक्व राजनैतिक संस्कृतिको विकास नभएसकेको अवस्थामा त्यस्तो राज्यले विभिन्न समस्याहरूको सामना गर्नु परिरहेकै हुन्छ । कागजमा मात्र लेखिएको लोकतन्त्र वास्तवमा लोकतन्त्र होइन । लोकतन्त्र भन्नु राज्यको संस्कृति र नागरिकको जीवन पद्धति पनि हो । लोकतान्त्रिक संस्कृति र संस्कारको विकास नभएसम्म लोकतन्त्रको संस्थागत सुदृढीकरण हुन सक्दैन राजनैतिक अस्थिरता, द्वन्द्वको स्थिति, स्वार्थपरक दृष्टिले हुनजाने विभाजनका सोचका कारण राष्ट्र निर्माणमा पुग्ने कठिनाई जस्ता विभिन्न समस्याहरू राज्यको लोकतन्त्रीकरणको प्रकृया संस्थागत नभएसम्म भईरहन्छन् । लोकतन्त्रीकरणको प्रकृया संस्थागत भई परिपक्व राजनैतिक संस्कृतिको विकास नभएसम्म **Lucian W. Pye** ले व्याख्या र विश्लेषण गरेको जस्तो पहिचानको समस्या (Identity Crisis), वैधानिकताको समस्या (Legitimacy crisis,) जनतामा लोकतन्त्रको उपलब्धि जनस्तरमा पुर्‍याउने समस्या (Penetration crisis), व्यापक जनसहभागिताको समस्या (Participation crisis), एकीकृतको समस्या (Integration crisis), वितरणको समस्या (Distribution crisis) आदि रहिरहन्छन् । यस्ता समस्याहरूको समाधान जनताकै सकृयता र सहभागितामा गर्न सकिन्छ । यसका निम्ति राज्यको यथार्थ पक्षको जानकारी जनतालाई सुसूचित गराई जनताको सशक्तीकरणको आवश्यकता पर्दछ । लोकतन्त्रको विकास र राज्य व्यवस्थालाई लोकतन्त्रीकरण गर्न जनतालाई राज्य व्यवस्थामा सहभागी गराउन सूचनाको हकको त्यतिकै महत्व छ । सूचनाको हकको संवैधानिक सुनिश्चितताको अभावमा राज्यको लोकतन्त्रीकरणको प्रकृयाको संस्थागत सुदृढीकरण हुन सक्दैन ।

लोकतान्त्रिक राज्य व्यवस्थामा सरकारलाई जनताप्रति बढी जिम्मेवार बनाउन विचार र अभिव्यक्ति स्वतन्त्रताको प्रत्याभूति, सूचना प्रवाह गर्ने माध्यमहरूको स्वतन्त्रताको संरक्षण र जनताको सुसूचित हुने हकको सुनिश्चितता आधारभूत पूर्वावस्था हो । विचार र अभिव्यक्तिको स्वतन्त्र प्रवाह र सूचनाको सार्वजनिकीकरणले नै मानव अधिकारको सम्मान एवम् लोकतन्त्रको

सुदृढीकरणमा सहयोग पुग्दछ । राज्य व्यवस्थाप्रति जनताको आस्था र विश्वास अभिवृद्धि गर्नका लागि सार्वजनिक निकायहरू जनताप्रति वढी जिम्मेवार बनाउन सूचनामा आम नागरिकको पहुँच सहज र सरल हुनुपर्दछ । लोकतान्त्रिक मान्यता अनुरूप जनताप्रति जिम्मेवार र उत्तरदायी बन्नु पर्ने राज्य, सरकार र सार्वजनिक निकायहरूले आ-आफ्ना काम कारवाही खुला र पारदर्शी ढंगबाट गर्नुपर्दछ ।

राज्यका काम कारवाही "जान्न पाउने " (Right to Know) जनताको आधारभूत नैसर्गिक अधिकार हो । सुसूचित हुन पाउने जनताको अधिकारको प्रत्याभूतिले सरकार र राज्य व्यवस्था जनताप्रति सेवारत (To serve the people) रहनुपर्छ भन्ने मान्यतालाई आत्मसात गर्दछ । भनिन्छ, "सूचना लोकतन्त्रको प्राणवायु (The Oxygen of Democracy) हो" । राज्यसत्ताको आधार जनताको इच्छा हो । जनमतले नै सरकारलाई वैधानिकता प्रदान गर्दछ । स्वस्थ जनमतको निर्माणका निम्ति राज्यका काम कारवाहीमा आम नागरिकको पहुँच आवश्यक हुन्छ । नागरिकको सूचनाको हकको संरक्षणले राज्य व्यवस्थामा हुने अनियमितता र भ्रष्टाचारको रोकथाम र नियन्त्रणमा सहयोग पुऱ्याई मुलुकमा सुशासनको स्थापनामा मद्दत गर्दछ ।

लोकतान्त्रिक राज्य व्यवस्थामा जनताको सहभागिताद्वारा लोकतन्त्रलाई संस्थागत गर्न राज्यका अङ्ग, राजनीतिक दल, सरकारी स्वामित्वमा रहेका निकाय तथा सार्वजनिक सेवा प्रदायक कुनै पनि सार्वजनिक निकायमा रहेका अभिलेख एवम् सूचनामा नागरिकको पहुँच रहने गरी सूचनाको हक घोषणात्मक प्रकृतिको मात्र नभई कार्यान्वयन हुने अधिकारको रूपमा प्रत्याभूति गरिनु पर्दछ । लोकतन्त्रको सुदृढीकरण र संस्थागत विकासका निम्ति विचार र अभिव्यक्तिको स्वतन्त्रता, सञ्चारमाध्यमको स्वतन्त्रता र नागरिकको सुसूचित हुने हकको संवैधानिक सुनिश्चितता आवश्यक छ । लोकतन्त्रीकरणको प्रक्रियालाई संस्थागत सुदृढीकरण गर्न सञ्चार माध्यमको स्वतन्त्रताको रक्षा, सञ्चार माध्यममा लगानी गर्न उत्साहजनक र आकर्षण वातावरणको निर्माण, सम्पादकीय स्वतन्त्रताको प्रत्याभूति र श्रमजीवीहरूको हकहितको संरक्षण पनि उत्तिकै आवश्यक हुन्छ । सञ्चार माध्यममा कार्यरत श्रमजीवीहरूको उच्च मनोबल बनाइ राख्ने किसिमको सेवा, शर्त र सुविधाको संरक्षणको कानूनी व्यवस्था गर्नु पनि लोकतान्त्रिक राज्यको दायित्वको विषय हो ।

प्रतिनिधिमूलक लोकतान्त्रिक पद्धतिमा जनताले प्रत्यायोजन गरेको अधिकारको सीमाभित्र रही सरकारले काम गर्नुपर्दछ । प्रतिनिधिमूलक शासनप्रणालीमा जनताका प्रतिनिधिहरूले आफ्ना काम कारवाहीका विषयमा जनतालाई जवाफ दिनुपर्दछ । सरकारी सूचनामा नागरिकको पहुँचको अधिकार प्रतिनिधिमूलक लोकतन्त्रको आधारशीला हो । लोकतान्त्रिक राज्य व्यवस्थामा जनताको सहभागिताको अर्थ त्यतिबेला सिद्ध हुन्छ जब नागरिकहरूको राज्यको सूचनामाथि पर्याप्त पहुँच रहन्छ । यही सिद्धान्तलाई आत्मसात् गरी मानवअधिकारको विश्वव्यापी घोषणापत्रको धारा १९ ले सूचना तथा अभिव्यक्तिको स्वतन्त्रताको अधिकारलाई देहायबमोजिम प्रत्याभूत गरी राज्यलाई सो अनुरूपको व्यवस्था गर्न मार्गदर्शन गरेको छ ।

**“प्रत्येक व्यक्तिलाई विचार तथा अभिव्यक्तिको स्वतन्त्रता हुनेछ, यो अधिकार अन्तर्गत प्रत्येक व्यक्तिलाई विना हस्तक्षेप विचार अभिव्यक्त गर्ने, आफूले चाहेको सूचना माग्ने, प्राप्त गर्ने तथा त्यस्तो सूचना एवम् विचार कुनै पनि माध्यमद्वारा विना बन्देज सम्प्रेषण गर्ने स्वतन्त्रता हुनेछ ।”**

आज विश्वका विभिन्न राष्ट्रहरू जस्तै-बेलायत, अमेरिका, दक्षिणअफ्रिका, अष्ट्रेलिया, न्यूजिल्याण्ड, जमैका, मेक्सिको, इजरायल, बुल्गेरिया, स्वीडेन, पाकिस्तान, भारत, हङ्कङ्ग, जापान, दक्षिण अमेरिका, थाइल्याण्ड जस्ता मुलुकहरूले सूचनाको हक सम्बन्धी छुट्टै कानून तर्जुमा गरी लागू गरेको देखिन्छ । मानव अधिकारसम्बन्धी अन्तर्राष्ट्रिय मान्यता र सूचनाको हकसम्बन्धी लोकतान्त्रिक

राज्य व्यवस्थाले आत्मसात् गरेका "जान्न पाउने जनताको अधिकार" (The Public's Right to know) अन्तर्गत देहायका सिद्धान्तलाई मूलभूतरूपमा आत्मसात् गरी सूचनाको हक सम्बन्धी कानून बन्नुपर्ने अवधारणहरू रहेका छन् ।

- क. सूचनाको हक सम्बन्धी कानून अधिकतम सार्वजनिकीकरणको सिद्धान्तद्वारा निर्देशित हुनुपर्दछ, यस सिद्धान्त बमोजिम राज्यले सक्रिय सूचना पद्धतिलाई अवलम्बन गरी सूचनाको अधिकतम सार्वजनिकीकरण (Maximum Disclosure) गर्नुपर्ने दायित्व रहन्छ । सूचना सार्वजनिकीकरण गर्नुपर्ने सार्वजनिक निकायको दायरा फराकिलो हुनुपर्दछ । यस सिद्धान्तका आधारमा संविधान, कानून, आदेश वा सम्झौता बमोजिम स्थापना भएका कुनै पनि सार्वजनिक सेवा प्रदायक निकाय वा संस्था जसले जनतासँग सरोकार राखी काम गर्दछन्, त्यस्ता निकायसँग रहेको सार्वजनिक महत्वका सूचनामा नागरिकको पहुँचको अधिकार सुनिश्चित हुनुपर्दछ ।
- ख. सार्वजनिक निकायले मुख्य-मुख्य सूचनाहरू (Key Information) अद्यावधिक गरी समय-समयमा त्यस्तो सूचना प्रकाशित र प्रसारण गर्नुपर्ने दायित्व (Obligation to Publish) हुन्छ, नागरिकले मागेको बखतमात्र सूचना प्रदान गर्ने नभई नियमितरूपमा सार्वजनिक निकायहरू स्वयंले जनतालाई सुसूचित गर्न आफ्ना निकायसँग सम्बन्धित महत्वपूर्ण सूचनाहरू सञ्चारमा विभिन्न माध्यम र विभिन्न राष्ट्रिय भाषाहरूमा प्रकाशित र प्रवाह गर्नुपर्ने दायित्व रहन्छ ।
- ग. सार्वजनिक निकायहरूले आफ्ना काम कारवाहीमा खुल्ला र पारदर्शी संस्कृतिको अवलम्बन गर्न खुल्ला सरकारको प्रवर्द्धन (Promotion of Open Government) गर्ने संस्कारको विकास गर्नुपर्दछ । सूचनाको हक सम्बन्धी कानून जतिसुकै प्रगतिशील बनाए पनि सार्वजनिक निकायमा कार्यरत व्यक्तिहरूले खुलापन र पारदर्शी संस्कार अनुरूपको व्यवहार नगरेसम्म सूचनाको हक सम्बन्धी कानूनले सफलता प्राप्त गर्नसक्तैन । यसका निम्ति खुला सरकारको प्रवर्द्धनका लागि सार्वजनिक निकायहरूले सार्वजनिक महत्वका सूचना अभिलेखहरूको उचित व्यवस्थापन गर्नुपर्ने, सार्वजनिक निकायमा कार्यरत व्यक्तिहरूलाई सूचनाको हकलाई जीवन्त बनाउन आवश्यक प्रशिक्षण र तालिमको व्यवस्था गर्नुपर्ने, सूचनाको हकलाई प्रचलन गराउन **सूचना आयोग** जस्तो स्वतन्त्र निकायको स्थापना तथा सूचना लुकाउने, सूचना नदिने, सूचना नष्ट गर्ने, गलत सूचना दिने वा अपूर्ण सूचना दिने तथा सार्वजनिक महत्वका सूचना प्रवाह नगर्नेलाई दण्ड र क्षतिपूर्ति वहन गराउने जस्ता बाध्यात्मक कानूनी व्यवस्था हुनुपर्दछ ।
- घ. सूचना सार्वजनिक गरेको अवस्थामा हुने क्षति राष्ट्रको अस्तित्व र सर्वसाधारणका हितमा गम्भीर र भयानक हानी पुग्नसक्ने अवस्था भएमा मात्र "अपवाद" को रूपमा त्यस्तो सूचना प्रवाहमा मुनासिव बन्देज लगाउन हुने बाहेक अन्य अवस्थामा सूचनाको प्रवाहमा रोक र बन्देज लगाउनु हुँदैन । सूचनाको प्रवाह गर्न नमिल्ने "अपवाद"को विषय ज्यादै सीमित हुनुपर्दछ । सूचना प्रवाह गर्न नमिल्ने भनी तोकिएका विषयहरू सरकारको बचावट र रक्षाको लागि नभई राष्ट्र र जनताको हितमा प्रतिकूल असर पर्ने उद्देश्य अनुरूप हुनुपर्दछ । यस्ता विषयहरूका सूचना प्रवाह हुँदा "स्पष्ट र तत्काल खतरा" को स्थिति वस्तुनिष्ठ रूपमा स्थापित हुनुपर्दछ । अन्यथा त्यस्तो बन्देज औचित्यपूर्ण मानिन्न ।



- ड. सूचना माग्ने र पाउने कार्यविधि सरल र चुस्त हुनुपर्दछ । सूचनाको हक सम्बन्धी कानूनले सरल कार्यविधि र शीघ्र सूचना प्राप्त गर्ने समयावधिको व्यवस्था गर्नुपर्दछ । सूचना प्रदान गर्न इन्कारी गरेको अवस्थामा त्यसको पुनरावलोकन गर्न उपचारको निम्ति "सूचना आयोग" जस्तो स्वतन्त्र निकायको व्यवस्था सुनिश्चित गर्नुपर्दछ । सार्वजनिक निकायले सूचनामा नागरिकको पहुँचको सुनिश्चितताका लागि सूचना अधिकृत र आवश्यकता अनुसार सूचना शाखाको समेत व्यवस्था गर्नुपर्दछ ।
- च. सूचना प्राप्त गर्ने सन्दर्भमा राज्यले महँगो शुल्क तोकी सूचना माग्ने कार्यलाई नै हतोत्साह गरिनु हुँदैन । यसका निम्ति लागतको आधारमा मुनासिव शुल्क वा दस्तुर तोक्ने व्यवस्था गरिनु पर्दछ ।
- छ. नागरिकको सुसूचित हुने हकलाई संरक्षण, सम्बर्द्धन र प्रचलनका लागि विशेष कानूनका रूपमा सूचनाको हक सम्बन्धी कानूनको तर्जुमा हुने भएकाले सो कानूनले प्रत्याभूत गरेको अधिकार र स्वतन्त्रतालाई सङ्कुचन, कटौती र अतिक्रमण गर्नेगरी अन्य कानून अस्तित्वमा रहिरहनु उचित हुन्न । सूचनाको हक सम्बन्धी कानूनले प्रदान गरेको अधिकतम सार्वजनिकीकरणको सिद्धान्त विपरीत भए अन्य कानून संशोधन वा खारेजका गरिनुपर्छ । यसैगरी प्रचलित कानूनका कुनै व्यवस्थाहरू सार्वजनिकीकरण गर्ने वा गोप्यता राख्ने भन्ने विषयमा एक अर्का कानूनका बीच विरोधाभाषपूर्ण रही द्विविधा भएको अवस्थामा सूचनाको हक सम्बन्धी कानूनलाई प्राथमिकता (Disclosure takes Precedence ) दिई व्याख्या गर्नुपर्ने हुन्छ ।
- ज. सार्वजनिक निकायमा अनियमितता, भ्रष्टाचार वा कानून प्रतिकूल कसुरजन्य कार्य भएको वा हुन लागेको भन्ने सम्बन्धमा त्यस्तो थाहा हुने जोसुकैले पनि त्यस्तो सूचना दिनुपर्ने कानूनी कर्तव्य हुन्छ । तर त्यस्तो सूचना दिने सूचनादाता ( शङ्खघोषक ) को संरक्षण हुनुपर्दछ । सूचनाको हक सम्बन्धी कानूनले सूचनादाता ( Whistleblowers ) लाई सबै प्रकारका कानूनी, प्रशासकीय वा पदबाट मुक्त गर्ने जस्ता दण्डहरूबाट संरक्षण गरेको हुनुपर्दछ । यस प्रकार सूचनादाताको संरक्षण गर्नुको उद्देश्य सूचना लुकाई अनियमितता गर्ने कार्यलाई नियन्त्रण गरी त्यस्तो संस्कारमा नै परिवर्तन ल्याउनका लागि सार्वजनिक निकायमा कार्यरत कर्मचारीलाई सूचना सार्वजनिक गरेका कारण दण्डको भागी बन्नुपर्ने डरबाट मुक्ति दिलाउन नै हो ।
- झ. सार्वजनिक निकायमा रहेको सार्वजनिक महत्वको सूचना माग्ने नागरिकले जुन उद्देश्य र प्रयोजनका लागि त्यस्तो सूचना प्राप्त गरेको हो निजले सोही उद्देश्य अनुरूप सो सूचना प्रयोग गरेको हुनुपर्दछ । सार्वजनिक निकायबाट प्राप्त गरेको सार्वजनिक महत्वको सूचना दुरुपयोग गर्ने पक्षलाई समेत सजायको भागीदार बनाइनु पर्दछ ।
- ञ. खास समयका लागि खास प्रकृतिका सूचनाहरू राष्ट्रको अस्तित्व र आम नागरिकको हितका निम्ति संवेदनशील सूचनाको रूपमा प्रवाह नगर्ने गरी संरक्षित गर्नु औचित्यपूर्ण मानिए तापनि सदाको लागि त्यस्तो सूचना प्रवाह गर्न नमिल्ने भन्ने होइन । यस्का निम्ति सूचनाको वर्गीकरण गरी निश्चित समयसम्म संवेदनशील सूचनाको रूपमा राखी त्यसपछि सार्वजनिक प्रवाह गर्ने किसिमबाट सूचना वा लिखतको वर्गीकरण गर्नुपर्दछ । बेमुनासिव किसिमले लिखतको वर्गीकरण गरी जनताको सुसूचित हुने हकमा नियन्त्रण र रोक लगाउन खोजेको रहेछ भने त्यस्तो वर्गीकरणका विरुद्ध पुनरावलोकन गर्न सक्ने व्यवस्थाको सुनिश्चिता हुनुपर्दछ ।

नेपालमा पञ्चायतकालमा राज्य राज्यबीच भएका महत्वपूर्ण सन्धि सम्झौताहरू पनि जनताले थाहा नपाउने गरी लुकाउने व्यवस्था थियो । सार्वजनिक महत्वको सूचनामा नागरिकको पहुँचको अधिकारलाई संरक्षण गरेको थिएन । वि.सं. २०४६ सालको जनआन्दोलनको परिणाम जारी भएको नेपाल अधिराज्यको संविधान, २०४७ ले सार्वजनिक महत्वको विषयमा सूचना माग्ने र पाउने गरी सूचनाको हकलाई मौलिक हकको रूपमा समावेश गरेको भएपनि त्यस्तो हकलाई प्रचलन गराउन कानून नबनेको कारण सूचनाको हकको प्रभावकारी कार्यान्वयन हुन सकेन । सर्वोच्च अदालतबाट विभिन्न मुद्दामा उपयुक्त कानून बनाई सूचना प्रवाह गर्न सरकारलाई निर्देशनात्मक आदेश जारी हुँदा समेत पनि कुनै कानून बन्न सकेन । जनआन्दोलन-२ (२०६२/२०६३) को परिणाम जनतालाई सशक्तीकरण गर्न सरकारले जनताको सुसूचित हुने हकलाई सम्मान, संरक्षण र प्रचलनका लागि सूचनाको हक सम्बन्धी कानून बनाउन अग्रसरता देखाएको देखिन्छ । नागरिकको सुसूचित हुने हकलाई संरक्षण र सम्मानका निम्ति देहायका उद्देश्य लिई सूचनाको हक सम्बन्धी कानून बन्नु आवश्यक छ :-

- लोकतान्त्रिक राज्य व्यवस्थामा सरकार र सार्वजनिक निकायका काम कारवाही खुला र पारदर्शी बनाई जनताप्रति जवाफदेही र जिम्मेवार बनाउन,
- सार्वजनिक सेवा प्रदायक एक कुनैपनि किसिमको सार्वजनिक निकाय, संस्था वा दलले आफ्नो निकायमा रहेको सार्वजनिक महत्वको सूचनामा आम नागरिकको पहुँचलाई सहज र सरल बनाउन,
- राष्ट्रको अस्तित्व र नागरिकको हितमा प्रतिकूलप्रभाव पार्ने संवेदनशील सूचना राज्यले संरक्षण गर्न,
- नागरिकको सुसूचित हुने हकलाई प्रभावकारी रूपमा संरक्षण र प्रचलन गराउन ।

संविधान आम नागरिकको जीवन पद्धतिलाई प्रभावित पार्ने राज्यको मूल कानून हो । त्यसैगरी सरकार र सार्वजनिक निकायलाई जनताप्रति उत्तरदायी र जिम्मेवार बनाउन संविधान पछिको दोस्रो महत्वपूर्ण कानून सूचनाको हक सम्बन्धी कानून हो भन्ने अर्थमा सूचनाको हक सम्बन्धी कानूनलाई लिने गरिन्छ । खुला र पारदर्शी संस्कृतिको अवलम्बनद्वारा लोकतान्त्रिक राज्य प्रणालीको निर्माणमा सूचनाको हक सम्बन्धी कानून महत्वपूर्ण आधारशीला हो भन्ने तथ्यलाई मननगरी सूचनाको हक सम्बन्धी कानूनको तर्जुमा र त्यसको प्रभावकारी कार्यान्वयन गर्न सकेमा नै राज्यको लोकतान्त्रीकरणको प्रक्रियालाई संस्थागत गर्न सहयोग पुग्न सक्दछ । प्रतिस्पर्धि बहुदलिय राजनैतिक व्यवस्थामा जनमतलाई परिचालन गर्ने र जनताको इच्छा अभिव्यक्त गर्ने सशक्त माध्यम भनेको राजनैतिक संगठन र दलहरू नै हुन् । दलहरूको आफ्नो आन्तरिक संठगठनमा लोकतन्त्रीकरण र काम कारवाहीमा पारदर्शीता नभएसम्म समग्र राज्य व्यवस्थालाई लोकतन्त्रीकरणको प्रक्रियामा रुपान्तरण गर्न र मुलुकमा सुशासनको स्थापना गर्न सकिन्न । यसैले राज्य व्यवस्थालाई लोकतन्त्रीकरणको प्रक्रियाद्वारा संस्थागत सुदृढीकरणका निम्ति राजनैतिक संगठन र दलहरूले सवल र सक्रिय भूमिका निर्वाह गर्न सक्नु अहिलेको आवश्यकता हो ।

## सूचनाको अधिकार र जिविकोपार्जनको आधार

*रञ्जनकृष्ण अर्याल*

### १. पृष्ठभूमि

कानूनको अज्ञानतामा क्षम्य हुँदैन (Ignorance of Law does not excuse) प्रचलित कानूनले कसूरजन्य भनी निषेध गरेको कार्य जुन कार्य गरेमा दण्डनीय हुन्छ, भन्ने कुराको जानकारी नभएको भन्ने आधारमा मात्र कसैले पनि कसूरको दायित्वबाट मुक्ति पाउन सक्दैन भन्ने कानूनको सिद्धान्तले प्रत्येक व्यक्तिलाई कानूनको बारेमा स्वयंम जानकारी राख्नै पर्ने जिम्मेवारी सुम्पेको छ । कस्तो कस्तो कार्य गरेमा दण्डनीय हुन्छ भनी राज्यले नागरिकलाई जानकारी गराईरहनु आवश्यक छैन । यस्ता कुराहरु नागरिक स्वयंमले जानकारीमा राख्नु पर्छ भन्ने एउटा मान्यता खास गरी फौजदारी प्रकृतिको कसूर तथा अपराधमा सीमित छ ।

विश्वव्यापीकरणको लहरको क्रममा कुनै पनि मुलुक एकैलेले अस्तित्व जगेर्न गर्न सक्दैन । अन्तर्राष्ट्रिय समूदायसँग सहअस्तित्वको आधारमा बाँच्नु पर्ने वर्तमान अवस्थामा अन्तर्राष्ट्रिय समूदायले पालना गरेको नियम जसलाई अर्को शब्दमा अन्तर्राष्ट्रिय कानून भनिन्छ, त्यसलाई पनि अन्तर्राष्ट्रिय समूदायको सदस्यको हैसियतमा प्रत्येक राष्ट्रले राष्ट्रिय कानून सरह पालना गर्नु पर्नेछ । राज्यले बनाएको कानून मात्र कानून नभई राज्य पक्ष भएको अन्तर्राष्ट्रिय महासन्धिको प्रावधानलाई पनि राष्ट्रिय कानून सरहको मान्यता दिएको हुन्छ । अन्तर्राष्ट्रिय महासन्धिको प्रावधान बमोजिम राष्ट्रिय कानूनको निर्माण र विकास गर्नु प्रत्येक पक्ष राष्ट्रको दायित्व हो । त्यस्तो कानूनको निर्माण भएको अवस्थामा मात्र अन्तर्राष्ट्रिय कानूनको प्रयोग र पालना हुन्छ । राज्यले कुन कुन महासन्धिको पक्ष बनेकोछ, त्यस्तो महासन्धिमा के कस्तो प्रावधान छ, त्यस्तो प्रावधानले राज्यलाई के कस्तो दायित्व सुम्पेको छ? मुलुकको आर्थिक, सामाजिक र साँस्कृतिक संरचनामा असर पर्ने प्रकृतिका महासन्धिको पक्ष भएको कारणले त्यस्तो महासन्धिको प्रावधान कार्यान्वयन गराउँदा नागरिकको आर्थिक, सामाजिक र साँस्कृतिक जीवन र जिविकोपार्जनमा के कस्तो प्रभाव पर्छ? नागरिकको दायित्व के हुन्छ, भन्ने कुरा राज्यले नागरिकलाई जानकारी गराउनु पर्छ ।

### २. मानव जीवन र जिविकोपार्जनको अन्तरसम्बन्ध

मानिस स्वभावैले महत्वाकांक्षी प्राणी हो । प्रत्येक व्यक्तिले आफूलाई समाजको सर्वश्रेष्ठ व्यक्तिको रूपमा स्थापित हुन चाहना राख्दछ र सोही अनुसारको व्यवहार र कृयाकलापको अवलम्बन गर्दछ । यही व्यवहार र कृयाकलापबाट नै उसको जिविकोपार्जनको आधारको निर्माण र विकास हुन्छ । समाजको प्रत्येक व्यक्तिको जीवन यापनको माध्यम र शैली आ-आफ्नो प्रकारको हुन्छ । प्रत्येक व्यक्तिले पुर्खौली परम्परा वा आफूले आर्जन गरेको शिक्षा दिक्षा, ज्ञान अनुभव र पेशाको आधारमा आफ्नो जिविकोपार्जनको आधारको निर्माण र विकास गरी त्यसलाई सुदृढ बनाउन सदैव तल्लीन रहेका हुन्छन । प्रत्येक व्यक्ति आफ्नो जिविकोपार्जन प्रति अत्यन्त संवेदनशील हुन्छन । जिविकोपार्जनको आधारमा हुने र हुन सक्ने संभावित परिवर्तन र त्यस्तो

परिवर्तनले आफ्नो जिविकोपार्जनमा पार्न सक्ने सकारात्मक वा नकारात्मक परिणाम वा असर प्रति प्रत्येक व्यक्ति अत्यन्त सजग र चनाखोको साथ सुक्ष्म मूल्याङ्कन गरिरहेका हुन्छन् ।

## २. जिविकोपार्जनको परम्परागत आधार र मान्यतामा परिवर्तन

प्राचिन र मध्य युगीन समाजमा मानिसलाई विभिन्न जात वर्ग र समूदायमा वर्गीकृत गरी उनीहरूले समाजलाई उपलब्ध गराउनु पर्ने सेवाको आधारमा उनीहरूको काम, कर्तव्य, उत्तरदायित्व र जिम्मेवारी निर्धारण भएकोले तत्कालीन समाजमा प्रत्येक व्यक्तिको जिविकोपार्जनको आधार उसको जात जाती, वर्ग समूदायसँग गाँसिन्थ्यो भने आधुनिक समाजले त्यस्तो सोचाई र मान्यतालाई क्रमसः हटाई व्यक्तिको जिविकोपार्जन जात जाती, वर्ग समूदायमा आधारित हुने नभई निजको ईच्छा र व्यवसायीक योग्यता तथा क्षमताको आधारमा निर्माण र विकास हुने अवधारणालाई अंगिकरण गरिसकेको छ ।

## ३. जिविकोपार्जनको वर्तमान आधार

पृथ्वी, आकास, जल, वायु र अग्नी जसलाई पञ्चमहाभूत भनिन्छ । पृथ्वीमा अस्तित्वमा रहेका प्रत्येक प्राणी र वनस्पतिको समुच्च स्वरूपलाई अर्को शब्दमा जैविक विविधता भनिन्छ । जैविक विविधताको पञ्चमहाभूतसँग अन्तरसम्बन्ध रहेको हुन्छ । पञ्चमहाभूत र जैविक विविधता आफैमा प्राकृतिक स्रोत हुन् । यस्ता प्राकृतिक स्रोत (Natural Resources) उपयोग गर्ने मानवमा अन्तरनिहित व्यावसायीक ज्ञान (Professional Knowledge and Skill) मानवीय क्षमता हो । प्राकृतिक स्रोत र साधनको दीगो उपयोग सम्बन्धी व्यवहार मानवीय कृयाकलाप (Human Activities) हो । यसैले प्राकृतिक स्रोत, प्राकृतिक स्रोतलाई उपयोग गर्ने मानवीय ज्ञान तथा क्षमता र प्राकृतिक स्रोतलाई दीगो उपयोग गर्ने मानवीय कृयाकलापले नै मानव जीवनको जिविकोपार्जनको आधार खडा गर्ने भएकोले यी तीनवटाको संयुक्त रूपलाई नै मानव जिविकोपार्जनको आधारभूत तत्वको रूपमा स्वीकार गरिएको छ । A Livelihood is defined as comprising" the capabilities, assets (resources) and activities required for a means of living"

## ४. जिविकोपार्जन र सूचनाको अधिकार:

सार्वजनिक सरोकारसँग सम्बद्ध विषयलाई सार्वजनिक प्रकाशनको माध्यमबाट जनसमक्ष पुर्याउने कार्य सञ्चारकर्मीबाट हुने भएकोले सूचनाको सरोकार मिडिया जगतलाई मात्र भएको जस्तो देखिन्छ । तर सुक्ष्मरूपले हेर्ने हो भने सार्वजनिक निकायबाट हुने निर्णय प्रति सञ्चारकर्मीलाई भन्दा त्यस्तो निर्णयबाट असर पर्ने व्यक्तिलाई सरोकार रहन्छ जुन निर्णयले त्यस्तो व्यक्तिको जिविकोपार्जनमा असर पुर्याउदछ । यसैले प्रत्येक व्यक्ति आफ्नो सरोकारको विषयमा हुने निर्णयमा बढी सजग हुन्छन् । सार्वजनिक निकायबाट भएका प्रत्येक निर्णयको बारेमा सूचना माग्ने र पाउने अधिकार केवल सञ्चारकर्मीमा मात्र सीमित रहदैन । त्यस्तो निर्णयको सरोकारवाला प्रत्येक व्यक्तिलाई सूचना माग्ने र पाउने अधिकार हुन्छ ।

## ५. ग्रामिण समूदाय र सूचनाको अधिकार:

प्रचुर मात्रामा प्राकृतिक स्रोतको विद्यमान रहेको प्राचिन र मध्ययुगीन समाजमा खेतीबाट अत्याधिक उत्पादन हुने भएकोले नै जीविकोपार्जनको प्रमुख तीन आधार मध्ये खेतीलाई उत्तम, व्यापारलाई मध्यम र नोकरीलाई निर्गीणी मानिन्थ्यो भने आधुनिक युगमा जीवन यापनको परम्परागत मान्यतामा क्रमसः परिवर्तन भएको छ ।

(क) कृषि क्षेत्रको कुरा गर्ने हो भने अब खाद्यान्न तथा कृषि उपजका विउ माथिको अधिकारको प्रश्न उठीसकोछ । अन्तर्राष्ट्रिय विउ व्यापारीहरूले यसलाई आफ्नो सम्पति ठानीसके । आजकल अन्तर्राष्ट्रिय विउ व्यापारीहरूले वर्ण नपुंसक प्रविधि (Terminator Technology) टर्मिनेटोर टेक्नोलोजी) को विउ उत्पादन गर्छन् जुन विउ उम्रेपछि उत्पादित खाद्यान्न तथा कृषि उपज आफै पुनः विउको रूपमा प्रयोग गर्न सकिदैन । प्रत्येक पटक वाली नाली लगाउँदा विउ किन्नु पर्ने अवस्थाको सिर्जना भईसकेको छ ।

(ख) विश्व व्यापार सँगठनको ट्रिप्स सम्झौता (TRIPS Agreement) ले विरुवाका नयाँ जातको विकास तथा संरक्षण गर्न र यस क्षेत्रमा अनुसन्धान, लगानी तथा प्रविधि हस्तान्तरण लाई प्रोत्साहन गर्दै प्रजनक र कृषकका अधिकार सुनिश्चित गर्ने भनेको छ । यसको अर्थ हो वैज्ञानिक अनुसन्धानबाट वा कृषकहरूले स्थानीय रूपमा प्रयोग गरेको वर्णशंकर प्रविधिबाट विरुवाको नयाँ जातको आविष्कार वा उत्पादन गर्ने प्रजनकको त्यस्तो विरुवाको नयाँ जातमा बौद्धिक सम्पति सम्बन्धी अधिकार कायम हुने व्यवस्था गरेको छ । अर्थात् त्यस्तो विरुवा अरु कसैले उमार्न वा लगाउन परेमा त्यस्तो प्रजनकसँग खरिद गर्नु पर्ने अन्यथा चोरी (Piracy) गरेको मानिने । तर कृषक अधिकारको नाउँमा कृषकले आफ्नो जीविकोपार्जनको लागि उपयोग गर्न पाउने केवल व्यापारिक प्रयोजनको लागि स्थापना भएको कृषिफर्मले मात्र उपयोग गर्न नपाउने गरेको छ ।

(ग) सञ्चार तथा यातायातको प्रविधिमा आएको द्रुततर विकासले व्यापारलाई विश्वव्यापीकरण बनाउने क्रममा उदारीकरणको प्रक्रिया शुरु भयो । अन्तर्राष्ट्रिय व्यापार अभिवृद्धि गर्न आर्थिक तथा गैर आर्थिक अवरोधलाई क्रमसः हटाउँदै लैजाने क्रममा संसारको कुनै पनि स्थानमा उत्पादन भएको मालवस्तु गाउँबाट शहर हुँदै सम्पूर्ण मुलुक र क्षेत्रीय तथा विश्व बजारमा पहुँच प्राप्त गर्न सक्ने गरी एकातर्फ अवसरमा वृद्धि गराएको छ भने अर्कोतर्फ विकसित मुलुकको तुलनामा विकासोन्मुख मुलुकलाई अन्तर्राष्ट्रिय बजारमा व्यापारमा प्रतिस्पर्धा गर्ने क्षमता कम भएकोले पनि चुनौती खडा हुन गई व्यापार व्यवसायबाट जीविकोपार्जनमा असर पुग्न गएको छ ।

(घ) माथि उल्लिखित विषय उउटा उदाहरण मात्र हुन । अन्तर्राष्ट्रिय समूदायले प्रत्येक व्यवसायलाई अन्तर्राष्ट्रिय स्तरमा व्यापारिकरण गरिसकेको छन् । चिकित्सक, वकील चार्टर्ड एकाउन्टेन्ट, निर्माण व्यवसायी जस्ता व्यवसाय पनि विश्व व्यापार सँगठनका एक सदस्य राष्ट्रका नागरिकले अर्को सदस्य राष्ट्रको मुलुकमा गई गर्न पाउने बाटो खोलिएको छ ।

(ड) **जैविक तथा प्राकृतिक स्रोतमा सार्वभौम अधिकार र स्वामित्व:** प्राकृतिक स्रोत र प्राकृतिक उपजमा उत्पत्ति मुलुकको स्वामित्व कायम रहने विश्वव्यापी नियम हो । संयुक्त राष्ट्रसंघको बडापत्र तथा जैविक विविधता सम्बन्धी महासन्धि लगायतका अन्तर्राष्ट्रिय कानूनका सिद्धान्तहरु अनुसार प्रत्येक राज्यलाई आफ्ना भौगोलिक क्षेत्राधिकार भित्र विद्यमान प्राकृतिक स्रोतमा आ-आफ्ना वातावरणीय नीति अनुसार उपयोग गर्ने सार्वभौमिक अधिकार कायम रहन्छ । यसै महासन्धि कार्यान्वयनको लागि बनेको प्रस्तावित विधेयकमा नेपालको आनुवंशिक स्रोत तथा आनुवंशिक पदार्थमा नेपाल राज्यको सार्वभौम अधिकार कायम रहने र आनुवंशिक स्रोत तथा आनुवंशिक पदार्थ खास गरी जमिन, पानी र जंगल र वनस्पतिमा स्थानीय जनताको अधिकार र स्वामित्वलाई स्वीकार गरेको छ ।

उपरोक्त सैद्धान्तिक अवधारणा अनुसार नै वन क्षेत्रमा राष्ट्रिय तथा सरकारी वन, सामूदायिक वन र निजी वनको अवधारणा लिएको पाईन्छ भने जल उपयोगको क्षेत्रमा पनि स्थानीय जलस्रोतमा स्थानीय समूदायको अधिकारलाई अग्राधिकार दिई जलउपभोक्ता समितिको अवधारणा लिएको पाईन्छ ।

(च) **जैविक स्रोत र परम्परागत ज्ञानको अन्तरसम्बन्ध**

- जैविक स्रोत माथिको अधिकार त्यस्तो स्रोतको उपयोग गर्ने ज्ञानबाट सिर्जना हुन्छ । त्यो ज्ञान नै स्थानीय समूदायको जिविकोपार्जनको आधार भएकोले त्यस्तो ज्ञानमा स्थानीय समूदायको बौद्धिक सम्पतिको अधिकार कायम रहेको हुन्छ ।
- जैविक स्रोत र यसको उपयोग सम्बन्धी परम्परागत ज्ञान एक अर्काको परिपूरक हुन । एक बिना अर्कोको अस्तित्व रहन सक्दैन । ज्ञान बिनाको जैविक स्रोतको अर्थ हुँदैन भने जैविक स्रोत बिना कुनै ज्ञानको सिर्जना नै हुन सक्दैन । यसैले जैविक स्रोत र यसको उपयोग गर्ने परम्परागत ज्ञानलाई समूदायको जीविकोपार्जनको आधार मानिन्छ ।
- जैविक स्रोत र यसको उपयोग गर्ने परम्परागत ज्ञान वर्तमान र भावी सन्ततीको समेत बौद्धिक सम्पति भएकोले यसको नास हुन नदिई संरक्षण गर्नको लागि जैविक विविधता तथा परम्परागत ज्ञानलाई अभिलेखीकरण गर्नु पर्छ । जैविक स्रोतको उपयोग गर्ने परम्परागत ज्ञानको स्रोत भन्नु नै स्थानीय समूदाय हुन् । स्थानीय समूदायलाई परम्परागत ज्ञानको सागर भनिन्छ । परम्परागत ज्ञान स्थानीय समूदायको जीवन निर्वाहको माध्यम हो । यसलाई निरन्तर संरक्षण दिई त्यसको नवीनतम अभ्यास र उपयोगमा सहयोग पुऱ्याई त्यसबाट प्राप्त लाभको न्यायिक बाँडफाँडलाई मान्यता दिने महासन्धिको भावना हो ।

६. **नीति निर्माणको अख्तियार**

- चुनावको माध्यमबाट जनादेश प्राप्त सरकारले राज्य सञ्चालनको क्रममा आवश्यक कानून तथा नीति नियम निर्माण गर्ने अख्तियार नागरिकबाट प्राप्त गरेको हुन्छ । सरकारले कुनै पनि विषयमा नीति निर्माण गर्दा विद्यमान अन्तर्राष्ट्रिय प्रचलन, राज्यका निर्देशक सिद्धान्त, मुलुकको संवैधानिक तथा कानूनी व्यवस्था र सार्वजनिक तथा लोककल्याणको हितलाई ध्यानमा राखी नीति नियमको बारेमा निर्णय गर्नु पर्छ ।

#### ७. पारदर्शीको आधारभूत मान्यता

राज्यबाट निर्मित प्रत्येक नीति नियम पारदर्शी हुनुपर्छ । पारदर्शीको अर्थ कुनै पनि निर्णय सरोकारवालाको जानकारीमा ल्याउनु मात्र पर्याप्त होईन । देहाय बमोजिमको पूर्वावस्था पूरा गरी भएको निर्णयले मात्र पारदर्शीको प्रक्रिया अपनाईएको मानिनेछ । तत्पश्चात मात्र राज्यले पारदर्शिताको उत्तरदायित्व पूरा गरेको मानिन्छ ।

- निर्णय निर्माणको क्रममा सरोकारवाला व्यक्तिसँग पर्याप्त मात्रामा छलफल गरिएको हुनुपर्छ ।
- अधिकांश सरोकारवालाको भावनालाई निर्णयमा समेटिएको हुनुपर्छ ।
- निर्णय निर्माणको क्रममा लिएको कारण र आधार स्पष्ट रूपमा खुलाईएको हुनुपर्छ, र
- निर्णय निर्माणका सम्पूर्ण प्रक्रिया र आधार सरोकारवालाको जानकारीमा ल्याईनु पर्छ ।
- निर्णयको कारण, आधार र त्यसको औचित्यता बारे जानकारी पाउने सरोकारवालाको अधिकार भएकोले निर्णय पश्चात सरोकारवालाले उठाएको प्रश्नमा उचित र तर्कपूर्ण जवाफ दिनु पर्छ ।

#### ८. सूचना माग्ने र पाउने हक

- २०४७ सालको संविधानले सूचनाको हकलाई मौलिक हकको रूपमा मान्यता दिएतापनि सो हकको कार्यान्वयनको लागि आवश्यक कानूनको निर्माण भएन । कानून निर्माणको लागि मिडिया व्यवसायीहरूबाट अथक प्रयास भएतापनि कार्यरूपमा परिणत हुन । निर्णय निर्माण प्रक्रियामा पारदर्शी र उत्तरदायित्वपूर्ण व्यवहार कायम रहन नसकेकोले व्यवस्था व्यवहारमा प्रजातान्त्रिक संस्कारको विकास हुन सकेन । यहाँसम्मकी सूचनाको हक सम्बन्धी कानून नबनेकोले त्यसको अभाव दर्शाई नागरिकले सूचना पाउने र माग गर्ने हकबाट वञ्चित हुन नपरोस र नागरिकलाई सूचना दिनु पर्ने दायित्वबाट राज्य उम्कन नपाओस भनी सम्माननीत सर्वोच्च अदालतबाट फैसलाको क्रममा सूचनाको हक सम्बन्धी आधारभूत निर्देशन बनाई आदेश जारी गर्दा समेत सूचनाको हक सम्बन्धी कानून बनेन ।
- सायद यिनै तिता यथार्थलाई मनन गरेर नै हालै जारी भएको अन्तरिम संविधानमा कानूनद्वारा गोप्य राख्नु पर्ने अवस्थामा बाहेक प्रत्येक नागरिकलाई आफ्नो वा सार्वजनिक सरोकारको कुनै पनि विषयको सूचना माग्ने र पाउने हक हुने भनी सरकारलाई सूचनाको हक सम्बन्धी कानून बनाउन वाध्य बनाउन खोजेको देखिन्छ । जसको अर्थ यो हुन्छ की यात सरकारले सबै सूचना दिनु पर्छ यात सबै सूचना गोप्य भनी वर्गीकृत गर्ने कानून बनाउनु पर्छ ।

- सूचनाको हकले नागरिकलाई कस्तो अधिकार प्रदान गछ ?
  - सरकारलाई कुनै पनि विषयमा प्रश्न सोध्न पाउने र कुनै पनि विषयको सूचना माग गर्न पाउने ।
  - सरकारी कागजातको प्रतिलिपि पाउने,
  - सरकारी कागजातको निरीक्षण गर्न पाउने,
  - सरकारी काम कारवाईको निरीक्षण गर्न पाउने,
  - सरकारी काम कारवाईको नमूना लिन पाउने ।
  - राष्ट्रिय सुरक्षा र स्वार्थ समावेश भएको विषयवस्तु बाहेकका सबै विषयमा सूचना माग गर्न सकिन्छ ।
  - सरकारी तथा संवैधानिक निकाय र प्रचलित कानून बमोजिम गठन भएको अर्द्ध सरकारी संस्था र मूलतः सरकारबाट आर्थिक अनुदान प्राप्त संस्थामा तोकिएका सार्वजनिक सूचना अधिकृतसँग सूचना माग फारम भरी नियमानुसारको दस्तुर तिरी वा त्यस्तो सूचना हुलाकबाट पठाएमा निश्चित दिनभित्र सार्वजनिक सूचना अधिकृतले सूचना दिनु पर्नेछ ।
  - व्यक्तिगत जीवन र स्वतन्त्रतासँग सम्बन्धित कागजात तथा सूचना पाउने,
  - सूचना माग गर्नु पर्ने कारण उल्लेख गर्नु आवश्यक छैन । सूचना माग गर्नेको नाम र सम्पर्क ठेगाना बाहेक अन्य कुनै कुरा माग गर्न पाइदैन ।
  - निवेदन अस्वीकार गर्न सकिदैन । निवेदन असम्बन्धित अधिकृत कहाँ परेमा सम्बद्ध अधिकारीकहाँ पठाउनु पर्नेछ ।
  - स्वतन्त्र भारतको इतिहासमा नै सबैभन्दा लोकपृथ ठहरिएको यो ऐनले जनतालाई सेवा दिन बसेका जिम्मेवार अधिकृतलाई काम गर्न बाध्य बनाएको महशूस भएको छ । सम्बद्ध अधिकृतले सूचना नदिएमा प्रतिदिनको दरले जरिवाना हुने, झुठा, गलत सूचना दिएमा भारी आर्थिक दण्ड हुने, सूचना दिन अस्वीकार गरेमा वा गलत मनसायले अपूरो सूचना दिएमा कैद सम्म सजाय हुने व्यवस्था यो ऐनले गरेको छ ।
  - सूचना उपलब्ध नगराईएमा वा उपलब्ध गराईएको सूचनामा शंका लागेमा वा विश्वस्त हुन नसकेमा पुनरावेदन गर्न सकिनेछ ।
  - पहिलो अपिल अस्वीकृत भएमा दोस्रो अपिल गर्न सकिन्छ ।
  - राशन कार्ड हराएको नानुले प्रतिलिपि पाउनको लागि निवेदन दिएको १० दिनभित्र पाउनु पर्नेमा तीनमहिनाभित्र पनि नपाएपछि दिएको निवेदनमा कुन अधिकारीबाट के कस्तो कारवाई भयो भनी



जानकारी पाउन सूचनाको अधिकार ऐन बमोजिम निवेदन दिएको एकहप्ताभित्र उसले रासन कार्डको प्रतिलिपि प्राप्त गरेको केश भारतमा बहु चर्चित छ ।

- सूचना प्राप्त गरी यसले सरकारको नोकरशाहीतन्त्रलाई अवरोध पार्छकी भन्ने प्रश्न उठेको छ तर यसले कानून बमोजिम गरेको निर्णय सार्वजनिक जानकारीमा ल्याउनाले कुनै कर्मचारीलाई हानी नोक्शानी नहुने तर कानून बमोजिम नभएको निर्णय लुकाउने प्रवृत्तिमा हतोत्साही पार्ने अपेक्षा गरिएको छ ।

## ९. निष्कर्ष

जनावर, जग्गा जमीन, रुख विरुवा, खनिज पदार्थ, पानी लगायतका प्राकृतिक स्रोत (जैविक स्रोत समेत) र तिनको उपयोग गर्ने परम्परागत ज्ञान नै ग्रामिण जनताका जीविकोपार्जनका स्रोत हुन । यस्ता प्राकृतिक तथा जैविक स्रोत र जैविक स्रोतका उपयोग गर्ने परम्परागत ज्ञानको संरक्षण, प्राकृतिक तथा जैविक स्रोतको दीगो उपयोगको नीति अवलम्बन गरिनु आवश्यक छ । सरकार वा बहुराष्ट्रिय कम्पनीबाट प्राकृतिक स्रोत र परम्परागत ज्ञानको उपयोग भएको अवस्थामा स्थानीय समुदायलाई आर्थिक तथा गैर आर्थिक प्रकृतिको लाभ न्यायचित रूपमा उपलब्ध गराउनु पर्छ । पानी र जग्गाको अधिकतम उपयोग भएको अवस्थामा स्थानीय जनताको दैनिक जीवन यापनमा कुनै असर नपर्ने, पुनर्स्थापना तथा पुनर्वासको व्यवस्था गर्ने, साविकमा यापन गरि आएको सामाजिक जीवन र आर्थिक कृयाकलाप भन्दा कम नहुने व्यवस्था गरी जीविकोपार्जनको माध्यममा कुनै असर नपर्ने । यस्ता प्रकृतिक व्यापारिक कृयाकलाप वा परियोजना सञ्चालन गर्नु पूर्व स्थानीय नागरिकलाई पूर्व सूचनाको (Prior Inform consent) माध्यमबाट पर्याप्त मात्रामा सूचना प्रदान गरिनु पर्छ ।

शिक्षित समुदाय जो शहरमा बसेर कर्मचारी, शिक्षण, नोकरी, व्यापार लगायतका चिकित्सक, पत्रकार वकील ठेकेदारी मजदूरी व्यवसाय गर्छन उनीहरु आफ्नो व्यवसाय प्रति संवेदनशील हुन्छन । उनीहरुको सामूहिक संगठन हुन्छ । संगठनको तर्फबाट व्यवसायमा आँच नपुऱ्याउन सरकारलाई खबरदारी देखि लिएर चुनौतीसम्म दिन सक्छन । सामान्य नागरिक जो गाँउमा बसेर आफ्नो सामान्य व्यापार, खेती, मजदूरी व्यवसाय गर्छन उनीहरुको नत संगठन हुन्छ नत उनीहरुको जिविकोपार्जनमा आँच आउने कुनै काम कारवाई वा निर्णय भएमा त्यसको विरुद्ध आवाज नै उठाउन सक्छन । त्यस्ता नागरिकले सार्वजनिक अधिकारीको कार्यालयमा आफ्नो व्यक्तिगत व्यवहारको काम लिएर जाँदा सार्वजनिक अधिकारीको मुडमा भर पर्नु पर्ने अवस्थाबाट नै मुक्ति प्राप्त गर्न सकेको छन । यस्तै ग्रामिण क्षेत्रका सामान्य नागरिकको लागि सूचनाको अधिकार सम्बन्धी कानूनले उनीहरुलाई सहयोग पुराउने अपेक्ष गरिएको छ ।

# Right to Information: A Powerful Tool

By: Arvind Kejriwal

We all pay taxes. Even the beggar on the street pays taxes. When he buys a piece of soap or a matchbox, he pays sales tax, excise duty and so many other taxes. The governments run on these taxes. This money belongs to us – the people of this country. The Government exists to serve the people. We are the masters. It is the duty of every master to take accounts from his servant at regular intervals. Did we do that in the last fifty years? No. Not because we did not want to do it but because there were no legal or administrative means through which we could do this. The Right to Information laws provide that opportunity to the people to directly hold their governments accountable.

As early as in 1976, Supreme Court declared Right to Information as a part of our fundamental rights. In the case of *Raj Narain vs State of Uttar Pradesh*, it declared that Right to Information is inherent in Article 19 (1) of the Constitution. Article 19 (1) declares Freedom of Speech and Expression as a fundamental right. The Supreme Court said that the people cannot speak or express themselves unless they had information. The Court further said that the people have this right because we live in a democracy, where people are the masters. The masters have a right to know how they are being governed. The Supreme Court further said that the people have a right to know how their money, collected as taxes, are being spent.

If Right to Information is our fundamental right, then do we separately need a Right to Information Law? Yes, we do that. Suppose you went to the Executive Engineer of your area and asked him to show all his files because right to Information were your fundamental right, obviously, he won't show you any file. Right to Information law provides you the machinery for exercising this fundamental right. It lays down the procedures on how to apply, where to apply, which officer would accept your form, how much would be the fee, what would happen if you did not get your information etc.

How did the Government pass this historic legislation? This legislation is the result of a long struggle of the most ordinary and poor people. It all started in early 1990's with the demand for full minimum wages by the laborers and farmers of Rajasthan. In those days, the minimum wages used to be Rs 22 per day. But the laborers were not given more than Rs 11 per day. When they demanded the balance, they were told that they had not done the work properly or they were lazy on the job and hence, full wages would not be paid to them. Under the leadership of Mazdoor Kisan Shakti Sangthan, which is run by Mrs Aruna Roy, who is former IAS officer, the people demanded to see their muster rolls. If they were being given Rs 11 for a day, they wanted to see how much had been entered in the muster rolls. The government refused to show muster rolls saying that these were secret. This enraged people. How could the muster rolls, which contained details of payments made to the workers, be secret? It is this demand to inspect muster rolls, which snowballed into a full fledged demand for right to information over time. Last fifteen years saw people resorting to various protests to press for their demand. It culminated

into the recently enacted Right to Information Act, which became effective from 13<sup>th</sup> October 2005.

In the meanwhile, some progressive state governments enacted their own right to information laws giving this right with respect to their respective state government departments. Starting from 1997, nine state governments enacted right to information laws. These are Tamil Nadu, Goa, Rajasthan, Maharashtra, Madhya Pradesh, Delhi, Jammu & Kashmir, Karnataka and Assam. Of course, some of these laws were so weak that they remained only on paper.

What does the Central Right to Information Act say? Let me tell you that the recently enacted Central RTI Act is one of the most progressive RTI laws in the World. There are more than 55 countries in the world which have RTI laws and ours is one of the best. It gives five rights to a citizen – any citizen could ask any questions from the Government or seek any information; one could inspect any Government files or documents; one could take copies of any government documents; one could inspect any government work; and one could demand sample of material used in any government work. The last two rights exist only in the Indian RTI Act. Under this law, one or more officers have been declared as Public Information Officers (PIO) in every government department. They act as nodal officers. If you want any information, you should make an application on a plain piece of paper, and should submit it to the PIO along with Rs 10 application fee. Under the law, he is supposed to provide information within 30 days of application or else, a penalty could be imposed on the guilty official at the rate of Rs 250 per day of delay upto a maximum of Rs 25,000 per application. If you do not get information or you were not satisfied with the information received, you could file an appeal. There are two appellate stages. The second appeal lies with independent bodies called Information Commissions set up specifically for this purpose. The Information Commission has the powers to impose penalty on guilty officials.

Delhi has a right to information Act since 2001. It has almost similar provisions as those of the Central Act. We have used this Act in many ways and I would like to share some of these experiences to show how powerful a weapon it is in the hands of a common man.

Nannu is a daily wage earner. He makes his living by working as a laborer on road construction works. He lost his ration card and applied for a duplicate card in January 2004. According to the rules, he should have been issued a duplicate card with 10 days of application. But for three months, he kept running around. None listened to him. Many times, he would not even be allowed to enter the government office as he has a very shabby appearance. Three months later, he came to our office seeking help. We told him about the Right to Information Act and made an application for him. He himself went and submitted the application. On the fifth day, an inspector came from the Food Department and told Nannu with folded hands, “Nannuji, your card is ready. Why don’t you come and collect your card?” When Nannu went to collect his card the next day, the Food and Supply Officer (FSO), who is the head of a Circle, escorted Nannu to his room, offered him tea, gave him his card and said, “Nannuji, this is your card. Now, why don’t you take back your application under the Right to Information Act?”

The same Nannu, who was a persona non-grata till a few days back, suddenly became a VIP in the eyes of the very same officers. How did this magic happen? What did Nannu ask in his application? Nannu asked:

- I made an application for a duplicate ration card on such and such date. Please give me the daily progress made on my application so far i.e. when did my application reach the table of which officer, how many days did it stay on his table and what action did he take on my application in that time?
- Please give me the names and designations of the officials who were supposed to take action on my application and who did not do so?
- According to the rules, the card should have been made within ten days of my application. However, this rule has been violated in my case. Please tell me what action would be taken against these officials for violating this rule and by when.
- By when would I get my card now?

In ordinary circumstances, such an application would be thrown into a dustbin. But this law says that they have to reply within 30 days. If they don't do that, their salary would be deducted at the rate of Rs 250 per day of delay. And if they provide false information, again a penalty, upto a maximum of Rs 25,000, could be imposed on them. So, they have to provide correct and complete information within 30 days. Now, it is not easy to provide this information. The first question is – please provide daily progress made on my application. There is no progress made. But they can't write it in that many words. They can't write that they did not take any action on his application in the last three months. Otherwise, it would be an admission of guilt on paper. And no government servant would like to do that. The second question is – please tell me the names and designations of officers who were to take action on my application and who did not take action. The moment they provide these names, it is fixing of responsibility. Again, any officer is scared if responsibility for any wrongdoing is fixed against him. One does not want his name to appear like this anywhere. So, the moment you file such an application, they end up doing your job.

If this had happened only to Nannu, we would have thought that this was an exception. We got similar applications filed by several people, who had work pending in many other Departments and their job was done within a few days. In Delhi Vidyut Board, we got almost 200 people file similar applications. They had various works pending for several months like faulty bills, pending electricity connection, replacement of meters etc. When they filed applications under the Right to Information Act asking similar questions, almost everyone's work was done within a few days. And we have documentary evidence of all these cases. Then we used this law in many more Departments – telephone office, passport office, water department, social welfare department, education department etc. Wherever anyone had any pending work in any Government department, which was his legitimate due and was being denied to him due to demand or expectation of a bribe, the work would be done in a few days as soon as one filed an application under RTI Act.

Last year, an old gentleman had to visit his son in Germany. His daughter-in-law was expecting a child. Therefore, it was an emergency situation for him. He applied for a passport. People suggested that he should go through an agent who would bribe the officials on his behalf, but he refused to do that. For six months, he kept running around, but none listened to him. In the first week of November 2005, he made an RTI application and took it to the passport officer for submission. The passport officer looked at the application and started pleading with him not to submit the application. The officer apologised for the delay and promised to make the passport within next 7 days and also get it delivered to his house. "If you do not get your passport within next seven days, please let me know. I am giving you my cell no, my son's cell no and my residence no. But please don't submit this application." And the old man got his passport delivered to his house within a week.

So now, you need not pay bribes for your legitimate work in any Government department. Use RTI. Often, it works faster than bribes.

Theoretically, the people are the masters and the governments exist to serve them. However, in practice, the government officials behave like our masters and the public is made to plead before them. RTI is clearly redefining this relationship.

Triveni is a very poor woman. She stays in a slum in East Delhi. Her monthly family income in those days used to be Rs 500 per month and there are four members in her family. She has an antyodaya ration card, which is given by the government to the poorest of the poor, which live on the verge of destitution. On this card, you get wheat at Rs 2 per Kg and rice at Rs 3 per Kg. She did not get any ration for almost a year. Whenever she would go to the ration shop, the shop would either be closed or the shopkeeper would say that there were no stocks. She filed an RTI application in February 2003 asking how much food had been issued in her name in the last three months according to the records. She also asked for copies of cash memos issued in her name. In 30 days, she got a reply that 25 Kgs of wheat and 10 Kgs of rice had been issued in her name every month in the last three months. The cash memos showed thumb impressions of Triveni. Triveni signs. She is a literate woman. This means that the ration shop owner was siphoning off Triveni's rations every month by making false thumb impressions. Now, Triveni had concrete evidence against the shop owner in the form of those cash memos. If she complained, the license of the shop owners could be cancelled. But before she did that, the shop owner came running to Triveni and fell at her feet. He asked for forgiveness for the past mistakes and promised to provide proper rations in future. It is three years after that and Triveni is getting full rations at right prices since then.

Uday is a software engineer. He lives in Vasant Kunj in New Delhi and works at HCL in NOIDA. Everyday, he takes the Ring Road opposite IIT Delhi. In February 2005, he noticed that the road between IIT flyover and Panchsheel flyover was constructed and it came off within 10 days. His blood boiled. He filed an application under RTI asking three questions:

- I want to inspect all the files and documents related to the construction of this road.
- I want to inspect this road
- I want to take sample of material used in the construction of this road. Please tell me when should I come?

He was given a date and time for inspection. In the meanwhile, he was approached by the concerned Junior Engineer and other officials, who requested him to withdraw his application, but he refused. When we went to inspect that road, the concerned Executive Engineer informed us that the whole stretch has been relaid two days before the inspection. We could take a look at it and if we pointed to any more discrepancies, they would also be addressed. This could be done because the payment had not been made to the contractor so far and the contractor could be forced to redo the work under the same contract.

Triveni's and Uday's example clearly show how RTI is redefining the relationship between the government and the people.

All corruption takes place in files. Often 100 meters of road is made but payment is made for 400 meters. Officials know that everything would remain buried in files. At best some one from vigilance or audit might come to inspect them and they would keep their mouths shut after taking their dues. But suppose, when the road is being made, you file an application that you would like to inspect the road and all files related to its construction and that you should be called for inspection, whenever the road were complete, it would have a great impact. Now, the engineer would think twice before making fake entries. He does not know who you are, what is your background? He just knows that someone from the public would come and inspect the files and the work. He does not know what would you do with the information, would you make a complaint to the CBI, would you release it to the media? I am sure that when you go for inspection, you would not find any wrong entries. And if you also ask for sample of material, it would make a difference in the quality of material too.

And imagine if the citizens started filing applications for every government work that they saw, it would make a huge dent in corruption.

RTI is not a panacea for all ills. But certainly, this is the one of the most concrete steps that has been taken after independence to strengthen democracy and to empower people. The balance of power was heavily tilted in favor of bureaucrats and politicians all these years. RTI tilts it in favor of the people.

Much more needs to be done in the sphere of governance. For instance, what happens after you expose corruption under RTI? You make complaints to various government authorities, but they do not take any action. This does not mean that we should not use RTI. In many cases, just filing an RTI often leads to improvements. And when you expose past mistakes, it certainly improves future. But we also need to work towards a system wherein the government is obliged to take action on the complaints filed by the

people. Our study of various laws and systems reveals several critical deficiencies in anti-corruption laws and systems. We are working in that direction now.

Also, when you file an application, most often you would not be provided information immediately. You would need to file appeals, which is a very simple process. You would need certain degree of perseverance to take every RTI application to its logical end. If you are willing to do that, you would witness some magical results. The cynicism, which has set into our psyche that nothing could improve would convert into a ray of hope, and that would be a big change.

Let my talk also not give an impression that RTI is some kind of a fight with the Government or its officials. It is an extremely powerful weapon in our hands. It casts an equally greater responsibility on us to use this weapon with extreme care and responsibility. Let us not use it to harass someone or to do some kind of witch hunting. When you give ten rupees to your son and ask him to get something from the market, you ask him for accounts when he is back. You do not ask for accounts to find faults with him. You do that as a part of a process, as your duty, as a matter of routine. Similarly, we should ask for accounts from the Government and about its activities, not to find faults with them but as a process and as a part of our duty to engage in our democracy. When you would use RTI, often you would find officials pleading before you. Whereas it does empower the citizens psychologically, who had been mistreated all these years, however, we would start the process of writing death sentence of this Act if this empowerment goes to our head and we started misbehaving and acting rudely with the officials. Let us be extremely humble and polite when we deal with the officials.

In the end, I would like to say that Right to Information is about truth coming out in public domain. It is about transparency. It is about ethical governance. This cannot work one way. It has to work both ways. So, when you ask information from the Government and expect it to be transparent, ethical and truthful, let us introspect and ask ourselves – do we have the moral authority to demand transparency from others? Are we as transparent and truthful as we expect government officials to be? In many departments, when you go seeking information, you would face several questions from the officials about yourself. Though legally, the officials are not entitled to ask such questions and it would be easy for you to dismiss their questions legally, but it would certainly set you thinking and you would not be able to dismiss them for long. Right to Information Act has started the journey for a transparent and ethical governance. Can we increase its ambit and start a journey for an ethical society and try to be as truthful and transparent in our relationships with society?

# **Right to Information**

## **Output of Regional Workshops**

**- Chiranjibi Kafle<sup>1</sup>**

### **Introduction and background**

Right to Information is an effective tool to secure people's rights but no effort has been made in Nepal to ensure this right through an appropriate legal mechanism. Hence Freedom Forum began the initiative to spread awareness on 'Right to Information' and gather suggestions from local opinion leaders all throughout the country.

In this connection, Freedom Forum organized two-day regional workshops on Right to Information in all the five development regions of Nepal during the two and half months beginning the third week of January 2007.

The workshops were aimed at raising public awareness on 'Right to Information' as a general concern related to all people, and building positive pressure on the government for introducing an appropriate and truly meaningful 'Right to Information Law' in Nepal.

### **Nature of the workshops**

The two-day workshop was intensively categorized into four parts--inaugural session, presentation and debates, group works and recommendations. There were altogether four thematic focuses, of which three were working papers dealing with various dimensions of Right to Information and the next was effectively a brainstorming on the recently drafted bill on "Right to Information" which has already been submitted to the Ministry of Information and Communications and is on way to Parliament for legislative procedure.

Usually, the first day of the workshop had inaugural session, followed by presentation of three working papers by the resource persons of the RTI workshops, whereas, the second-day deliberations concentrated on the study and assessment of the proposed RTI bill, its relevance and lapses as well as recommendations for improving it.

Finally the workshops ended, endorsing a set of suggestions and recommendations along with an exclusive resolution in favor of a democratic and people-friendly Right to Information Law in Nepal.

---

<sup>1</sup> Mr Kafle, Lecturer at Tribhuvan University and Executive Member, Freedom Forum, was special rapporteur for the 'Right to Information' regional workshops.



## Participation

Each workshop was attended by an average of 40-45 participants from wide-ranging fields including political and civic society leaders, lawyers, intellectuals, journalists, teachers, entrepreneurs as well as students. Inaugural sessions were attended by an average of 58-60 delegates, in which even civil servants, security officials and local administrators shared their impressions.

The participation was inclusive in nature. Women, indigenous nationalities, dalit, as well as the persons with physical disabilities joined the workshops and described those programs as "educating" and "important".

## Coverage:

The regional workshops remained memorable in that **it covered 62 of the 75 districts** of the nation. While the Biratnagar workshop marked the 100 per cent representation covering all the districts of the Eastern Development Region, the workshop in Birgunj missed only four of the 19 districts of the Central Region (Dhading, Rasuwa, Nuwakot, Chitwan.) Similarly, the Pokhara workshop covered 13 of the 16 districts of the Western Development Region (missing Manang, Mustang and Gorkha); Nepalgunj workshop covered 12 of the 15 district of the Mid Western Development Region (barring Mugu, Dolpa and Kalikot); and Dhangadhi workshop covered 6 of the 9 districts of the Far-Western Development Region (barring Darchula, Bajhang and Bajura.)

## Special achievement

Besides creating awareness among a sizable number of people on the Right to Information', the regional workshops have created a solid mass about 250 RTI activists nationwide, who have vowed to spread the message of RTI in the coming days. Even if the government or the parliament fails to pass the RTI law sooner, these activists would work to promote RTI awareness further, and join force in the ultimate promotion of 'Right to Information' campaign in Nepal.

## Recommendations:

The recommendations of the RTI regional workshops concerned with the following three questions, of which two were more concerned with government and policy makers and the one with the RTI advocacy groups and citizens:

A: How to promote RTI awareness campaign at the grassroots?

B: How to do effective campaign for "RTI Law" in Nepal?

C: How to ensure effective implementation once the RTI Law is introduced?

### i) To Government and policy makers

a. *To make effective RTI law:*

- Omit restrictive clauses from the proposed bill
- Ensure maximum access to information
- Ensure total safety to whistle blowers
- Promote RTI as a culture
- Interact with government and non-governmental sector
- Bring private/public sectors both within the purview of RTI law
- Keep room for constructive amendment in future.

b. *To ensure its effective implementation:*

- Open Information Bureaus at local levels.
- Make the Information Commission effective and powerful.
- Open Public Information and Documentation Centers at various places where information officers will work
- Promote RTI coverage in state-owned media
- Simplify official procedures
- Make rooms for timely review of Act
- Launch awareness drives through political parties, civil societies and professional organizations at the grassroots
- Develop the system of public hearing
- Ensure fair impact assessment and dissemination
- Ensure strict action to the violators
- Connect all kinds of public information to a Central Information Network (Grid).
- Create more means of information dissemination (information/communications media).
- Incorporate RTI education also in School Curriculum.

**ii) To advocates and citizens groups**

c. *To take RTI awareness drive to the grassroots:*

- Work to put constant pressure on government agencies
- Hold citizen's awareness campaign at different levels, all across the nation.
- Promote networking among the advocacy groups
- Hold school/college/community level awareness drives
- Involve in independent and effective monitoring/follow up of the RTI situation.
- Promote voluntary, community incentives to reward/honor whistleblowers
- Extend network of advocacy groups and concerned stakeholders

## **Resolution**

All the regional workshops summed up the proceedings and recommendations in the following three resolutions, originally passed in Biratnagar as "Biratnagar Declaration" and endorsed as special RTI resolutions at the remaining four regional workshops. The resolutions were:

- 1. RTI awareness campaign be spread nationwide**
- 2. RTI Law be made without tampering the spirit of the original draft submitted by the taskforce**
- 3. Strict enforcement of RTI law be ensured.**

### **Dates of the regional workshops on 'Right to Information**

Biratnagar (Eastern Development Region):	19-20 January 2007
Birgunj (Central Development Region):	21-23 January 2007
Pokhara (Western Development Region):	9-10 March 2007
Nepalgunj (Mid-Western Development Region):	29-30 March 2007
Dhangadhi (Far-Western Development Region):	31 March -01 April 2007

***Regional Workshop on Right to Information at Biratnagar***

<b>Sn.</b>	<b>Name</b>	<b>Organization</b>
1.	Kaushal ChamJung	Federation of Nepalese Journalist
2.	Naresh Dhungana	Federation of Nepalese Journalist
3.	Deepandra Rumdali	Aujar Daily
4.	Urmila Shrestha	Okhaldunga Weekly
5.	Tara Tamang	Morning Times
6.	Bishnu Sharma	A.B.C Nepal
7.	Raywati Adhakari	Club Khotang
8.	Bikash Rai	Jana Sewa Nepal
9.	Suraj Khatri	Bar Association
10.	Luna Sitawala	Bar Association
11.	Bal Dev Ram	Rasthya Bhumi Adhikar Munch
12.	Bhola Paswan	Saraswati Bikash munch
13.	Nani Ram Subedi	ECIMODE
14.	Jagat Thapa	Morang Club
15.	Harsa Suba	Kantipur Biratnagar
16.	Dharma Gautam	Nagarik Samag Ilam
17.	Bhanubhatta	NHRC
18.	Dr. Udaya Raj Ragmi	Mahendra Morang Campus
19.	Dr.Govinda Man Singh	Mahendra Morang Campus
20.	Sima Avas	Mahendra Morang Campus
21.	Bharati Updhaya	NPP
22.	Bishnu Prasad Dahal	Maoist
23.	Komal Pandey	Maoist
24.	Chiranjibi Kafle	TU
25.	Baidaya Nath Updhaya	Mahendra Morang Campus
26.	Mina Giri	Bar Association
27.	Sita Mandewa	Saptakoshi F.M
28.	Suresh Thapa	Action Aid Nepal
29.	Mod Raj Dotol	District Administration Office
30.	Vimendra Bahadur Karki	Purnabedan Adalath
31.	Kashi Raj Dahal	Katmandu
32.	Ram Prasad Sitaula	Biratnagar Purba bar
33.	Ganesh Lamsal	Aujar Daily
34.	Bhojendra	Jarnardhan
35.	Panda Parayar	Fedo Udhaya
36.	Ram	Purba Saptahi Siraha
37.	Mohan Bhandari	Udhosh Daily
38.	Madu Rai	Sancharika Samaya
39.	Srijana lama	Woman Politician
40.	Laxmi Parayer	Dalit Network Udayapur
41.	Gitandra Singha	Journalist
42.	Sambhu bhandari	Journalist
43.	Mahendra Bista	Press Chautari Morang

44.	Pratima Rai	Women's Era Magazine
45.	Sharmananda Chaudari	RSS
46.	Bharat Bahadur Thapa	Nepal Bar Council
47.	Keshav Sapkota	Regional media resource center
48.	Kamal Rijal	Journalist
49.	Baburam Timalsina	Nepal Professor's Union
50.	kavita Basnet	Freedom forum
51.	Annapurna Misra	Bar Unit, Saptari
52.	Sushil Kumar Jha	

***Regional Workshop on Right to Information in Birgunj***

S.No	Name of the Participant	Organization
1.	Abhay Kumar Das	Nepal Bar Association
2.	Ajaya Dwivedi	N.C.(Democratic)
3.	Ajaya Kumar Chaurasia	Member, Interim Parliament)
4.	Ashok Kumar Rawat	Nepali Congress (Democratic)
5.	Bhagyanath Prasad Gupta	VP, MJF
6.	Bijaya Kumar Updhyaya	Human Rights organization
7.	Bikram Patel	CSACP (SM)
8.	Binay Singh	NBA Parsa (lawyer)
9.	Birendra Kumar Shaha	Journalist
10.	Biseshata Hada	Jagaran Student Forum
11.	Bishal Chaudhari	NBA Parsa
12.	Brijkishor Patel	NGOCC
13.	Brijlal Paswan	Journalist (Des Ki Aawaj)
14.	Chandra Kishwor Jha	Journalist
15.	Deepak Raj Bhandari	Lawyer
16.	Deependra Chauhan	Member, Press Council
17.	Deependra Kanu	Youth activist
18.	Digambar Thapa	Teacher
19.	Dina Prasad Gupta	Vice- President, NC, Parsa
20.	DP Gautam	Journalist
21.	Dr Kulananda Lal Das	University teacher
22.	Dr Mahanada Thakur	Acting chair, Madhesi J. Forum
23.	Hari Krishna Adhakari	Lawyer
24.	Indu Chaudhari	Social worker
25.	Jagdish Sharma	Journalist
26.	Janaki Hada	Jagaran Munch
27.	Kamal Mohan Pokhrel	Human rights organisation
28.	Kanaiyalal Keshari	Gorkhapatra Daily
29.	Kashi Raj Dahal	Resource Person, RTI Workshop
30.	Kishori Prasad Kushwaha	Rep, CPN UML
31.	Matloob Rab Mantu	NC-D
32.	Mohammad Sadab	Journalist
33.	Nanu Chaudhari	NGOCC
34.	Naresh Prasad Gupta	Pro-Public Parsa
35.	Pranay Kumar	Journalist
36.	Pravat Kumar Jha	Annapurna Post, Rautahat
37.	Pravin Manandhar	Nepal Jaycees
38.	Premnath Sharma	Civil society representative

39.	Rajendra Prasad Koirala	Teacher
40.	Rajesh Kumar Tiwari	NC-D
41.	Rajeshwar Tiwari	Bar Association
42.	Rama Rawal	Jagaran Student Forum
43.	Ramakrishna Kafle	Nagarik Samag Bara
44.	Rameshwar Sedhai	Human rights and Peace Society, Parsa
45.	Ramlal Das	
46.	Ranjan Krishna Aryal	Civil Servant, Workshop Resource person
47.	Sambhu Prasad Kusawaha	Civil servant
48.	Sanjay Shah	Journalist
49.	Satrughna Nepal	President, Federation of Nepalese Journalists, Parsa
50.	Shila Mainali	Republican Thought Forum
51.	Shila Shah	Women's pressure group
52.	Shiva Patel	Secretary, NSP (A), Parsa
53.	Shyam Patel	NC-D
54.	Sikendra Paswan	Journalist, FNJ Parsa
55.	Subash Prasad Shaha	Narayani Today Daily
56.	Sujit Mahat	Journalist Kantipur
57.	Sunita Pudashaini	Social activist
58.	Suraj Pandit	Social worker (AYC)
59.	Suresh Kumar	Journalist s
60.	Tilak Ram Luitel	Dist. Chairman, Intellectual wing, CPN Maoist
61.	Urmila Thapa	Chetansil Mahila Samuha
62.	Uttam Khadgi	Journalist

**Participants of Right To information  
Workshop at Pokhara**

S.N.	Name	Office
	Raj Bahadur Gurung	FNJ Kaski
2	Kamala Ghatraj	NOAA Kaski
3	Kalpana Bista	Resung, Gulmi
4	Sangita Thapa	Journalist, Gulmi
5	Durga Bahadur Sunar	NSD
6	Raman Giri	Hotline, Daily
7	Hari Prasad Bhattarai	NPV
8	Mohan Baral	Machh. FM
9	Reeta Gurung	CWSN
10	Om Raj poudel	PSML
11	Surendra Thapa	TI Support
12	Samiksha Koirala	Annapurna FM
13	Biraj Acharya	The Himalayan Times
14	Pradip Poudel	Image TV
15	Ganesh Shrestha	Insec
16	Dev Pachbhaya	Shree Nagar FM
17	Keshav Thapa	Ford - Nepal, Tanahu
18	Sarita Gurung	Res-Nepal, Tansen
19	Sirjana Hirachan	FNJ
20	Saraswati Sharma	Radio Nepal
21	Bhawani Ahikari	Annapurna Post
22	Nabraj Subedi	Press Chautari
23	Hari Kumar Shrestha	FNJ Gulmi
24	Bimala Thapa	Nepal Police
25	Padam Regmi	Machhapuchre Weekly
26	Ranjan Krishna Aryal	Govt. Service
27	M.B. 'Astha'	Himchuli FM
28	Hem Raj Baral	Radio Nepal/ Press Union
29	Sagar Prasad Upadhaya	Gorkhapatra, Parbat
30	Ramesh Poudel	Gorkhapatra/ NTV
31	Madhav Aryal	Kantipur Daily
32	Janardan Ghimire	RSS
33	Birendra KC	Kantipur Daily
34	Press Narayan Acharya	RSS
35	Chhabi Panday	Rupendehi
36	Kabi Raj Nepal	Nepal samacharpara Daily
37	Yogendra Milan Chhantyal	COCAP
38	Kulchendra Neupane	Kantipur
39	Gangadhar Parajuli	vice present - FNJ
40	N. Karki	Journalist
41	Yegya Bahadur Thapa	Nepali Congress
42	Sukra Raj Sharma	Nepali Congress
43	Ramesh Kumar Sharma	DIG



44	Rajib Pahari	CPN UML
45	Bhim Raj Bhandari	RPP Kaski
46	Kshatra B. Bhandari	ACDO
47	Ratna Shrestha	Human Right
48	Sobhiyal Bdr. Adhikari	NC Democratic
49	Nisha Bishwokarma	Kantipur Daily
50	Surya Chandra Basnet	RSS
51	Ganeshman Giri	TV Journalist
52	Binu Pokhrel	Journalist
53	Smita Adhikari	Journalist
54	Radhika Sharma	Journalist
56	Durga Adhikari	Himchuli FM
57	Kagaraj Acharya	HURON
58	Achyut Acharya	NHRC
59	Tek Nath Baral	HRB Network
60	Alok Dahal	Journalist
61	Bishnu Bhusal	FNJ Argakhachi

***Regional workshop on Right to Information in Nepalgunj***

S.n	Name	phone	mobile	E-mail
1	Preem K.C		9858022656	preem.k.c35.org.np
2	Niraj Gautam		9848023450	
3	Janak Nepal		9858022101	<a href="mailto:nepal.janak@yahoo.com">nepal.janak@yahoo.com</a>
4	Bijay Barma		9848031316	<a href="mailto:bjznpg@yahoo.com">bjznpg@yahoo.com</a>
5	Rakesh Kumar Mishra		9848024119	<a href="mailto:mishra-radio@yahoo.com">mishra-radio@yahoo.com</a>
6	Kalendra Sanjul		9848028218	<a href="mailto:skalen@walla.com">skalen@walla.com</a>
7	Dinesh Chaudhari		9848022493	
8	Kumar Shrestha		9848023341	kumar-2060@yahoo.com
9	Suresh Poudel		9848020949	
10	Lok Badhur Shah		9848023319	
11	Bishanu Pokhrel		9848022126	<a href="mailto:pokhrelpokhrel2@yahoo.com">pokhrelpokhrel2@yahoo.com</a>
12	Sandha Shah	521518		<a href="mailto:shah-san@yahoo.com">shah-san@yahoo.com</a>
13	Govinda koirala	083-520064	9858050050	<a href="mailto:gkoiralantv@yahoo.com">gkoiralantv@yahoo.com</a>
14	Dhurba Kumar pun	082-690146		
15	Ram Prasad Poudel	088-560090		
16	Huma D.C	082-562350		
17	Sindhu Shahi	089-20035		<a href="mailto:shahi-sindhu@yahoo.com">shahi-sindhu@yahoo.com</a>
18	Maharup Khatri	089-420143		<a href="mailto:sabac@yahoo.com">sabac@yahoo.com</a>
19	Jahendra Prased Dahal		9858050359	<a href="mailto:gpdahal2005@yahoo.com">gpdahal2005@yahoo.com</a>
20	Deepak Sharma		9858022109	
21	Nepalu Chaudari	084-420472		
22	Narendra Thapa		9848023992	<a href="mailto:bhaiyanpi@yahoo.com">bhaiyanpi@yahoo.com</a>
23	T.S Thapa		9858021501	
24	Smriti Giri		9848023992	<a href="mailto:smritigd@yahoo.com">smritigd@yahoo.com</a>
25	Harka Badhur Shahi			
26	Damodar Bhandari		9858020660	
27	Promod Kumar Kharel	526111		
28	Rasham Bihari		9848023549	
29	DR. Arun Koirala	081-520348		
30	Shalik Ram Shakpota		9858021827	
31	Surendra Kalfa		9858021040	
32	Narendra Jung Piter		9858020842	
33	Devraj Mager		9858022666	
34	Badshah Kormi		984803109	

35	Rajesh Budathoki			
36	Chendra Kala Upatri	081-690116		
37	Yumi Kandal	083-522173		
38	Sontesh Regmi		9858021933	
39	Mukanda Prasad Bhandari	520205		
40	Prazhlaad Karki	522234		
41	Jayasingh Bhotani		9858021326	
42	Jayanarayan Shah		9858021031	
43	Jyoti Devkota			
44	Gopi Budhamagar		9848023642	<a href="mailto:daily_samtachavla@yahoo.com">daily_samtachavla@yahoo.com</a>
				<a href="mailto:gopi_News2002@yahoo.com">gopi_News2002@yahoo.com</a>
45	Tanka Prasad Sharma		9848029604	<a href="mailto:Npjtimes@wel.com">Npjtimes@wel.com</a>
46	Krishna Kumar karki		9848021337	
47	Bhim Bahadur Budha			
48	Harrka Bahadur Shahi			
49	Kashiraj Dahal			
50	Anirudra Neupane			
51	Ramhari Dulal			
52	Chiranjivi Kafla			
53	Mohambad Harun			
54	Ashok Shahi			
55	Pannalal Gupta			
56	Taranath Dahal			
57	Shankar B.K.			
58	Navadeep Shahi			

***Participants of Regional workshop on Right to Information Dhangadi***

S.N	Name	Office	District
1.			
2.	Banchu Bishowkarma	RSS	
3.	Bhawana Joshi	Nepal Samachar	
4.	Bhuanishor Adhakari		Kailali
5.	Bir Bahadur Buda Magar	National Human Right Commission	Kailali
6.	Bishnu Dhunga		Kailali
7.	Bishow Prakash Poudel	student	Dadaldhura
8.	Budhi Sagar Chaudhari		Kailali
9.	Chakra B.d Chand	student	Dadaldhura
10.	Citranga Thapa	Kantipur	kanchapur
11.	Deepak Raj Timalisina	INSEC	Kailali
12.	Deepak Singh	Rajdhani	Dadaldhuda
13.	Dharma Raj Pandey		Kailali
14.	Dirgha Sodari	CPN	Kailali
15.	Ganesh Bahadur Khatri		Kailali
16.	Ganesh singh Rawal	Airlines	Kailali
17.	Gopal parajuli	Naydesch	Kailali
18.	Hari Prama Bhandari	Chairperson Nepal Women Committee	Kailali
19.	Hari Sripailee		Kailali
20.	Hemanta Pundit		Kailali
21.	Kamal Raj Joshi	Teacher	kailali
22.	Karna Hsah	Nepal samachar patra	Baitadai
23.	Karun Joshi	Sudur Sandesh Paper	
24.	Kashav Raj Mishara	Teacher	„
25.	Kishor Kalawoti		
26.	Lal Bdr.B.K		Doti
27.	Laxmi Prasad Joshi	RSS	
28.	Leakraj Joshi	Student Union	Kailali
29.	Lila Nath Ojha	Organization	Kailali
30.	Menuka Basnet	RSS	
31.	Min Thakuri	DishaBhod Daily	Kailali
32.	Mohan Badyar	Kantipur	kailali
33.	Mrs.Tulachan		Tikapur
34.	Nira Gaiyal	RDN Nepal	Dadaldhura
35.	Padam Sing Bam	NC(D)	kailali
36.	Prakash Raj Bhatta	Nepal Time	

37	Pram Joshi		Kailali
38	Raj Kumar Sing		,,
39	Rajendra Nath	Kantipur	Baithadi
40	Rajendra Sawud	District Bar Association Baitadi	
41	Rajesh Bagchanu	NTV	Kailali
42	Rudhra lal Bhatta		Mahendnanagar
43	Sherbahadur Singa		Doti
44	Shiva Raj Bhatta	Annapurna Post	
45	Shiva Raj Yougi	Gorkhapatra	Dhangadi
46	Shiva Ram Dhungana	Nay.Pa.Ma	Acham
47	Shrwan Dewa	Seti Samachar	
48	Soman Devi Bum		Doti
49	Sunder Jirun	NNDSUO	,
50	Tam Raj Bivadi	Hotline	Dhangadi
51	Tanak Brd. Kuwar		kailali
52	Tek Bahadur Sodari		Kailali
53	Tepraj Dhungana	Nay.Pa.Ma	Acham
54	Udhaya Ojha Gautam	BBC	Kailali
55	Umid Bagchand	BBC Nepal sewa	Kanchapur
56	Yagya Raj Dhungana	Gorkhapatra	Acham
57	Yub Raj Ghimeri	FNJ Chairperson	

***Participants of National workshop***

s.n	Name of the participant	Organization
1.	Ajay Bam	
2.	Amresh Kumar Singh	Parliament
3.	Amrita Thapa Magar	M.L.P.
4.	Ashok	
5.	Ashosthama Bhakta Kharal	NHRC
6.	Babu Goglogri	
7.	Babu Ram Bashyal	Legislative
8.	Bal Bahadur Rai	M.P.
9.	Bathi Wanta	
10.	Bed Bhattel	Samachar
11.	Bijaya Thapa	Sraldla
12.	Bikash Lohani	Reporter
13.	Binod Kumar Adhikary	Parliament
14.	Bishnu Nisthuri	FNJ
15.	Chandra B .suaghi	
16.	Chandra Mani	Environment
17.	Deepak Karki	Cyber sanchar
18.	Dinesh Thapa	JanaAsta
19.	Gagan Bista	PC Nepal
20.	Gopal Thapalia	Safma
21.	Govinda Kafle	Nelma/HimBF.M
22.	Haribinod Adhikari	Freedom
23.	Harihar Dahal	M.P
24.	K.B. Shahi	Freedance Jour
25.	K.R.Dahal	KTM
26.	Kamala Pant	
27.	Kedar Khadka	Pro-Public
28.	Keshav Aryal	Legislative
29.	Khimlal Devkota	M.L.P
30.	Kishor Naopyan	
31.	Krishna Bhandari	Remac
32.	Krishna Lal Maharjan	Parliament
33.	Krishna Prasad Dahal	MP
34.	L.pd Mehta	
35.	Laba Pradad Gautam	legislative
36.	Madan Acharya	Reporter

37.	Mahendra Pandey	Parliament
38.	Mandib Amatya	N.P.C.NEPAL
39.	Mangal Bishokarma	Legislative
40.	Mani Ram Thapa	
41.	Menuka Karki	IHRICON
42.	Mitra Goutan	
43.	Mitra Rajdhungi	Chhahara
44.	Modinath Belbasa	Lokshanchar weekly
45.	Mukti Rizal	I.P.D.
46.	Murari Kumar Sharma	NPC
47.	Nani ram Subedi	Eicimod
48.	Nara Bahadur Hamal	Parliament
49.	Narayan Adhakari	IJO
50.	Naresh khapangi	Gorkhapatr
51.	Nargen Prasad	Legislative
52.	Nayan Bahadur Khadka	LDTA
53.	Parsuram Updhaya	D.D.C.Federation
54.	Poonam Sharma	Jaya weekly
55.	Purushottam Ghimire	Nepal TV
56.	Rabin Radeed	GREENR
57.	Raghav Raj Regmi	AFRESH
58.	Raghu man Andhar	The Himalayain
59.	Rajaram	Parliament
60.	Raju Prasad Chapagain	OHCHR
61.	Rakesh	MP
62.	Ram	Parliament
63.	Ram Prasad Dahal	Naya Patrika
64.	Ram Saran Koirala	
65.	Ram saran Sedhai	Action Aid
66.	Ramash Dahal	Tinuful
67.	Ramesh Ch Rai	Reporter
68.	Ratna BahadurManandha	Legislative
69.	Romi Gautam Thakali	MP
70.	Santa Acharya	F.F
71.	Santosh Subedi	Nepal F.M.
72.	Sherlal shrestha	
73.	Shibraj Bhattarai	Press

74.	Shiv Raj	HANK
75.	Shiva Raj Yogi	Kailali
76.	Shiva Regmi	Metro F.m.
77.	Shivaraj Joshi	
78.	Shree Ram	Parliament
79.	Shuk Dev Chapagain	ANA
80.	Shyam Luitel	Rajdhani Daily
81.	SP Koirala	MO
82.	Susil Panta	Gorkha F.M.
83.	T.N.Ghimire	Soch Nepal
84.	Tek Pd Dhungana	Parliament
85.	Tilak Sumbullek	
86.	TulaRaj Sigdel	M.P.
87.	Uttam Niranaar	Metro F.M.
88.	W.B Shrestha	
89.	Yadav Bdr Rayamaghi	Parliament
90.	Yubraj Aryal	Classic F.M





## Some Photographs of different Workshops



Participants of Birgunj workshop-Left, Pokhara-Right



Resource Person in inauguration Left, Participants-Right in Pokhara



Participants at Nepalgunj Workshop



**Left: Participants at Dhangadi Workshop, Right: Chief Justice Appellate Court Dhangadhi Hon. Gopal Parajuli at Dhangadi Workshop**



**Left: Participants in Dhangadhi Workshop, Right Resource persons and senior invitees in Biratnagar Workshop**