

# CITIZENS' ACCESS TO INFORMATION IN SOUTH ASIA



## REGIONAL SYNTHESIS REPORT



**The Asia Foundation**  
Improving Lives, Expanding Opportunities





**The Asia Foundation**

**CITIZENS' ACCESS TO INFORMATION IN SOUTH ASIA:  
REGIONAL SYNTHESIS REPORT**

August 2014

**In collaboration with:**

Management and Resources Development Initiative (MRDI), Bangladesh  
Centre for Peace and Development Initiatives (CPDI), Pakistan  
Freedom Forum, Nepal

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## List of Abbreviations

AL	Awami League [Bangladesh]
ANF	Anti-Narcotics Force [Pakistan]
BIC	Bangladesh Information Commission
BELA	Bangladesh Environmental Lawyers Association
BGMEA	Bangladesh Garment Manufacturers and Exporters Association
BNP	Bangladesh Nationalist Party
CA	Constituent Assembly [Nepal]
CIAA	Commission on Investigation of Abuse of Authority [Nepal]
CDA	Capital Development Authority [Pakistan]
CPDI	Centre for Peace and Development Initiatives [Pakistan]
CSO	Civil Society Organization
DEO	District Education Office [Nepal]
DIG	Deputy Inspector General [Pakistan]
DO	Designated Officer
DOR	Department of Roads [Nepal]
EDO	Executive District Office [Pakistan]
FGD	Focus Group Discussion
FOI	Freedom of Information
ICC	International Criminal Court
MRDI	Management and Resources Development Initiative [Bangladesh]
MJF	Manusher Jonno Foundation [Bangladesh]
NIC	National Information Commission [Nepal]
NGO	Non-Governmental Organization
NHA	National Highway Authority [Pakistan]
NHIP	National Highway Improvement Program [Pakistan]
NPC	National Planning Commission [Nepal]
OCAG	Office of the Comptroller and Auditor General [Bangladesh]
PA	Public Authority
PIO	Public Information Officer
PSDP	Public Sector Development Program [Pakistan]
RAJUK	Rajdhani Unnayan Kortripokkho [Bangladesh]
RTI	Right to Information
RaaG	Right to Information Assessment and Analysis Group [India]
SAARC	South Asian Association for Regional Cooperation
SARTIAN	South Asia Right to Information Advocates Network
TAF	The Asia Foundation
VDC	Village Development Committee



## Foreword

A number of countries in South Asia have enacted Right to Information (RTI) legislation guaranteeing citizens the right to access information from their governments. However, levels of public awareness, implementation, and demand-led use of RTI vary across the region, even as citizens are increasingly sensitive to corruption and the lack of transparency in government. While there have been a number of efforts to promote the sharing of knowledge and good practices among RTI activists, civil society organizations, and government officials in the region, there has been limited investigation of the key factors that enable or prevent the effective implementation of RTI in countries in the region, with the exception of India.

This Regional Synthesis Report brings together information collected through country diagnostic studies conducted by The Asia Foundation in partnership with civil society organizations in Bangladesh, Nepal, Pakistan, and Sri Lanka. The country diagnostic studies analyse the state of citizens' access to information, and the implementation and use of RTI legislation in these countries. The findings from the country studies were presented at a regional workshop in Kathmandu for feedback and discussion of recommendations for country-specific and regional interventions to improve access to information in South Asia.

We thank our partners, Management and Resources Development Initiative (MRDI) in Bangladesh, Freedom Forum in Nepal, and the Center for Peace and Development Initiatives (CPDI) in Pakistan, for conducting the country diagnostic studies in their respective countries. We thank Bincy Thomas for working with The Asia Foundation to develop a common diagnostic framework and methodology to guide the analyses, and for producing the first draft of the synthesis report. We thank The Asia Foundation's Bangladesh, India, Pakistan, and Sri Lanka offices for logistical support. Dr. Sagar Prasai from the Asia Foundation's Nepal office provided oversight of the overall program. Mandakini Devasher Surie and Srijana Chettri from The Asia Foundation's India and Nepal offices, respectively, coordinated logistics for workshops, synthesized research findings, and edited the report for publication.

The synthesis report, the country studies, and the regional workshop will serve as the building blocks for a program of sustained engagement with a constituency of emerging political leaders and civil society groups from the SAARC member states in support of regional cooperation on good governance and the right to information.

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Nepal Country Representative  
The Asia Foundation  
August 2014



# Chapter 1

# Introduction

## 1.1 Background and Objectives

Globally, 100 countries have enacted freedom of information (FOI) or right to information (RTI) legislation guaranteeing citizens the right to access information and records held by their governments.<sup>1</sup> In South Asia, over the last decade, countries have made significant progress towards recognizing this right. From 2002 to 2009, governments in Bangladesh, India, Nepal, and Pakistan formally enacted RTI legislation.<sup>2</sup> More recently, RTI bills have been passed in Bhutan and the Maldives.<sup>3</sup> In Afghanistan, draft legislation is currently under government consideration. In Sri Lanka, civil society organizations and the media have been campaigning for the legal recognition of the right to information for many years; however, legislation is yet to be enacted. At a regional level, the secretariat of the South Asian Association for Regional Cooperation (SAARC) supports the effective implementation of the right to information in member countries. Specifically, in 2008, at an SAARC ministerial meeting, delegates committed to adopt “appropriate legislation conferring the right to information for all citizens from governments and public authorities, to eliminate arbitrariness and corrupt practices and improve governance at the regional, national and local level.”<sup>4</sup>

Among the countries where RTI laws have been in place for some time – Bangladesh, India, Nepal, and Pakistan – levels of public awareness, implementation, and demand-led use of RTI vary widely, even as citizens are increasingly sensitive to corruption and the lack of transparency in government. While there have been a number of efforts to promote the sharing of knowledge and good practices among RTI activists, civil society organizations, and government officials in the region, there has been limited investigation of the key factors that enable or prevent the effective implementation of RTI in countries in the region, with the exception of India. India’s Right to Information Act 2005 is widely recognized as a strong law that has been extensively used by citizens to access entitlements, redress grievances, and expose corruption and mismanagement in government programs. Since the law was enacted in 2005, civil society organizations in India have been closely studying and monitoring the use of the law.<sup>5</sup> These assessments have highlighted

1 According to [freedominfo.org](http://www.freedominfo.org/), as of February 11, 2014, 100 countries internationally have enacted FOI or RTI legislation. <http://www.freedominfo.org/> accessed on February 11, 2014.

2 India: Right to Information Act 2005; Bangladesh: Right to Information Act 2009; Nepal: Right to Information Act 2007 and Rules 2009; Pakistan: Freedom of Information Ordinance 2002.

3 The Right to Information Bill was passed by the National Assembly of Bhutan in February 2014. In the Maldives, the parliament approved the RTI Bill in December 2013, and it was subsequently ratified by the president in January 2014. For updates on both countries see: [www.freedominfo.org](http://www.freedominfo.org).

4 Press Information Bureau of India, “Outcome of the 2nd meeting of the regional forum of the Ministers of Social Development of the SAARC region,” March 6, 2008. <http://pib.nic.in/newsite/erelease.aspx?relid=36072>.

5 For example, in 2008–2009, the government of India contracted with PricewaterhouseCoopers to assess the implementation of the RTI Act. Simultaneously, the Right to Information Assessment and Analysis Group (RaaG), a group of civil society organizations, academics, and experts, came together to conduct their own assessment of the

implementation barriers and identified areas for reform and targeted intervention on the part of different stakeholders.

Drawing on India's experience in assessing and analysing the right to information, in late 2012 to early 2013, The Asia Foundation (TAF), in partnership with civil society organizations in Bangladesh, Nepal, and Pakistan, and with TAF's country office in Sri Lanka, conducted diagnostic analyses of citizens' access to information in these countries to assess the state of implementation and citizens' use of the law.<sup>6</sup> Through a combination of primary and secondary research methods that included fieldwork, stakeholder interviews, focus group discussions, case studies, and test-filing and tracking of RTI applications, the partners:

- Analyzed the political commitment and legal framework facilitating citizens' access to information;
- Evaluated the implementation of RTI;
- Assessed the ease and effectiveness with which citizens can access and use information gathered through RTI;
- Assessed the role of the media and non-governmental organizations (NGOs) as RTI users, facilitators, and educators;
- Collected primary and secondary data to establish a baseline on the evolution of the information regime;
- Based on their findings, formulated recommendations for strengthening each country's access to information.

This regional synthesis report draws on the findings of the in-country studies to highlight key implementation issues and challenges to citizens' access to information in South Asia. It also draws upon a series of regional consultations and discussions with partners over the study period. Through this report, the country diagnostic studies, and a regional dissemination workshop (held in Kathmandu, Nepal, in January 2014), TAF and its partners seek to map out ideas and actions for a sustained program in SAARC member states to engage with key stakeholders in support of regional cooperation on good governance and the right to information.

## 1.2 Regional Context

Internationally, the right to information has been recognized as a fundamental human right and a touchstone for all other freedoms.<sup>7</sup> A number of international and human rights charters, including Article 19 of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the regional charters of the African Union, the Organization of American States, the Council of Europe, and the European Union, also recognize the importance of the right to information. Within the discourse of rights and participation, information rights have

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law. While the sample sizes and methodologies of the studies varied, their findings highlighted key implementation constraints, both on the supply side (lack of training and capacity building of government officials, insufficient infrastructure and human resources, poor records management and poor compliance by government departments) and on the demand side (low levels of public awareness of the law particularly in rural areas, difficulties faced by citizens in trying to use the law). In addition to these macro studies, civil society organizations in different parts of the country have also conducted smaller assessments of the RTI, including reports on the performance of information commissioners, proactive disclosure of information by government departments, and reports on how citizens and civil society organizations have been using the RTI.

6 The studies were led by the Management and Resources Development Initiative (MRDI) in Bangladesh, Freedom Forum in Nepal, and the Center for Peace and Development Initiatives (CPDI) in Pakistan. In Sri Lanka, given the absence of a national RTI law, The Foundation's country office in Sri Lanka conducted a modest assessment of the proactive disclosure of information by various government ministries and institutions. The Bangladesh study is online at <http://www.mrdibd.org/RTI/RTI%20MRDI%20Country%20Diagnostic.pdf>.

7 Resolution 59(I) UN General Assembly, 1946

been described as “the fourth great wave of citizens’ rights” similar to civil, political and social rights.<sup>8</sup> It has been argued that the right should be seen in tandem with the basic democratic rights of political participation and free expression. Globally, a number of countries have provided constitutional protection to the right to information: 100 countries have enacted RTI laws.

The international recognition of the right to information has been widely attributed to the effects of globalization and democratization. The right to information is recognized as a key element of good governance, democracy, and participation. In South Asia, the enactment of RTI legislation has followed closely in the wake of political reform and deepening democracy. Against a background of political change and transformation, six South Asian countries to date – Bangladesh, Bhutan, India, Nepal, the Maldives and Pakistan – have enacted RTI laws. Pakistan was the first country in the region to pass RTI legislation in 2002; however, the federal Freedom of Information Ordinance 2002 is considered an ineffective law that does not meet international best practices. India is widely regarded as a leader on RTI in the region. The country’s Right to Information Act 2005 was passed following a decade-long grassroots and civil society campaign. Since it was enacted, it has been used extensively by citizens, civil society organizations, and the media. Nepal enacted RTI legislation in 2007, and Bangladesh in 2009. However, the effectiveness of the laws in both countries has been diminished by poor implementation and limited awareness and use of the laws by citizens. Bhutan and the Maldives have only recently passed RTI legislation, while in Afghanistan, a draft bill is under government consideration. In Sri Lanka, efforts to introduce legislation have been ongoing for many years. Most recently, in 2011, a draft bill was presented to parliament but was turned down.

As described in the introduction, this report focuses on the implementation of the right to information in only four countries in the region: Bangladesh, Nepal, Pakistan and Sri Lanka.

### **1.3 Bangladesh: National Context**

A culture of secrecy born of Bangladesh’s colonial history and subsequent military rule prevented the emergence of a popular demand for information until the 1980s. The demand for an RTI law was first mooted in 1982 by journalists in response to prevailing restrictions on press freedom. However, the issue was sidelined amidst ongoing political turmoil and a succession of military coups between 1975 and 1990. The restoration of democracy in 1991 saw renewed demand from civil society and the media for the right to information as an essential part of good governance and development.

In 2002, the Law Commission presented a working paper on the right to information. In the meanwhile, Manusher Jonno Foundation (MJF), a non-governmental organization working on issues of human rights and governance, started to coordinate law drafting, policy advocacy, and awareness/capacity building efforts. Its Law Drafting Core Group, set up in 2006, comprised noted legal experts who were tasked with preparing a draft RTI law. The draft law, which was developed following a series of meetings in different cities, was subsequently published by the Ministry of Information on its website to invite public feedback. Discussions also took place with the ruling Bangladesh Awami League (AL) and the opposition Bangladesh Nationalist Party (BNP). Notably, the AL committed in their election manifesto to ensure people’s right to information.

In 2006–08, political clashes between the BNP and the AL led to the declaration of a state of emergency. In 2007, the military-backed caretaker government installed during the state of

<sup>8</sup> Mark Boven as cited in Ackerman, JM and I.E. Sandoval-Ballesteros, “The Global Explosion of Freedom of Information Laws.” *Administrative Law Review*. Vol. 58. No. 1. Winter. p. 89

emergency declared that RTI would be enacted as an ordinance. At around this time, a group of like-minded organizations and individuals formed the Right to Information Forum to lobby the government to enact an RTI law. In early 2008, the Information Ministry organized a roundtable to seek civil society feedback on a draft of the law. The resulting ordinance was approved by the president in October 2008, and passed, with minor amendments, as the Right to Information Act 2009 by the national parliament in March 2009. A landmark Whistleblower Protection Act was also enacted in 2011.

## 1.4 Nepal: National Context

Nepal's first brush with democracy was in 1990, when a popular people's movement, *Jana Andolan*, forced the reigning monarch, King Birendra, to concede power to his people, ending nearly two centuries of absolute rule by the Shah Dynasty. The changed political scenario ushered in a new era of political and social consciousness among the Nepali people, and from this consciousness sprang demands for more transparency and accountability from the government.

The Constitution of 1990 recognized many of these demands, including the right to information, which was included as a fundamental right under Article 16. The first RTI bill was tabled in Parliament in 1993, but was rejected as many stakeholders, including the media, opposed it, claiming that the government intended to create a legal regime that hid information rather than disclosed it.<sup>9</sup> A subsequent RTI bill was tabled only in 2002, but Parliament was dissolved before any action could be taken on it. An RTI ordinance prepared by the Nepal Law Commission in 2004 was put on hold when King Gyanendra seized power in a bloodless coup in 2005. In 2006, *Jana Andolan II* (the Second People's Movement) forced King Gyanendra to retreat. Article 27 of the Interim Constitution of 2007 recognized the right to information as a fundamental right. Article 27 was a verbatim reproduction of Article 16 of the 1990 Constitution.

After *Jana Andolan II*, civil society – especially the media fraternity – continued lobbying for an RTI act. Nepal's Right to Information Act was finally enacted in 2007; rules were promulgated in 2009. A National Information Commission (NIC) was established in 2008.

## 1.5 Pakistan: National Context

The RTI movement in Pakistan gained momentum in the late 1980s and 1990s, when there was growing concern about the rampant corruption plaguing the country. The first initiative was taken in 1990 when a Jamaat-i-Islami senator moved a private bill on freedom of information in the Senate.<sup>10</sup> In 1996, a freedom of information bill was drafted by the caretaker government. A diluted version of this bill was promulgated as the Freedom of Information Ordinance in 1997. However, this proved to be a temporary success, as the succeeding government of Nawaz Sharif failed to get the ordinance enacted by Parliament.

In 2001, the Asian Development Bank approved a comprehensive action plan for Pakistan that included judicial and administrative reform. Freedom of information legislation was considered part of the reform program. It was against this backdrop that the military government of General Pervez Musharraf promulgated the existing Freedom of Information Ordinance in 2002. It was later sanctified by Parliament through a constitutional amendment that validated all laws promulgated by the military dictator.

9 Dahal, Taranath. 2010. "Freedom of Information in Nepal," in Indian Institute of Public Administration. 2011. *Transparent Governance in South Asia*, p. 136

10 Ali, Mukhtar Ahmad. *Freedom of Information in South Asia: Comparative Perspectives on Civil Society Initiative*, p. 6, accessed at: <http://rtiworkshop.pbworks.com/f/2007-04-SAR-Fol-in-South-Asia-Comparative-Perspectives-on-Civil-Society-Initiative-Mukhtar-Ali.pdf>

Because the law was promulgated through an ordinance, it has never been debated in Parliament. It remained inoperative for two years until its rules were formulated and published in 2004, following a sustained campaign by civil society and key stakeholders. The Ordinance is believed to be a very weak law, and in view of its lacunae, the government introduced a bill in Parliament in 2008 to improve the existing legislation. That bill is yet to be approved.

At the provincial level, Balochistan and Sindh replicated the Freedom of Information Ordinance 2002 in the form of the Balochistan Freedom of Information Act 2005 and the Sindh Freedom of Information Act 2006. At a district level, the Local Government Ordinance 2001 also contained provisions supporting the right to information; however, even this has only been operational in Punjab province. Notably, in 2013, the provinces of Khyber Pakhtunkhwa and Punjab enacted RTI legislation. The Khyber Pakhtunkhwa Right to Information Act 2013 and the Punjab Transparency and Right to Information Ordinance 2013 have been lauded as strong laws that herald an era of RTI renewal in Pakistan.

## **1.6 Sri Lanka: National Context**

Over the past two decades, there have been several initiatives by various actors on constitutional and legislative reforms to promote freedom of information in Sri Lanka. At the international level, Sri Lanka is party to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, both of which guarantee the freedom to seek, receive, and impart information. Despite all this, as of now, Sri Lanka has no freedom of information act or any other legislation explicitly guaranteeing access to official information. Though the Constitution does contain provisions pertaining to freedom of speech, expression, and the mass media [Article 10 & Article 14(1)(a)] from which elements of disclosure may be derived, there is no specific reference to a right to, or freedom of, information in the Constitution. As a result, advocacy for legislation has been a central feature of efforts for greater information disclosure. Whether it is the recommendations of the Advisory Committee set up by the People's Alliance Government in 1995, or the consultatively formulated Draft Freedom of Information Bill in 2004, the insistence on securing legal provisions has consistently marked advocacy pertaining to transparency. Fast forward to contemporary Sri Lanka and still, as evidenced by the National Plan of Action to implement the recommendations of Sri Lanka's post-war Lessons Learnt and Reconciliation Commission, discourse on disclosure leans strongly towards the introduction of explicit legislation.

At the forefront of legislative initiatives, civil society, predominantly represented by the academic community, has consistently driven a multifaceted discourse on the freedom of information in Sri Lanka, resulting in many attempts at legislation, such as the progressive 2004 Draft Freedom of Information Bill. Simultaneously, these stirrings have ensured that the discourse on freedom of information remains within the ambit of public discourse. This has been of particular value in light of the ironic fact that the general public has often been unaware of the right to proactive disclosure of official information.

Similarly, the evident role and contribution of political parties outside the ruling party in pushing for legislative reform must also be acknowledged. In this context, it is notable that advocacy in favor of greater disclosure has assumed significant centrality in various political campaigns against the ruling party. In 2010, for instance, then Justice Minister Milinda Moragoda made freedom of information legislation a key priority of his new political party, anticipating widespread support. Even more recently, opposition Member of Parliament Karu Jayasuriya tabled a private member's bill in Parliament explicitly concerning the freedom of information. But despite concerted and varied efforts, attempts to adopt RTI legislation have met with limited success to date.

## Chapter 2

## Methodology

### 2.1 Overview

This Regional Synthesis Report is based on country diagnostic studies conducted by TAF in partnership with the Management and Resources Development Initiative (MRDI) in Bangladesh, Freedom Forum in Nepal, and the Center for Peace and Development Initiatives (CPDI) in Pakistan. In Sri Lanka, given the absence RTI legislation, TAF's country office in Sri Lanka conducted a modest assessment of the proactive disclosure of information by different government ministries and institutions. The diagnostics in Bangladesh, Nepal, and Pakistan were based on a common methodological framework modeled on an assessment of India's RTI law conducted by the Right to Information Assessment and Analysis Group (RaaG) in 2009.<sup>11</sup> The country diagnostics were guided by the following overarching objectives: (i) to analyze the political commitment and legal framework supporting citizens' access to information in the concerned country; (ii) to evaluate the implementation of RTI; (iii) to assess the ease and effectiveness with which citizens can access and use information gathered through RTI; (iv) to assess the role of the media and non-governmental organizations (NGOs) as RTI users, facilitators, and educators; (v) to collect primary and secondary data to establish a baseline on the evolution of the information regime; (vi) based on the findings, to formulate recommendations for strengthening each country's RTI regime.

The country diagnostics utilized a combination of primary and secondary data collection methods that included:

- Desk based analysis of existing policies, plans, and laws facilitating transparency.
- Structured interviews with key functionaries and stakeholders such as information commissions, officers designated to process information requests, heads of departments, concerned NGOs, and media representatives.
- Inspection of public authorities.
- Focus group discussions (FGDs).
- Street corner interviews.
- Test-filing and tracking of RTI applications.
- Case studies.
- Analysis of media.
- Survey of NGOs.

As a part of the country diagnostics, 674 people in total were interviewed across Bangladesh, Nepal and Pakistan:

<sup>11</sup> Right to Information Assessment and Analysis Group. 2009. *Safeguarding the Right to Information: Report of the People's RTI Assessment 2008*, accessed at: [http://rti-assessment.org/exe\\_summ\\_report.pdf](http://rti-assessment.org/exe_summ_report.pdf)

- 417 people were individually interviewed.
  - 263 street corner interviews were conducted.
  - 106 interviews were conducted with government representatives, including information officers and officials of the information commission or ombudsman's office.
  - 48 interviews were conducted with representatives from 42 NGOs.
- 257 people participated in 16 FGDs.
- 94 government offices were inspected in rural and urban areas.
- 77 RTI applications were filed with various public authorities.
- A desk analysis was undertaken of the key legislation supporting transparency in Bangladesh, Nepal, and Pakistan.
- 15 newspapers were analysed for RTI-related content and coverage.
- 30 case studies were collected to provide insights into the micro-level experiences of individuals who sought information.

The theoretical and empirical limitations of this analysis must be noted at the outset. The study is based on a relatively modest and variable sample size across each country. Consequently the findings are intended to provide an illustrative rather than representative insight into the state of RTI implementation in each country. Furthermore, as the assessments varied in sample size and coverage from country to country, the aim of this report is not to compare or rank the countries under study. It is hoped that findings from this regional report will add to existing literature and analysis on the state of RTI implementation in countries in the region.

## 2.2 Scope and Sampling

In each country, the study assessed the implementation and use of RTI in different tiers of government: national, state, district, and village. In each country, study partners identified and selected those public authorities or government departments that were closely involved with providing services to citizens. In total, 94 government offices were covered under the study: 39 each in Bangladesh and Pakistan and 16 in Nepal.

### 2.2.1 Bangladesh

The study was carried out in the national capital of Dhaka and the districts of Bogra, Jessore, and Barisal. In the north, Bogra is a business hub with considerable NGO activity. Jessore in the southwest is located close to the India-Bangladesh border and has high rates of human trafficking and other human rights abuses. Barisal is a disaster-prone coastal district. Within each district, three upazilas were selected for the purposes of this study. The three departments selected as a part of the study were: (i) the Local Government Division of the Ministry of Local Government, Rural Development, and Cooperatives; (ii) the Directorate of Relief and Rehabilitation of the Ministry of Food and Disaster Management; and (iii) the Directorate of Social Welfare under the Ministry of Social Welfare.

National/Federal Tier 1	District Tier 2	Upazila Tier 3
<b>Dhaka</b> Ministry of Local Government, Rural Development, and Cooperatives  Ministry of Food and Disaster Management  Ministry of Social Welfare	<b>Bogra</b> Local Government Engineering Department  Relief and Rehabilitation Directorate  Social Welfare Directorate	<b>Sariakandi</b> Upazila Engineer's Office  Project Implementation Office  Upazila Social Welfare Office
		<b>Dhunat</b> Upazila Engineer's Office  Project Implementation Office  Upazila Social Welfare Office
		<b>Bogra Sadar</b> Upazila Engineer's Office  Project Implementation Office  Upazila Social Welfare Office
		<b>Jessore</b> Local Government Engineering Department  Relief and Rehabilitation Directorate  Social Welfare Directorate
		<b>Jessore Sadar</b> Upazila Engineer's Office  Project Implementation Office  Upazila Social Welfare Office
		<b>Keshabpur</b> Upazila Engineer's Office  Project Implementation Office  Upazila Social Welfare Office
		<b>Chowgachha</b> Upazila Engineer's Office  Project Implementation Office  Upazila Social Welfare Office
		<b>Barisal</b> Local Government Engineering Department  Relief and Rehabilitation Directorate  Social Welfare Directorate
		<b>Barisal Sadar</b> Upazila Engineer's Office  Project Implementation Office  Upazila Social Welfare Office
		<b>Babuganj</b> Upazila Level Offices of the PAs selected at National level
		<b>Banaripara</b> Upazila Engineer's Office  Project Implementation Office  Upazila Social Welfare Office

## 2.2.2 Nepal

The study was carried out at the national, district, and village levels. In Kathmandu, the national capital, the districts of Dhanusa, Rasuwa, and Jajarkot were chosen for geographic and ethnic variation as well as for public awareness of the right to information and its implementation. Within each district, a single village was included as part of the study.

Dhanusa in the south has a strong civil society-driven RTI campaign. Rasuwa in the center is nearest to Kathmandu. It has a very weak civil society-led movement to press for RTI, and a poor record of its implementation. Jajarkot is the most remote and underdeveloped district of the three. Nevertheless, it has a relatively vibrant civil society RTI campaign

Three ministries with a high level of government-public interaction were chosen for the study at the national level: the Ministry of Home Affairs, the Ministry of Education, and the Ministry of Federal Affairs and Local Development. Three public bodies were covered by the study in each of the districts: the chief district officer's office, the district development committee, and the district police office. In each village, VDCs were studied. VDCs comprise the third tier of the government, and being close to the people, they have the most active state-citizen interface of the three tiers.

National/Federal Tier 1	District Tier 2	Village Tier 3
<b>Kathmandu</b> Ministry of Home Affairs  Ministry of Education  Ministry of Federal Affairs and Local Development	<b>Dhanusa</b> Chief District Officer's Office  District Development Committee  District Police Office	<b>Basahiya</b> Village Development Committee
	<b>Rasuwa</b> Chief District Officer's Office  District Development Committee  District Police Office	<b>Kalikasthan</b> Village Development Committee
	<b>Jajarkot</b> Chief District Officer's Office  District Development Committee  District Police Office	<b>Basnet Gaon</b> Village Development Committee

## 2.2.3 Pakistan

As described in Section 1.5, RTI legislation in Pakistan exists at the federal level (Freedom of Information Ordinance 2002), the provincial level (Balochistan, Sindh, Punjab and Khyber Pakhtunkhwa) and the district level (Local Governance Ordinance 2001).<sup>12</sup> It is important to note that this study is confined primarily to an assessment of the federal Freedom of Information Ordinance 2002.<sup>13</sup>

<sup>12</sup> Most provinces have done away with the Local Governance Ordinance; however, it is still applicable in the province of Punjab.

<sup>13</sup> At the time the study was conducted there was the federal FOI Ordinance, a provincial law in Balochistan, and a local ordinance applicable to Punjab. The new legislation in Khyber Pakhtunkhwa and Punjab was only passed in 2013. Consequently, the study assessed implementation of the law at each level under the legislation in effect at the time, and RTI requests were likewise filed under the operative legislation.

The study was carried out in the federal capital of Islamabad and in three provinces: Punjab, Khyber Pakhtunkhwa, and Balochistan. In each province, three districts were selected for the study. As in other countries, public authorities with high levels of public interaction were selected for study. At the federal level, the Ministry of Capital Administration and Development–Health Wing, the Ministry of Finance, and the Ministry of Education were selected. At lower tiers, three public authorities were selected for further analysis.

<b>National/Federal Tier 1</b>	<b>Provinces Tier 2</b>	<b>Districts Tier 3</b>
<b>Islamabad</b> Ministry of Capital Administration and Development–Health Wing  Ministry of Finance  Ministry of Education	<b>Punjab</b> Ministry of Health  Ministry of Education–Schools  Ministry of Finance	<b>Lahore</b> Executive District Office (EDO) Health, Finance & Planning, and Education
		<b>Rawalpindi</b> EDO Health, Finance & Planning, and Education
		<b>Jhang</b> EDO Health, Finance & Planning, and Education
		<b>Quetta</b> EDO Health, Finance & Planning, and Education
		<b>Pishin</b> EDO Health, Finance & Planning, and Education
		<b>Barkhan</b> EDO Health, Finance & Planning, and Education
	<b>Khyber Pakhtunkhwa</b> Ministry of Health  Ministry of Education–Schools  Ministry of Finance	<b>Peshawar</b> EDO Health, Finance & Planning, and Education
		<b>Swabi</b> EDO Health, Finance & Planning, and Education
		<b>Swat</b> EDO Health, Finance & Planning, and Education

## 2.3 Primary Data Collection

### 2.3.1 Interviews

#### 2.3.1.1 Street Corner Interviews

To assess public impressions of and experience with using RTI legislation, a total of 263 street corner interviews were conducted across Bangladesh, Nepal and Pakistan. Of this total, 100 people were interviewed in Pakistan, 113 in Nepal, and 50 in Bangladesh. 184 of the respondents were male and 79 were female; 86 were from the national capitals, while 177 were from provinces, districts, and villages.

*Bangladesh:* Men and women were equally represented among the 50 interviewees. 43 people were in the 20–40 age bracket, and 7 people were in the 41–60 age bracket.

*Nepal:* The street corner interviews were conducted in four districts: Kathmandu, Dhanusa, Rasuwa, and Jajarkot. Of the 113 interviewees, 75 were male and 38 female. The interviewees spanned a wide age range: 18 people were under 20 years of age; 59 people were in the 20–40 age bracket; 26 people were in the 41–60 age bracket; 10 people were over 60 years of age.

*Pakistan:* Of a total of 100 street corner interviews, 25 were conducted in Islamabad, the national capital. 25 interviews were conducted in each of the provincial capitals – Lahore (Punjab), Quetta (Balochistan), and Peshawar (Khyber Pakhtunkhwa).

### **2.3.1.2 Interviews with Government Officials**

A total of 106 government officials were interviewed to assess the implementation of RTI legislation. Of this number, 88 were public information officers (PIOs)<sup>14</sup> and 18 were officials from the information commission or the ombudsman's office.

*Bangladesh:* Out of the sample of 39 public authorities, interviews were conducted with 34 PIOs at the national, district and *upazila* level. Additionally, interviews were conducted with four officers of the Bangladesh Information Commission.

*Nepal:* Out of the sample of 16 public authorities, interviews were conducted with 15 PIOs at the national, district and village level.

*Pakistan:* Interviews were conducted with the heads of 39 public authorities and with 14 officials from the Office of the Ombudsman at the federal, provincial and district level.

### **2.3.1.3 Interviews with NGO Representatives**

48 representatives from 42 NGOs were also interviewed. Of these, six representatives were from Nepal, 27 were from Bangladesh, and 15 were from Pakistan.

*Bangladesh:* The study covered 27 NGOs – 10 NGOs from the districts (Pirojpur, Natore, Meherpur, Bogra, Barisal, Rajshahi, Comilla, Barguna, Bagerhat, and Jaipurhat) and seven NGOs based in the capital, Dhaka. Additionally, 15 interviews were conducted with media representatives and news managers.

*Nepal:* The study covered six NGOs working in three districts within the sample. These included the Five Star Youth Forum, Faith Nepal, Youth for Peace and Development, Samaaj Utthan Yuva Kendra, Rural Access Development and Research, and the international NGO Care Nepal. Two of these NGOs are based in Jajarkot, three in Dhanusha, and one in Rasuwa.

*Pakistan:* The study covered nine NGOs in Pakistan that are part of a coalition working to advance RTI in Pakistan. These included Individualland, the Centre for Civic Education, the Institute for Research Advocacy and Development, LokSujag, the Centre for Governance and Public Accountability, the Network for Consumer Rights Protection, Intermedia, the Centre for Investigative Reporting in Pakistan, and the Pakistan Foundation Fighting Blindness.

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<sup>14</sup> It must be noted that there are no designated public information officers in Pakistan. Therefore, the heads of selected public authorities were interviewed.

### 2.3.1.4 Focus Group Discussions (FGDs)

FGDs were held to determine communities' felt need for information to address issues and problems. Of the 257 people who participated in 16 FGDs, 195 were male and 62 were female.

*Bangladesh:* Three FGDs were conducted addressing specific groups: students in Dhaka, rural poor women, and journalists in the Jessore district. A total of 41 people participated, of whom 17 were male and 24 were female.

*Nepal:* Three FGDs were conducted in village development committees (VDCs) in Dhanusha, Jajarkot and Rasuwa districts. A total of 74 people participated, of whom 63 were male and 11 were female.

*Pakistan:* A total of ten FGDs were conducted: one in Islamabad and three in different districts in each of three provinces. A total of 142 people participated, of whom 115 were male and 27 were female.

### 2.3.2 Inspection of Public Authorities

Field visits to government offices were conducted to assess the degree of voluntary or proactive disclosure of information. In total, 94 government offices were inspected: 39 each in Bangladesh and Pakistan, and 16 in Nepal.

### 2.3.3 Test-Filing of RTI Applications

To assess the ease with which citizens can access information under RTI laws, 77 RTI applications were filed with different public authorities by ordinary citizens, journalists, and NGO representatives. Of these, 22 RTI applications were filed in Bangladesh, 16 in Nepal and 39 in Pakistan.

In Nepal and Pakistan, applications were filed with each of the public authorities selected for study (see Section 2.2). In Bangladesh, at the district level, applications were filed with the district administrator's office, the Bureau of Manpower, the *Upazila Krishi* Office, the *Upazila* Health and Family Welfare Center, the Land Office, police stations, both government and autonomous schools and colleges, and NGOs working with the climate fund.

The RTI requests in Nepal and Pakistan were similar and pertained to details of information requests received on an annual basis by each of the selected public authorities. In Bangladesh, information was sought on various policies – budget allocations, expenditures, and funds management; the number of legal actions filed under various laws; school and college admissions; the sources of funds for schools and colleges; the allotment of *khas* land; the amount of agricultural land under cultivation; audit reports; etc.

## 2.4 Secondary Data Collection

### 2.4.1 Analysis of the Legal Framework

A desk analysis was performed of key RTI legislation: the Right to Information Act 2009 in Bangladesh, the Right to Information Act 2007 in Nepal, and the Freedom of Information Ordinance 2002 in Pakistan. India's Right to Information Act 2005 was included in the analysis as benchmark legislation.

### 2.4.2 Analysis of Newspapers

To assess the role of the media in promoting the use of RTI, the study analyzed one year of RTI-related news coverage in 15 leading newspapers across Bangladesh, Nepal and Pakistan. Of those, eight were English-language newspapers and seven were vernacular newspapers.

*Bangladesh:* The study monitored relevant news published during the period September 2011–August 2012 in *The Daily Star*, *New Age*, *The Independent*, *Prothom Alo*, and *Samakal*.

*Nepal:* The study monitored relevant news published during the period January–December 2012 in five major daily newspapers: *Republica*, *Rising Nepal*, *Kantipur*, *Annapurna Post*, and *Gorkhapatra*.

*Pakistan:* The study monitored relevant news published during the period January–December 2012 in *Dawn*, *The News International*, *The Nation*, *Jang*, and *Nawai-Waqt*.

### 2.4.3 Analysis of Case Studies

30 case studies were examined to provide insights into the micro-level experiences of individuals who have sought information under RTI laws. These case studies were collated from newspapers and various NGOs. Some of these are included in the Annex.

# Chapter 3

## Legal Framework

### 3.1 Overview

The RTI laws in Bangladesh (Right to Information Act 2009), Nepal (Right to Information Act 2007), and Pakistan (Freedom of Information Ordinance 2002) were analyzed to determine the strength of the legal framework supporting citizens' access to information. India's Right to Information Act 2005 was included in this analysis as benchmark legislation.

Each law was assessed on the basis of six indicators, each of which was further subdivided into specific criteria:

- Basis of the law
  - Constitutional guarantee of RTI as a fundamental human right
  - Provisions for overriding other laws
- Assumptions underlying the law
  - Transparency as a rule
  - Right of access
  - Reason for accessing information
  - Burden of proof
  - Proactive disclosure
- Scope of the law
  - All levels of government covered
  - All branches of government covered
  - NGOs and other private bodies covered
  - Access to all forms of information
- Exemptions
  - Exemptions restricted to information causing real harm
  - Exemptions for legitimate privacy, fiduciary, proprietary, and copyright interests
  - Public interest disclosure
- User Friendliness
  - No forms required
  - Reasonable fees
  - Accessible to the poor, illiterate, or differently abled
    - Automatic transfer of requests
    - Appropriate time limits for providing information

- Review and appeal mechanisms
  - Decentralized appeal mechanism
  - External, independent appeal authority and appeal beyond the information commission
  - Constitutional status of appeal authority
  - Appropriate time limits for filing and disposing appeals
  - Penal powers
  - Review and reporting mechanism

## 3.2 Basis of the Law

### 3.2.1 Constitutional Protection of RTI as a Fundamental Human Right

Citizens' right to information finds adequate constitutional protection in Bangladesh, India, Nepal and Pakistan. In Nepal and Pakistan, the right to information is explicitly protected in the constitution: by Article 27 of the Interim Constitution of 2007 in Nepal, and in Pakistan, by Article 19A of the Constitution inserted via the 18<sup>th</sup> Amendment in 2010. In Bangladesh and India, general guarantees of freedom of expression are interpreted to provide constitutional recognition of the right to information. In Bangladesh, the right to information is considered part of the freedom of thought, conscience, and speech guaranteed by Article 39(1) of the Constitution. In India, the Supreme Court has interpreted two fundamental rights guaranteed by the Constitution to encompass the right to information: Article 19(1), which guarantees the right to freedom of speech and expression, and Article 21, which guarantees the right to life.

### 3.2.2 Provisions for Overriding Other Laws

The RTI laws in Bangladesh and India contain provisions for overriding other laws that may infringe on citizens' right to information – for example, secrecy laws [Bangladesh: Section 3(b); India: Section 22]. Nepal's RTI Act, Section 37, is ambiguous with respect to provisions for overriding secrecy laws, while Pakistan's FOI Ordinance, Section 17, clearly states that it does not enjoy overriding powers.

## 3.3 Assumptions Underlying the Law

### 3.3.1 Transparency as a Rule

A foundational principle of RTI laws in India and Bangladesh is that transparency is the rule, and secrecy the exception [Bangladesh: as per Sections 4 and 6(1)(2); India: as per the Supreme Court in *S.P. Gupta v. President of India* [AIR 1982 SC 149, 1981 Supp (1) SCC 87, 1982 2 SCR 365)].<sup>15</sup> Nepal's RTI Act is ambiguous in this regard, both acknowledging the need to make functions of the state transparent, and cautioning about the adverse impact of disclosing sensitive information. Pakistan's FOI Ordinance, on the other hand, has been criticized for treating secrecy and non-disclosure as the rule.

### 3.3.2 Right of Access

RTI laws in all the countries studied expressly limit the right to information to citizens [Bangladesh: Section 4; India: Section 3; Nepal: Section 3(2); Pakistan: Section 12(1)].

<sup>15</sup> The judgment can be accessed online at <http://indiankanoon.org/doc/1294854/>

### 3.3.3 Reason for Accessing Information

The RTI laws of Bangladesh and India do not require citizens to give a reason for seeking information. In Nepal, citizens must give a reason, but they are not required to justify those reasons [as per Section 7(1)]. In contrast, Pakistan's FOI Ordinance not only requires citizens to provide a reason for seeking information, but also restricts their use of the information obtained to the purpose stated in the application.

### 3.3.4 Burden of Proof

The RTI acts of Bangladesh, Nepal, and Pakistan do not explicitly require an authority refusing disclosure to justify this refusal. In India, however, the onus of proving that a denial of information is justified lies with the authority refusing disclosure [as per Section 19(5)].

### 3.3.5 Proactive Disclosure

The RTI acts of Bangladesh, India, and Nepal contain comprehensive provisions on voluntary or proactive disclosure of information. This includes the disclosure of information related to the functions of an organization, powers and duties of officials, decision-making procedures and norms, and policies and schemes implemented. The laws also specify how this information should be made public, and require that the information be updated on a yearly basis (Bangladesh: Section 6; India: Section 4; Nepal: Sections 3 and 5). Pakistan's requires very little proactive disclosure by public authorities (as per Section 5).

## 3.4 Scope of the Law

### 3.4.1 All Levels of Government Covered

With the exception of Pakistan, the RTI acts of the countries studied cover all levels of government. Pakistan's FOI Ordinance covers the federal level, but does not cover provincial and local governments, which are subject to other legislation.

### 3.4.2 All Branches of Government Covered

Under the RTI laws of Bangladesh, India, and Nepal, all branches of the government – legislative, executive, and judicial – are covered. In Bangladesh and India, the RTI acts exempt from coverage some national security and intelligence agencies [Bangladesh: 32(1); India: Section 24]. However, in the case of India, this exemption does not apply where the information sought relates to allegations of corruption or human rights abuses. In Pakistan, the military is exempt from the country's FOI Ordinance, although information relating to defense forces or installations, or ancillary to defense and national security, is recognized as part of the public record. Among the RTI acts covered under this study, Nepal's RTI Act is remarkable for its inclusion of political parties within its ambit: perhaps the first RTI law in the world to do so.

### 3.4.3 NGOs and Other Private Bodies Covered

India's RTI Act covers bodies owned, controlled, or substantially financed by the government, and NGOs funded directly or indirectly by the government. Although the Act does not make explicit mention of NGOs and other private bodies, all private organizations and NGOs are obligated, as per the Supreme Court in 2013, to disclose information under the RTI Act if they are substantially financed by the government. In Bangladesh, the RTI Act explicitly covers NGOs, private bodies, and international organizations [as per Section 2 (b)(iv), (v) and (vi)]. In Nepal, the RTI Act covers

NGOs and institutions that are funded directly or indirectly by the Nepali government, foreign governments, or international organizations. However, at the implementation level, there is some confusion regarding the definition of the term “institutions” and whether the term includes, among others, international NGOs and bilateral or multilateral institutions. The RTI Act in Nepal, however, does not cover private corporations and other private bodies unless the government has some partial stake in them or they receive grants from the government. In Pakistan, the FOI Ordinance does not cover any private organization or institution receiving funds from corporate, national, international or multilateral donors and agencies.

### 3.4.4 Access to All Forms of Information

Tabulated below are the kinds of information included under RTI laws in the countries studied:

	Bangladesh	India	Nepal	Pakistan
File notings	X	√	√	X
Samples	√	√	√	X
Inspection	√	√	√	X
Basis of decisions	√	√	√	X
Compilations	√	√	√	√
Certified copies	√	√	√	X
Electronic versions	√	√	√	√
Audio-visual material	√	√	√	√

## 3.5 Exemptions

### 3.5.1 Exemptions Restricted to Information Causing Real Harm

The RTI acts in Bangladesh, India and Nepal exempt disclosure of information where it would legitimately harm the public interest [Bangladesh: Section 7; India: Sections 8 and 9; Nepal: Section 3(3)]. The exemptions apply to information that would harm national security, foreign affairs, or commercial and trade relations. Bangladesh’s RTI Act has a long list of exemptions (20 items), as does Pakistan’s FOI Ordinance – in fact, the latter has several provisions for withholding public information in the public interest.

### 3.5.2 Exemptions for Legitimate Privacy, Fiduciary, Proprietary, and Copyright Interests

Legitimate privacy, fiduciary, proprietary, and copyright interests are well protected under the RTI laws of all the countries studied [Bangladesh: Section 7; India: Sections 8 and 9; Nepal: Section 3(3)]. In Pakistan, information is exempt if its disclosure would invade the privacy of an identifiable individual (including a deceased individual) other than requester.

### 3.5.3 Public Interest Disclosure

Under India’s RTI Act, exempt information can be disclosed if the public interest in disclosure outweighs the harm to the protected interests [as per Section 8(2)]. Additionally, the Act states that, exemptions notwithstanding, where information can be provided to Parliament or a state legislature, it can also be provided to citizens. No such provision exists in the RTI acts of Bangladesh and Nepal. In Pakistan, as already stated, the FOI Ordinance allows withholding public information even if its disclosure is in the public interest [as per Section 8(i)].

## 3.6 User Friendliness

### 3.6.1 No Forms Required

Of all the laws studied, only Pakistan's FOI Ordinance prescribes a specific format for an RTI application (as per Section 12). In India, a hand-written or typed application is acceptable [as per Section 6(1)]. In Bangladesh, if the prescribed form is unavailable, the applicant may still submit a request [as per Section 8(1) and (3)]. In Nepal, the RTI Act does not specify any procedural requirements for submitting an application, except that the request should be submitted to the relevant information officer [as per Section 7(1)].

### 3.6.2 Reasonable Fees

RTI acts in Bangladesh, India, and Nepal provide a reasonable fee structure for accessing information. In Pakistan, however, accessing information is costly: the application fee is 50 Pakistani rupees (PKR) for the first ten 10 pages of documents, and PKR 5.00 for each additional page.

### 3.6.3 Accessible to the Poor, Illiterate, or Differently Abled

India's RTI Act makes information free to those below the poverty line. If applicants cannot submit a written request for information, the public information officer is required to assist them in writing their request [as per Section 6(1)]. The Indian act also makes provision for the "sensorily disabled" [as per Section 7(4)]. Bangladesh's RTI Act does not allow an applicant to register an oral request, thus placing a significant burden on illiterate applicants. However, the Act does include provisions for assisting the "perceptually handicapped" [as per Section 9(10)] and waiving fees for the poor. Nepal's RTI Act does not allow oral requests. Pakistan's FOI Ordinance contains no provisions for the poor, illiterate, or differently abled to access information.

### 3.6.4 Automatic Transfer of Requests

While the Indian RTI Act provides for automatic transfer of requests to the agency actually holding the information requested [as per Section 6(3)], no such provision exists in the RTI laws of Bangladesh, Nepal, and Pakistan.

### 3.6.5 Appropriate Time Limits for Providing Information

The RTI laws of all the countries studied establish specific time limits for fulfilling a request for information. The limit for responding to a request is 20 days in Bangladesh, 30 days in India, 15 days in Nepal, and 21 days in Pakistan [Bangladesh: Section 9(1) and (2); India: Sections 7 and 11(3); Nepal: Section 7(2); Pakistan: Section 13].

## 3.7 Review and Appeal Mechanisms

### 3.7.1 Decentralized Appeal Mechanism

The RTI laws of all the countries studied provide a decentralized appeal mechanism whereby an applicant may first seek remedy from a designated appellate authority (usually a senior officer or head within the same public authority) in cases of non-compliance with information requests (Bangladesh: Section 2; India: Section 19; Nepal: Sections 9 and 10; Pakistan: Section 19).

### **3.7.2 External Independent Appeal Authority**

The RTI laws in Bangladesh, India, and Nepal provide for the establishment of information commissions to function as external, independent, and autonomous appeal authorities. In Pakistan, at the federal and provincial levels, the Office of the Ombudsman has been designated as the complaints authority to receive and handle complaints and appeals regarding the rejection of requests for information. In India and Nepal, the RTI acts allow a citizen to approach the apex court in cases of dissatisfaction with the information commission's decision. The laws in Bangladesh and Pakistan do not specify any appeals mechanism beyond the information commission or federal ombudsman.

### **3.7.3 Constitutional Status of Appeal Authority**

The information commissions set up under RTI laws do not enjoy constitutional status in Bangladesh, India, or Nepal. In Pakistan, there is no separate RTI agency; however, the Office of the Ombudsman at the federal and provincial levels, acting as complaints authority, has constitutional status.

### **3.7.4 Appropriate Time Limits for Filing and Disposing Appeals**

The RTI acts in Bangladesh, India, and Nepal specify time limits for filing and disposing appeals. In Bangladesh and India, an applicant may appeal a decision to an appellate authority within 30 days. In Nepal, an applicant may appeal a decision within seven days of denial, and the concerned authority is required to respond within seven days. Pakistan's FOI Ordinance provides for a complaint to be filed with the head of the public authority within 30 days of denial of the information request.

Should applicants be dissatisfied with the decision of the appellate authority, the laws in Bangladesh, India, Nepal, and Pakistan provide a timeframe for the subsequent submission of complaints to the information commission or, in the case of Pakistan, the Office of the Ombudsman.

### **3.7.5 Penal Powers**

Under Bangladesh's RTI Act, the information commission has the power to impose a fine of up to 5,000 Bangladeshi Taka (BDT) on an authorized officer who creates hurdles in the disclosure of information, and to recommend departmental action against the officer. India's RTI Act allows the imposition of a fine of up to 25,000 Indian Rupees (INR) on an erring officer. Nepal's RTI Act allows a similar fine of up to 25,000 Nepali Rupees (NPR). The RTI acts in Bangladesh, India, and Nepal also allow their information commissions to recommend departmental action against an erring officer. In Pakistan, applicants filing malicious or frivolous complaints can be fined up to PKR 10,000, while officers found guilty of destroying information that is the subject of a request or complaint can be given prison sentences of up to two years.

### **3.7.5 Review and Reporting Mechanism**

Adequate review and reporting mechanisms are detailed in the RTI Acts of Bangladesh, India, and Nepal (Bangladesh: Section 30; India: Section 25; Nepal: Section 25). Specifically, the laws require the information commissions in the respective countries to publish an annual report on the implementation of the RTI. In Bangladesh and India, this report must be tabled in Parliament. Pakistan's FOI Ordinance does not include any such reporting requirements for the Office of the Ombudsman.

# Chapter 4

## Status of Citizens' Access to Information

### 4.1 Overview

This section of the report gauges the status of citizens' access to information by analyzing the results of street corner interviews, focus group discussions (FGDs), test-filings of RTI applications, and case studies collected across Bangladesh, Nepal, and Pakistan. In total, 263 street corner interviews were conducted across the three countries, 257 people participated in 16 FGDs, 77 RTI applications were test-filed with various public authorities, and 30 case studies were collected to provide insights into citizens awareness, knowledge and use of the RTI law (for a detailed demographic breakdown, please see Section 2.2).

Street corner interviews and FGDs conducted in each of the three countries reveal the general lack of public awareness of the RTI law and its relevance to citizens' everyday lives. This has translated into limited use of the law by citizens. International experience suggests that even the most progressive RTI laws can atrophy when there is no sustained demand from civil society for information. There is thus a need to focus attention on spreading knowledge and awareness of the RTI among different stakeholder groups in countries in the region.

### 4.2 Street Corner Interviews and Focus Group Discussions

Street corner interviews and focus group discussions (FGDs) conducted in Bangladesh, Nepal, and Pakistan yielded the following insights:

- **Need for information**

In total, 263 street corner interviews were conducted across the three countries. Of those interviewed, nearly 52 percent of respondents felt they needed access to information held by the government.

*Bangladesh:* In street corner interviews, 17 out of the 50 respondents felt they needed access to information from the government. Those who did usually sought information on personal matters such as bank loans and school examination results.

*Nepal:* In street corner interviews, 92 out of the 113 respondents (nearly 80 percent) felt they needed access to information from the government. All FGDs also reported this need.

*Pakistan:* In street corner interviews, 72 percent of respondents reported that they did not need access to information from the government. Nearly 80 percent of FGD respondents also did not feel this need.

- **Kind of information sought**

For the 137 respondents who stated that they did want access to information from the government, ensuring greater government accountability was one of the main reasons given (51 percent). This was especially so in Nepal (54 percent). In contrast, respondents in Pakistan sought information primarily to address personal grievances. Across the sample, addressing personal grievances was identified as the second most important reason for seeking information (45 percent). Exposing corruption also emerged as an important reason for respondents to seek information from the government. Other stated reasons included getting access to official documents, resolving grievances, and questioning government delays or inaction.

- **Helpfulness of information related to the government**

In street corner interviews, out of 263 total respondents, nearly 70 percent stated that access to information related to the government would be helpful in their day-to-day lives. In the FGDs, 50 percent of participants echoed this view.

### **Bangladesh: Using RTI to Improve Public Service Delivery**

In 2010, Abu Bakar, a farmer in Kutubdia, Bangladesh, was dissatisfied with the quality of construction work on a 5.5-kilometer stretch of a local road. He sought information on the matter from the Local Government Engineering Department, the public authority responsible for contracting out rural roadwork. Although his RTI request was initially denied, he subsequently sought the assistance of the Bangladesh Disaster Preparedness Center and the Manusher Jonno Foundation to file a request under the Right to Information Act 2009. The information revealed that the contractor had, in fact, delivered substandard work. Bakar mobilized the community to force the authorities to commission a probe. Eventually, the authorities had to cancel the substandard work and retender the work order. “If people are united and conscious,” observes Bakar, “then it is possible to fight against corruption.”

- **Awareness of RTI legislation**

Perhaps the single greatest challenge to RTI in South Asia is the lack of public awareness of the law and its relevance to the lives of ordinary citizens. In street corner interviews across the sample, only 24 percent of 263 total respondents knew about their country’s RTI law. In Pakistan, in street corner interviews, out of 100 respondents, 68 did not know about the country’s FOI Ordinance. Similarly, the majority of participants in the ten FGDs conducted at the federal, provincial, and district levels were unaware of the ordinance. In street corner interviews in Nepal, where the RTI Act is six years old, just 36 of 113 respondents were aware of it. Similarly, in FGDs conducted at the village level, few participants were aware of the law in Nepal. In Bangladesh, where the RTI Act is four years old, just 31 of 50 respondents in street corner interviews were aware of the law. FGDs conducted with students and journalists in Bangladesh revealed a more promising picture where quite a few participants were aware of the RTI law. However, as in Pakistan and Nepal, knowledge of the law was quite limited in rural and remote areas.

- **Relevance of RTI legislation**

*Bangladesh:* In street corner interviews, 44 of 50 respondents believed that getting access to government information would be beneficial in helping to reduce corruption and ensure good governance.

*Nepal:* In street corner interviews, 25 of 113 respondents felt that the RTI Act was relevant to them. For this group, the Act’s ability to “expose corruption” emerged as the major reason for its relevance, followed by its ability to “help fix responsibility and accountability” and “help solve grievances.” Participants in FGDs also expressed their interest in using the RTI Act to expose corruption.

*Pakistan:* The majority of respondents in 100 street corner interviews at the federal and provincial levels were unaware of RTI, but some respondents expressed the view that RTI could be useful in resolving individual and community problems, improving government efficiency, and countering corruption.

#### • Usage of RTI legislation

In street corner interviews across the sample, none of the respondents had ever filed an RTI application. In FGDs in Pakistan, it emerged that some participants had filed RTI applications, but were not successful in obtaining information. In FGDs in Nepal, some participants spoke of being reluctant to file applications because of a lack of familiarity with the process and the fear of courting trouble.

#### • Fear of using RTI legislation

In Pakistan, the country study revealed a general reluctance among citizens to use FOI legislation, for fear of reprisal from affected public authorities. The common practice was therefore to seek information informally through personal contacts. In Nepal, too, potential RTI applicants, especially in Dhanusha, had a strong sense of threat from corrupt officials and people with vested interests, although no direct threats had been made.

Street corner interviews and FGDs across the sample also revealed that a lack of awareness of RTI legislation, the lengthy process of seeking information under RTI legislation, and a preference for informal means of accessing information are other reasons that contribute to people's reluctance to use RTI laws.

### 4.3 Test-Filing of RTI Applications

To assess the ease with which citizens can access information under RTI legislation, 77 test applications were filed with different public authorities across Bangladesh, Nepal, and Pakistan by ordinary citizens, journalists, and NGO representatives. Of these applications, 22 were filed in Bangladesh, 16 in Nepal, and 39 in Pakistan.

In Bangladesh, at the district level, applications were filed with the district administrator's office, the Bureau of Manpower, the *Upazila* Agriculture Office, the *Upazila* Health and Family Welfare Center, the Land Office, police stations, government and autonomous schools and colleges, and NGOs working with the climate fund. In Nepal and Pakistan, applications were filed with each of the public authorities selected for study (see Section 2.2). Specifically, in Nepal, applications were filed with public authorities in the capital city of Kathmandu and the districts of Dhanusha, Rasuwa and Jagarkot. In Pakistan, applications were filed with selected public authorities at the federal level in Islamabad and at the provincial and district levels in Punjab, Balochistan and Khyber Pakhtunkwa.<sup>16</sup> In Pakistan, RTI requests at each level were filed under the RTI legislation governing that level.

In Bangladesh, information was sought on various policies; budget allocations, expenditures, and funds management; the number of legal actions filed under various laws; school and college admissions; the sources of funds for schools and colleges; the allotment of *khas* land; the amount of agricultural land under cultivation; audit reports; etc. The RTI requests in Nepal and Pakistan were similar and pertained to details of information requests received on an annual basis by each of the selected public authorities.

<sup>16</sup> Requests were filed under the appropriate legislation at each tier of government.

- **RTI filing process**

In Nepal and Bangladesh, the process of filing RTI applications was reported to be easy and hassle-free.

- **Status of applications**

*Bangladesh:* Of the 22 applications filed with different authorities, information was provided in response to 13 and seven received no response.<sup>17</sup> Responses were received within the prescribed time period of 20 days. While public authorities readily provided information on beneficiaries of particular schemes, copies of policies, and approved project proposals, they were reluctant to provide information on budget allocations, expenditures, and funds management. Notably, all seven applications that received no response sought information related to funds allocation and expenditures.

*Nepal:* Of the 16 applications filed with public authorities in Nepal, all received a response within the prescribed time period of 15 days. In each case, public authorities provided the information requested in full and free of cost. This may be because the applications were filed by well-known RTI activists and consequently the concerned public information officers expedited the release of information.

*Pakistan:* Out of 39 RTI applications filed with public authorities at the federal, provincial, and district level, only one received a response: from the federal-level Ministry of Education and Training. This is indicative of the poor implementation of the law, as well as the lack of awareness of RTI among government officials at many levels.

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<sup>17</sup> One application was denied by a public authority on the grounds that it did not have the information requested. Another public authority reported it did not receive the application.

# Chapter 5

## Implementation of the Right to Information

### 5.1 Overview

The government is the single largest holder of public information in any country. Therefore, although a range of other institutions are identified as public authorities under the RTI laws in Bangladesh, Nepal, and Pakistan, this study focused on evaluating the government as a facilitator of RTI legislation.

To assess the implementation of the RTI laws in each country, interviews were conducted with public information officers (PIOs), heads of department of public authorities (PAs), and officials of the information commission or ombudsman's office. In total, 106 interviews were conducted. These interviews sought both to assess the attitudes and capacity of officials implementing RTI, and to evaluate the mechanisms set in place to implement RTI in each country. As part of the interviews, officials' views were solicited on RTI, potential improvements in the law, and the challenges they faced in implementing the law on the ground. Additionally, the premises of 94 public authorities across the three countries were inspected to determine whether they were complying with the proactive disclosure provisions of the laws. For a detailed demographic breakdown, please see Section 2.3.1.2.

### 5.2 Interviews with Public Information Officers (PIOs)

PIOs in Bangladesh and Nepal were surveyed using structured interviews. In Pakistan, whose RTI law does not establish designated PIOs, interviews were conducted with the heads of public authorities at different levels of government.

The PIO interviews yielded the following insights:

- **Appointment of PIOs**

*Bangladesh and Nepal:* In Bangladesh, at the national and *upazila* level, most of the sampled PAs had appointed PIOs, whereas at the district level, in one or two departments, the position was found to be vacant. Of the 16 PAs studied in Nepal, 15 had appointed PIOs, and one did not respond. While this is positive, it is worth mentioning that other studies of RTI in Nepal indicate that a majority of PAs in the country have not in fact appointed PIOs.

*Pakistan:* In total, 39 interviews were conducted with the heads of PAs at the federal, provincial and district levels. These revealed that most PAs did not have proper mechanisms in place to respond to RTI requests, and none had designated information officers.

## • Awareness of RTI legislation

*Bangladesh:* Less than 50 percent of the PIOs interviewed were familiar with the provisions of the country's RTI Act.

*Nepal:* 87 percent of PIOs interviewed were familiar with the provisions of the country's RTI Act.

*Pakistan:* Except in some districts of Punjab, most of the heads of PAs interviewed were unaware of RTI legislation at the federal or provincial levels.

## • Training of PIOs

Most of the PIOs interviewed across the sample had not undergone any RTI training.

*Bangladesh:* Of 34 PIOs interviewed, only one had attended an RTI training program.

*Nepal:* Of 15 PIOs interviewed, only five had attended an RTI training program.

*Pakistan:* Of the 39 officials interviewed, only four in Punjab had received RTI training. Moreover, this training was provided not by the government, but by an NGO.

## • Preparedness of PIOs

71 percent of PIOs interviewed in Bangladesh and 33 percent of PIOs interviewed in Nepal did not have a copy of their country's RTI Act, a fact that speaks volumes about the lack of preparedness at different levels of government to facilitate citizens' access to information. The situation in Pakistan is even more dismal, as indicated by the statistics above.

## • Attitude of PIOs towards their job

Most of the PIOs interviewed in Bangladesh viewed the position as an extra responsibility added to their existing roles and functions within their departments. Most of the Pakistani officials interviewed were unaware of their responsibilities under the existing RTI laws; those who were aware tended to view those responsibilities as onerous. However, it must be noted that there were some officials in each of the countries under study who displayed a positive attitude towards RTI and felt the government should actively promote transparency laws.

## • Changes in information management systems

21 out of 34 PIOs interviewed in Bangladesh (approximately 60 percent) felt that RTI legislation had resulted in changes in the information management system – primarily digitization of information, posting information online, and establishing information storage and retrieval systems. In Nepal, 40 percent of PIOs interviewed agreed that their offices had undergone changes in office management due to RTI laws. It is to be noted, however, that in Nepal, although 87 percent of the interviewed PIOs had knowledge of the law, they did not implement many mandated changes in their offices.

## • Low demand for information

Across the sample, PIOs reported very low demand for information under the RTI acts of their respective countries.

### Information Centers in Bangladesh

Through its digital program, the government has set up information centers linking the districts to the union parishads (the smallest local government units in Bangladesh). These information centers are equipped with computers and Internet connections, and provide people with information about land registration, birth registrations, etc.

District administrations are also involved in creating information portals for district-related matters such as information about district and upazila offices, citizens' charters, names of district employees, and ongoing projects. Unfortunately, this information is not updated regularly.

*Bangladesh:* Bangladesh reported the lowest demand for information: A total of four RTI applications were received by three PIOs in the assessed sample over the last three years.

*Nepal:* 26 RTI applications were received by interviewed PIOs over the previous year, of which 23 were received by PIOs in Kathmandu.

*Pakistan:* In most public authorities at the federal, provincial, and district levels, officials had no record of receiving or responding to RTI requests. Surprisingly, in the Jhang district of Punjab province, interviewed PIOs claimed to have received 170 RTI applications between 2011 and 2013.

#### • Constraints faced by PIOs

PIOs interviewed emphasized the challenges and constraints that they faced on a day-to-day basis in providing access to information under the law. In Bangladesh and Nepal, PIOs highlighted the lack of RTI knowledge and training as a key constraint. PIOs in Bangladesh highlighted the need for departmental guidelines on how to process and handle requests, and recommended the framing of an information disclosure policy. In Nepal, PIOs reported that archaic record keeping systems impeded the speedy recovery of information for RTI requests. In Pakistan, in those districts of Punjab province where there is a demand for information, officials identified insufficient budgets, inadequate resources for photocopying, and a lack of training and capacity building as major constraints.

#### Political Parties as Public Authorities in Nepal

Nepal's RTI Act 2007 is the only law in South Asia that treats political parties as public authorities under the law. As a part of the country study in Nepal, six major political parties were examined for their compliance with the RTI Act. The political parties were: Unified Communist Party of Nepal (Maoist), Nepali Congress, Unified Communist Party of Nepal (Marxist-Leninist), Communist Party of Nepal (Maoist), Madhesi People's Rights Forum, and Tarai Madhes Democratic Party.

**Election manifestos:** Although the election manifestos of these parties promise to uphold and promote RTI, in practice the parties remain secretive about their operations.

**Appointment of PIOs:** None of the political parties have appointed PIOs.

**Proactive disclosure:** When interviewed, all the parties claimed that their websites contained comprehensive information. However, the study found that these websites often did not contain even basic party information and were rarely updated.

**Usage:** None of these parties had ever filed an RTI application.

**Demand:** The general public also barely seeks information from them. Of the six parties interviewed, only two had received RTI applications.

### 5.3 Inspection of Public Authorities

Field visits to government offices across the sample yielded the following insights:

#### • Signboard prominently displayed

In Bangladesh, only 13 of the 39 PAs visited (33 percent) displayed prominent signboards. In Nepal, 13 out of the 16 PAs inspected (80 percent) had prominently displayed signboards. In Pakistan, the majority of PAs visited at the federal, provincial, and district levels did not display signboards. Those that did have signboards displayed information that was not directly relevant to the public.

- **Signboard in local language**

In Bangladesh and Nepal, of inspected PAs with signboards, a significant number used the local language for posting information on these boards.

- **RTI-related information on signboards**

In Bangladesh and Pakistan, none of the inspected PAs had any information publicly displayed regarding the name and contact information of the PIO, guidelines for filing RTI applications, requisite fees, etc. In Nepal, only three of the inspected PAs displayed some information about PIOs.

- **Proactive disclosure**

Across the sample, the status of proactive disclosure by PAs is poor.

*Bangladesh:* Almost all inspected PAs displayed information on citizen charters, but there was no disclosure of RTI-specific information. Although PIOs interviewed claimed that PAs had developed websites for the purpose of proactive disclosure, it was observed that none of the three ministries mentioned the names of designated officers anywhere on their websites. District-level pages had information on projects in the *upazilas*, but there was no specific *upazila*-level information on the ministry websites. Interviews with the Bangladesh Information Commission also revealed that PAs provided only on request information that should have been proactively disclosed (such as information related to project proposals, budgets, and names and contact details of designated officers). Details of information disclosed proactively by PAs are provided in Table 1.

*Nepal:* None of the inspected PAs had disclosed information on all 16 items required under Section 5 of the country's RTI Act. District PAs performed better than those at the center, while VDCs, on average, had disclosed information in only 30 percent of the categories. It was also observed that in most PAs, important information (such as details of income and expenditures, and functions and powers of the PA) was missing from the disclosed lists. Details of information disclosed proactively by PAs are provided in Table 2.

*Pakistan:* PA's at the federal, provincial, and district levels do not disclose information proactively. At the federal level, no information on rules and regulations, notifications, bylaws, manuals, or orders was made available to the public as required under Section 5 of the FOI Ordinance.

**Table 1**

<b>Bangladesh Status of Proactive Disclos</b>	
<b>Proactive Disclosure of Information (As required under Section 6 of the RTI Act)</b>	<b>Number of Complying PAs (N=34)</b>
Project profiles	18
Audit and review reports	13
Annual reports	21
Work plan and budget	20
Database of beneficiaries	22
Project output details	21
Information on human resources	24
Contact information: phone, e-mail, etc.	16
Display board containing contact information of the designated information officer	---
Complaint book and complaint resolution	8

Table 2

Nepal Status of Proactive Disclosure	
Proactive Disclosure of Information by a Public Body (As required under Section 5 of the RTI Act)	Number of Complying PAs (N=15)
Structure and nature of body	8
Duties, responsibilities, and powers of body	7
Number of employees and working details of body	5
Service to be provided by the body	11
Branch and responsible officer of the service-providing body	9
Fee and time limit required for service	5
Decision-making process and authority	3
Authority to hear appeal against decision	4
Description of functions performed	0
Name and designation of chief and information officer	7
List of acts, rules, bylaws, or guidelines	4
Updated description of income and expenditures, financial transactions	1
Other particulars as prescribed	0
Details of program or project conducted by the public body in the last fiscal year, if any	4
Details of website of the public body, if any	4
Details of information of the public body published elsewhere or to be published, if any	3

## 5.4 Information Commission

As a part of the country studies, interviews were conducted with officials of the information commissions in Bangladesh and Nepal, and the office of the ombudsman in Pakistan. These interviews yielded the following insights:

### • Setup and composition of the information commission

*Bangladesh and Nepal:* The Bangladesh Information Commission (BIC) and the National Information Commission (NIC) in Nepal are both three-member commissions comprising a chief commissioner and two other commissioners. The RTI laws in both countries mandate that at least one commissioner be a woman.

*Pakistan:* At the federal level, the FOI Ordinance empowers the federal ombudsman to address complaints and hear appeals regarding the rejection of RTI applications. In Balochistan, the provincial ombudsman is similarly empowered. In Punjab, at the time this study was conducted, there was no RTI legislation at the provincial level, and the Office of the Ombudsman was not specifically empowered to deal with RTI complaints. However, as the Local Government Ordinance 2001 is operational at the district level in Punjab, the Office of the Ombudsman is required to deal with RTI complaints.

### • Staff, infrastructure, and budget of the information commission

*Bangladesh:* The BIC has insufficient staff to adequately fulfill its mandate. Of a sanctioned 76 staff positions, only 39 have been filled so far. While the BIC's budget is sufficient, it has been under-utilized due to the shortage of human resources. In fiscal year 2011–12, just BDT 14,519,000 was spent of a budget of BDT 72,073,000. Regarding the availability of adequate infrastructure, interviews with the BIC revealed inadequate office space, furniture, and basic infrastructure such as computers, phones, and printers.

*Nepal:* In contrast to the BIC in Bangladesh, the NIC has all 31 sanctioned positions filled. It is likely that the NIC will soon require more staff, as it plans to set up offices in other regions of the country. The budget of the NIC was reported to be insufficient: The commission's allocation for fiscal year 2011–12 was NPR 13,490,000, of which only eight percent was available for project activities. The NIC urgently requires funds to promote public awareness and to conduct training, capacity building, and research on RTI. The NIC's plan to extend its reach beyond the capital city is constrained by the lack of financial resources. The NIC did report adequate infrastructure including office space, furniture, computers, equipment, and phones.

*Pakistan:* According to the federal ombudsman, while there are no sanctioned posts in the office specifically assigned to RTI, the office has the capacity to deal with 52,000 cases annually, of which RTI complaints usually account for just a few dozen. Therefore, the office's budget for staff and infrastructure is adequate for the RTI complaints received. An interview with the ombudsman in Punjab province revealed a similar budget situation. The provincial ombudsman in Balochistan revealed that while the office has received complaints related to RTI requests since 2008, it does not have a separate budget or infrastructure assigned to RTI.

#### • **Autonomy of the Information Commission**

*Bangladesh:* The RTI Act provides administrative and financial autonomy to the BIC. In practice, however, the BIC must obtain prior approval from the Ministry of Public Administration and the Ministry of Finance to spend its allocated budget.

*Nepal:* Although the NIC does not have the status of a constitutional body, it enjoys substantial independence, because the commissioners, once appointed, cannot easily be removed by the government, giving them the freedom to act impartially.

*Pakistan:* When interviewed, the federal ombudsman in the capital city of Islamabad ranked his office with the Supreme Court and other high courts in administrative, financial, and functional autonomy and performance. The ombudsman did indicate, however, that in matters of budgets and appointments there was some government involvement.

#### • **Proportion of hearings**

*Bangladesh:* Since its establishment in 2009, the BIC has received a total of 306 complaints, of which just 138 were officially registered. 55 percent of the complaints were not even registered as cases, due to procedural errors by the complainants (such as the subject of the complaint not being covered by the RTI Act, lack of proper attachments, and a complainant approaching the BIC directly without first filing an appeal).

*Nepal:* Since its establishment in 2008, the NIC has received a total of 303 applications. In a positive trend, the number of applications received has increased each year – 173 were received in 2012 alone – indicating that growing numbers are aware of and using the RTI Act.

*Pakistan:* Between 2003 and 2011, the federal ombudsman received 164 applications. Since 2008, the provincial ombudsman in Balochistan has received 46 applications. Even these modest numbers are an encouraging sign in a country where people are skeptical about filing RTI applications at all. However, as a majority of applicants did not follow up on their cases, most of them could not be addressed.

#### • **Ability to ensure compliance with orders**

*Bangladesh:* The BIC's commissioners stated that not all of its directives are carried out. Its directive to government ministries to appoint PIOs at all government offices was not fully complied with. The BIC has imposed fines on officers in only two cases since its inception; one of these is currently

being challenged by the officer concerned. BIC commissioners interviewed were of the opinion that the RTI Act's provisions on penalties are weak and need to be strengthened.

*Nepal:* The NIC revealed that it had no problems ensuring compliance with its orders. Since 2008, it has awarded compensation to complainants and exercised its powers under the RTI Act, requiring PAs to appoint PIOs, to publish certain information, to provide training for its officials, and to provide an annual report.

*Pakistan:* The federal ombudsman stated that the FOI Ordinance accords only limited powers to the ombudsman, but that orders regarding RTI are for the most part implemented as satisfactorily as those on other matters. At the provincial level in Punjab and Balochistan, given the absence of specific RTI legislation, the ombudsman's office does not have the power to issue orders or impose fines related to RTI.

- **Other constraints**

*Bangladesh:* The BIC's commissioners stated that they could not effectively compel a person to comply with their summons to attend a hearing.

*Nepal:* The chief commissioner stated that the attitude of government officers is a constraint on the effective implementation of RTI. Government officers are often reluctant to come to the NIC as required for hearings or cases. It was also felt that officers have yet to develop a positive attitude towards RTI: PA's often wait for the NIC's intervention even when it comes to releasing information which should be proactively disclosed.

*Pakistan:* Ombudsmen cited the public's lack of awareness of RTI laws, and the absence of subordinate laws to promote transparency, as impediments to their work. Additionally, as the offices of the federal ombudsman in Islamabad and the provincial ombudsman in Balochistan are located in so called "red zones," where other important government offices are located, and they cannot be easily accessed by the general public due to heightened security and check posts in the area. The federal ombudsman recommended setting up an independent information commission to deal specifically with RTI-related complaints.

## Chapter 6

# Role of the Media and Non-Governmental Organizations

### 6.1 Overview

The media and civil society play a pivotal role in strengthening a country's RTI regime. In order to assess the media's role in using, facilitating, and educating the public about the right to information, the country diagnostic studies analyzed RTI-related news coverage over a period of one year in 15 leading newspapers in Bangladesh, Nepal, and Pakistan (five newspapers in each country). Of these, eight were English-language newspapers and seven were vernacular newspapers.

Civil society organizations (CSOs) similarly play a key role as advocates, educators, and users of the right to information. A recent survey estimates that while India has the largest number of CSOs working on RTI in the region, there are approximately 40 CSOs each in Bangladesh and Pakistan working directly or indirectly on RTI issues. In Nepal and Sri Lanka, it is estimated that there are ten or fewer CSOs working on RTI.<sup>18</sup> For the purpose of this study, 48 NGO representatives were interviewed from 42 NGOs across the sample. Of these, 27 were from Bangladesh, six from Nepal, and 15 from Pakistan.

### 6.2 Analysis of the Media

*Bangladesh:* The study monitored relevant news published during the period September 2011–August 2012 in *The Daily Star*, *New Age*, *The Independent*, *Prothom Alo*, and *Samakal*. Most coverage centered on events (e.g. RTI seminars or workshops) rather than in-depth reports, special features, or editorials. In terms of content, the reports focused on information about workshops, seminars, and campaigns; the process of using RTI legislation; key directives and orders issued by the information commission; and positive changes wrought by RTI legislation. In the sample analyzed, there were no examples of investigative journalism based on the use of RTI laws. However, interviews conducted with 15 journalists and news media managers revealed that as many as 51 journalists from 15 news and media organizations had used the RTI Act to get information from various government ministries and departments.

*Nepal:* The study monitored relevant news published during the period January–December 2012 in five major daily newspapers: *Republica*, *Rising Nepal*, *Kantipur*, *Annapurna Post*, and *Gorkhapatra*. Most coverage focused on events and workshops rather than editorials, articles or special features. Interviews conducted with 5 news editors revealed the limited use of RTI for investigative journalism in Nepal. Editors cited the complex and lengthy procedure for seeking information under the RTI law as a main reason for its limited use by journalists.

<sup>18</sup> FOIANet. *Global Right to Information Update: An Analysis by Region*, July 2013, p. 75, accessible at: [http://www.foiadvocates.net/dmdocuments/News\\_Documents/global\\_right\\_to\\_information\\_update.pdf](http://www.foiadvocates.net/dmdocuments/News_Documents/global_right_to_information_update.pdf)

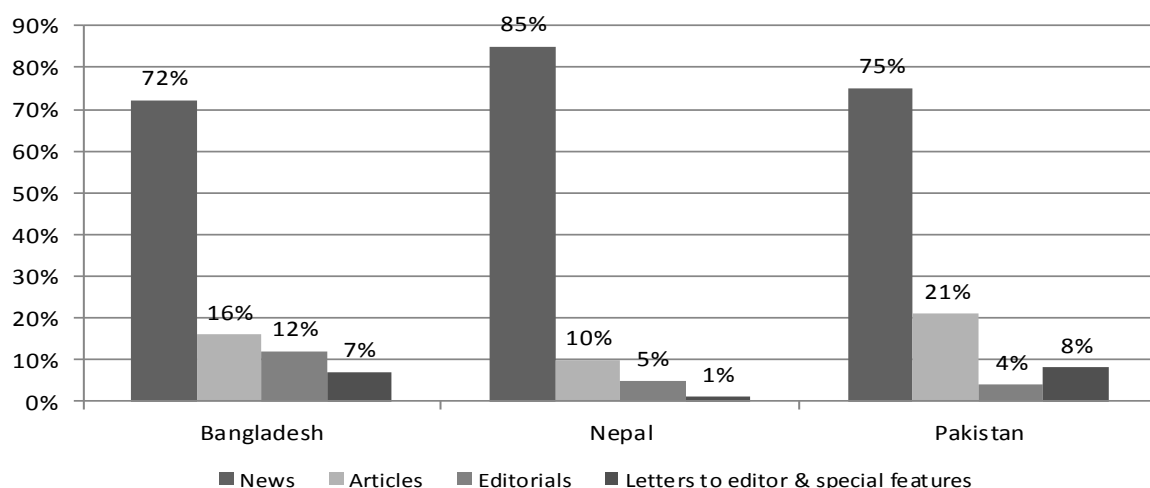
*Pakistan:* The study monitored relevant news published during the period January–December 2012 in *Dawn*, *The News International*, *The Nation*, *Jang*, and *Nawai-Waqt*. Most coverage centered on the significance and utility of RTI as a tool for accountability, transparency, and good governance. Some news stories highlighted international best practices on RTI, Pakistan's poor performance on RTI implementation, civil society demands for the enactment of effective RTI laws at all tiers of government, and promotion of a culture of transparency and accountability. Within the sample analyzed there were no instances of RTI being used for investigative journalism.

A review of RTI-related coverage in these 15 leading newspapers yielded the following insights: A total of 234 RTI-related items were published in the sampled publications in a year. Coverage was lowest in Pakistan with approximately 63 items published in the sampled newspapers, followed by 83 in Bangladesh, and 88 in Nepal. As a regional average, there were 16 RTI-related items per publication per year, i.e., approximately one news item per month.

Both English-language and vernacular publications provided coverage of RTI-related issues. Vernacular publications in Nepal provided more coverage of RTI (83 percent of the country's total sampled RTI coverage), while those in Pakistan had less coverage (17 percent of the country's total sampled RTI coverage).

The newspapers were also assessed for the kind of news they published about RTI.<sup>19</sup> Regionally, 79 percent of the RTI coverage in sampled newspapers was in the form of event reporting (news), 15 percent was in the form of special features/articles, and 6 percent was in the form of editorials. Nationally, event reporting accounted for 72 percent of RTI coverage in Bangladesh, 85 percent of RTI coverage in Nepal, and 75 percent of RTI coverage in Pakistan. In contrast, letters to the editor and special features on RTI comprised a dismal 1 percent of RTI newspaper coverage in Nepal, 7 percent in Bangladesh, and 8 percent in Pakistan. See Figure 2 below.

**Figure 1: Type of RTI coverage**



### 6.3 Analysis of Non-Governmental Organizations

Among the countries under study, NGOs in Bangladesh and Nepal are explicitly covered by their countries' RTI acts. While NGOs in Pakistan are not similarly covered, NGOs in the country were included to assess their attitudes towards RTI and information disclosure.

<sup>19</sup> In the analysis of types of news items covered, three more newspapers were included from Bangladesh: *Jugantor*, *Kaler Kantho*, and *Naya Diganta*.

### 6.3.1 Interviews with NGO Representatives

Interviews with 48 representatives of 42 NGOs were conducted across the sample. Of these, six representatives were from Nepal, 27 were from Bangladesh, and 15 were from Pakistan (for a detailed demographic breakdown see Section 2.3.1.3.) These interviews yielded the following insights:

- **Awareness**

In Bangladesh, the representatives interviewed were all designated as PIOs in their organizations. They had a high level of awareness of the RTI Act, with 93 percent of the sample stating that they were well versed with the law. In Nepal, on the other hand, NGO representatives interviewed did not have knowledge of the law and were not aware of their own obligations under the law. In Pakistan, NGO representatives interviewed were part of a coalition to promote RTI and were well aware of the different laws in the country. They regard the FOI Ordinance as toothless and ineffective legislation.

- **Usage**

Interestingly, in Bangladesh, although the NGO representatives claimed to be well versed in the provisions of the law, they made little use of it. It has been speculated that the inclusion of NGOs in Bangladesh under the RTI Act may be one of the reasons why they have been reluctant or hesitant to use the law themselves. In Nepal, 83 percent of sampled NGO representatives said that due to their poor knowledge of the RTI Act, they had never used it to request information from PAs. In Pakistan, as with the general public (see Section 4.2), sampled NGOs also preferred to rely on informal channels to access information, as it is easier and less time consuming than filing a formal request for information. However, some NGOs, such as the Center for Peace and Development Initiatives, the Center for Civic Education, and Lok Sujag, have used the law to access information from the government. Another NGO, the Center for Investigative Reporting, is using RTI legislation as a tool for investigative journalism.

- **Facilitation**

In Bangladesh and Pakistan, most of the sampled NGO representatives were aware of their role as facilitators of the RTI law. As such, Bangladeshi NGOs help beneficiaries, especially the poor, file RTI applications about government programs. In Pakistan, the sampled NGOs were active members of a coalition to promote RTI in the country and were consequently engaged in advocacy about the RTI law. This includes NGOs such as the Centre for Peace and Development Initiatives (CPDI), the Centre for Civic Education, and the Institute for Research Advocacy and Development (IRADA).

- **Education**

Sampled NGOs in Bangladesh were involved in training, publicity, and research on the RTI Act, whereas sampled NGOs in Nepal were not very involved in efforts to educate the public about the RTI Act. None had designated information officers. Despite weak RTI legislation and the limited public demand for information, NGOs in Pakistan have been taking steps to educate, promote, and advocate for RTI among the general public. For example, the NGO Individualland has used public service messages on terrestrial and satellite broadcast channels to make the people aware of their right to information.

- **Proactive disclosure**

In Bangladesh, interviewed NGO representatives stated that most of their organizational information, with the exception of financial information, is disclosed on their websites. In Nepal, none of the interviewed representatives were aware of their own obligations as PAs under the RTI Act to disclose information proactively. However, they said they tried their best to disseminate information about their activities through periodic meetings, annual reports, and websites.

- **Demand side**

In Nepal and Pakistan, the study revealed that the demand side is also weak, with very few members of the public seeking information from NGOs. Information, when sought, was only about general, organizational matters. In contrast, in Bangladesh, 15 NGO representatives received 52 RTI applications in 2012.

## Chapter 7

# Sri Lanka: A Case Study on Proactive Disclosure

As discussed in Section 1.6, efforts to adopt RTI legislation in Sri Lanka have met with limited success. Yet Sri Lanka's experience with information disclosure deserves a more nuanced appraisal. In many countries, proactive disclosure – often neglected as a “weak supply-side initiative” – offers critical openings for enhancing information access when civil society's demand for access to information is either weak or highly fragmented and contested. Sri Lanka faces the additional challenge of rebuilding governance structures and reclaiming social capital after three decades of protracted conflict. While it is widely acknowledged, even within the government, that the enactment of legislation would usher in an era of greater openness and accountability, evidence of enhanced transparency through more and better proactive disclosure of information is already increasingly apparent in Sri Lanka.

Recent developments in Sri Lanka underscore the government's commitment to facilitating greater proactive disclosure of information. Notably, in 2011, the government's *Mahinda Chintana*, or vision document, committed to improve the flow of budget information, ensure quick access to information, and strengthen private sector partnerships to improve information and knowledge sharing.<sup>20</sup> Other initiatives that are facilitating information disclosure include the government's “e-Sri Lanka” program, designed to make basic information available online through government websites; the Official Language Policy, which seeks to make official information available in the three major languages (i.e., Tamil, Sinhala, and English); and at a local level, citizens' charters, which have emerged as important drivers of information disclosure pertaining to services provided by local authorities. Additionally, the recommendations of the Lessons Learnt and Reconciliation Commission<sup>21</sup> and the National Plan of Action<sup>22</sup> specifically call for legislation establishing the right to information.

In Sri Lanka, given the absence of a national RTI law, TAF conducted a modest desk-based assessment of the proactive disclosure of information by different government ministries and

20 Ministry of Finance and Planning 2010, *Mahinda Chintana: Vision for the Future*, available at <http://www.treasury.gov.lk/publications/mahindaChintanaVision-2010full-eng.pdf>

21 The Lessons Learnt and Reconciliation Commission (LLRC) was set up by President Mahinda Rajapaksa as a commission of inquiry on May 15, 2010. Mandated to inquire and report on specific matters largely related to the internal conflict between February 21, 2002, and May 19, 2009, the LLRC served as the primary commission to help guide post-war Sri Lanka. See: sec. 5.156e, Ch.5, “Human Rights,” *Report of the Commission of Enquiry on Lessons Learn and Reconciliation*, (November, 2011), p.198

22 While the government of Sri Lanka has often stressed that the recommendations of the LLRC are merely recommendations, the National Plan of Action is a more accurate representation of the government's commitment to policy objectives. Promisingly, the National Plan of Action to implement the LLRC, which stems from the LLRC's recommendations, reinforces the commitment to pursue RTI legislation. Specifically, section 9.115e13 places responsibility on the Ministry of Mass Media and Information to facilitate the enactment of legislation. See: *National Plan of Action to Implement the Recommendations of the LLRC* (July, 2012), available at [http://www.priu.gov.lk/news\\_update/Current\\_Affairs/ca201207/20120726national\\_plan\\_action.htm](http://www.priu.gov.lk/news_update/Current_Affairs/ca201207/20120726national_plan_action.htm)

agencies. The assessment used a tested evaluation matrix with a set of distinct criteria that outline a minimum standard for the following: proactive disclosure of organizational information, proactive disclosure of staff information, proactive disclosure of financial information, and accessibility of information.

Consistent with Sri Lanka's efforts to introduce new information technology – particularly the "e-Government" – as a key driver of information disclosure, the central component of TAF's assessment was an in-depth analysis of selected websites. At the national level, websites of the following government entities were studied: the Sri Lanka Police, the Ministry of Justice, the Ministry of Economic Development, the Ministry of Finance & Planning, the Ministry of Mass Media & Information, the Ministry of Health, and the Ministry of Education. These institutions were chosen because their core functions and responsibilities are of direct concern to the general public, so it can be assumed that the extent of disclosure at these institutions will reflect the government's commitment to information disclosure more broadly.

At the subnational level, all available websites of provincial councils were studied. Because this level of government is "closer" to the general public, transparency and effective disclosure of information are of key importance. The provincial council websites covered were: the North Central Provincial Council, the Uva Provincial Council, the Central Provincial Council, the Eastern Provincial Council, the Northern Provincial Council, the Sabaragamuwa Provincial Council, the Southern Provincial Council, the North Western Provincial Council, and the Western Provincial Council.

In general, at a national level, the government websites assessed reflect a positive attitude towards proactive disclosure. It is evident that steps have been taken to ensure that, at the very least, basic information is available on matters of direct public concern. For instance, most institutions disclose macro-level organizational information, staff directories, and information on the monitoring and evaluation of institutional programs, including status, progress reports, and statistics. These steps are promising foundations for a progressive disclosure regime.

The risk in generalizing about standards of disclosure must be noted, however. There appears to be little consistency in the functionality and technical structure of the websites examined. Links are often broken or under construction, while others are severely out of date. Different sections of a single site are often organized very differently, resulting in uneven levels of disclosure. Not only do some agencies perform better than others, but within agencies there may be wide variation between divisions and departments. As each agency adopts its own unique format to organize its online information, problems with accessibility, navigability, and public convenience mar the progress that has been made, and with only three of the seven assessed websites available in all three languages (Tamil, Sinhala, and English), the lack of functional, trilingual websites emerges as a further problem.

As with the assessment at the national level, there are positive examples of proactive disclosure at the subnational level. In particular, the Eastern, North Western, and Uva provincial councils are all proactively disclosing a wide array of information, ranging from organizational and financial information which is disclosed in the form of functions, progress reports, and budgets. These councils appear to have embraced their primary responsibility of effectively serving the citizens they represent. In fact, detailed information about programs and services offered by the provincial ministries, departments, or agencies often exceeds that disclosed by the national ministries.

It is also necessary to emphasize the importance of greater consistency in disclosure across provinces, with some provinces needing to update and revitalize their websites. The analysis of provincial council websites finds significant discrepancies in the level of disclosure between provinces. While some provinces are dynamically engaged in disclosure, many lag behind, with

either broken links or outdated material. For instance, attempts to assess the extent of electronic disclosure by the Southern Provincial Council and the Central Provincial Council were thwarted by their malfunctioning websites, and the North Central Provincial Council had no website at all. In addition, the kinds of information available must be expanded. The dearth of citizen participation in the functioning of provincial councils is of particular concern.

The country assessment offers the following recommendations for government institutions at the national and subnational levels: Enhance accessibility, build capacity to receive electronic information, diversify modes of communication, ensure comprehensibility, maintain up-to-date information, promote financial transparency, encourage citizen participation, and establish a formal minimum standard of disclosure.

The discourse on RTI in Sri Lanka needs to be nuanced and contextualized, taking into account the country's fragile, post-conflict environment and the lack of trust in, and within, institutions of governance. From a rights perspective, RTI is fundamental to the pursuit of justice and equity. At the same time, however, an exclusive focus on legislation has resulted in legal and political impasses, especially in contexts marked by political stalemate and internal conflicts. The Sri Lankan case suggests that, while waiting for explicit legislation on RTI, effective pathways can be opened up and constituencies of support can be mobilized by promoting the concept of proactive disclosure.

By promoting, deepening, and widening proactive disclosure, the foundation for legislation may be put in place. As a potential strategy that may emerge from such efforts, parliamentary committees and groups concerned with drafting the proposed RTI Act can showcase the extent and quality of information that is already being disclosed, and present the case for legislation as a logical and inevitable conclusion to this trend. Very often, the demand for legislation takes the position of a moral high ground without highlighting the tangible benefits and practical uses of providing information. By widening the channels for proactive disclosure and eliciting citizen feedback on its utility, a strong case can be made for RTI legislation free of any political or ideological positioning. In many ways, therefore, proactive disclosure depoliticizes the agenda and creates practical, win-win scenarios for advocates.

The domain of proactive disclosure also gives CSOs advocating for RTI a place to start using existing information to educate and empower the citizenry. By creating a database of key information pertaining to ministries and public services, CSOs can operate help lines and facilitation centers, and publish handbooks and guides. By demonstrating the benefits of easy access to information, these pre-legislative activities will strengthen the demand for a law relating to information.

# Chapter 8

# Recommendations

## 8.1 Overview

Over the past decade, countries in South Asia have made tremendous progress towards providing their citizens with a guaranteed right to access information from their government – through constitutional guarantees, legal statutes, and, most importantly, through the enactment and implementation of RTI legislation. Since 2002, RTI legislation has been introduced in Pakistan, India, Nepal, Bangladesh, and more recently in Bhutan and the Maldives. However, the implementation and use of these laws varies across the region. Pakistan, despite being one of the first countries in the region to enact RTI legislation, in 2002, has a weak law, a poor record of implementation, and extremely limited public demand for information. Bangladesh and Nepal have enacted strong RTI legislation, but face similar implementation issues, including limited public awareness and demand for information on the one hand, and poor compliance by public authorities on the other. In Sri Lanka, despite several efforts to develop comprehensive legislation, the complex political economy of the state, and the post-conflict environment, have made the demand for information a sensitive political issue. However, even in this complex environment, progress is being made towards proactively disclosing information to the public.

Countries in the region can learn considerably from each other's experiences in implementing RTI. Drawing on the findings of the country studies in Bangladesh, Nepal, Pakistan, and Sri Lanka, the following section highlights key regional and country level recommendations for improving citizens' access to information.

## 8.2 Regional Recommendations

- **Demonstrate political will and commitment to entrench RTI at a country and regional level.**

International experience suggests that simply enacting legislation that guarantees citizens the right to information is not sufficient to establish a strong information regime. RTI laws fundamentally transform the balance of power between citizens and the state, enabling citizens to demand information once tightly guarded by bureaucrats and civil servants. Strong political will, and the commitment to translate laws on paper into practice on the ground, are particularly critical in South Asia, where colonial traditions of secrecy in government are deeply ingrained. The lack of a genuine commitment to transparency on the part of government and political leaders is also imparted to the bureaucracy, resulting in the weak implementation of transparency laws. Governmental commitment to promoting transparency should be followed by appropriate action plans involving key ministries, in particular those that may be resistant to openness.

- **Ensure effective implementation of the law at the country level.**

The overall responsibility for implementation of RTI laws should be given to a nodal agency in the government. This will ensure more accountability from the bureaucracy, as the nodal agency will also be a monitoring agency for all governmental activities.

- **Set a regional minimum standard for proactive disclosure.**

RTI laws in Bangladesh, India, Nepal, and Pakistan have provisions requiring governments to disclose information proactively. Efforts should be made to support the development of a regional minimum standard for proactive disclosure.

- **Link RTI to broader movements for governance reform within the region.**

In India, the right to information has been very effectively and powerfully linked to the broader discourse on good governance and anti-corruption. Linking RTI to civil society reform efforts in other key areas can be an effective way to translate an otherwise intangible right into one that has a real impact on governance and the lives of ordinary citizens.

- **Create country-specific and regional caucuses of parliamentarians in support of RTI and good governance.**

In order to break deep-seated habits of secrecy, it is essential to engage and collaborate with parliamentarians in support of RTI. At a country level, civil society organizations could work with pro-transparency members of parliament to establish strong support within government for RTI legislation. At a regional level, efforts could also be made to bring together members of parliament from South Asia to promote the effective implementation of the right to information.

- **Facilitate dialog and exchange visits among RTI champions in the region.**

Efforts should be made to facilitate dialog and discussion among RTI champions and activists from countries in the region. Such interaction can be valuable in enabling stakeholders in different countries to learn from each other's experiences, draw key lessons, and adapt strategies and best practices to their specific contexts.

- **Facilitate the sharing and exchange of experiences among information commissions in the region.**

In order to strengthen the supply side, annual meetings of the region's information commissions can be held to discuss challenges and share best practices. In addition, the sharing of country-level experiences of other government stakeholders such as public information officers and appellate authorities can be organized.

- **Incorporate RTI into the curricula of government training institutes, universities, and other institutions.**

Modules on RTI, designed by RTI and governance experts in the country, can be incorporated into the curricula of training institutes and administrative staff colleges.

- **Spread awareness and promote the use of the law among different stakeholders, particularly in rural areas.**

Mass and folk media can be potent tools to spread awareness of RTI, particularly in rural areas where knowledge and information about RTI are currently quite limited. Additionally, modules on RTI should be incorporated into high school, undergraduate, and post-graduate curricula. Countries in the region should exchange information about successful communication strategies.

- **Other measures by civil society organizations**

CSOs can also lobby political parties to build in-country support for RTI, support supply side implementation efforts, promote comparative research on RTI implementation in the region,

promote the sharing of RTI technical expertise and best practices among activists, NGOs, and media within the region, and engage with ongoing regional RTI initiatives such as the Transparency Advisory Group<sup>23</sup> (TAG) and the South Asia Right to Information Advocates Network (SARTIAN).<sup>24</sup>

### 8.3 Bangladesh: Country Recommendations

#### Demand Side

- **Build greater public awareness of the law.**

The lack of awareness and limited use of the right to information is a key constraint to the creation of a robust information regime in Bangladesh. Consequently, government, civil society, and the media need to actively promote the use of the RTI Act among different stakeholders, especially in rural and semi-urban areas and among vulnerable groups. Different communication and media tools (including RTI camps, street plays, radio/TV, and SMS) could be utilized to publicize the law. Additionally, CSOs could train information rights workers who would work at the grassroots level to educate citizens in using the law.

- **Galvanize civil society and other stakeholders to push for effective implementation.**

CSOs, academics, journalists, lawyers, and other stakeholders have a key role to play in advocating and lobbying the government for more effective implementation of the RTI Act.

- **Link RTI to the effective delivery of public goods and services.**

In India, CSOs have effectively used the right to information to access information on the provision of government services and the implementation of large-scale social welfare programs. Information thus obtained has been used to demand greater transparency and accountability in government. This has also proven to be an effective tool to spread awareness of the law's value to citizens seeking information directly relevant to their lives.

- **Work with the media to promote, publicize, and use RTI.**

Journalists in Bangladesh have already started to use the RTI Act to gather information and substantiate their news reports and stories. However, as indicated by the country assessment, the media can play a more substantial role in creating public awareness of the law by carrying news reports, editorials, and stories about the Act, highlighting success stories, and turning the spotlight on implementation efforts and challenges. There is a need, at the same time, to impress upon media decision makers and newsroom leaders the importance of RTI, and to train journalists to use the law for investigative reporting. Fellowships and scholarships for journalists could be one method of encouraging more reporting of RTI-related news.

- **Introduce RTI into school and university curricula.**

The right to information should be included in the formal curricula of schools and universities to ensure that future generations are educated about its importance as a tool for citizens' empowerment and for ensuring government transparency and accountability.

<sup>23</sup> TAG is a group of professionals, activists, and academics with an interest in transparency and the right to information, and with the common objective of promoting transparency in governance by advising and lobbying governments and other stakeholders, especially in the South Asian region. It also conducts research and organizes meetings and consultations on transparency related issues. <http://www.transparencyadvisorygroup.org/>

<sup>24</sup> SARTIAN is a community of RTI practitioners in South Asia that is anchored by the Commonwealth Human Rights Initiative (CHRI) and supported by the Affiliated Network for Social Accountability-South Asia Region (ANSA-SAR). <http://sartian.org/>

- **Establish RTI help lines and help desks to assist in the filing of RTI applications.**

To assist citizens in filing requests for information, CSOs should set up RTI help lines and help desks to act as one-stop-shops for information on the law's provisions and procedures.

## **Supply Side**

- **Train and build the capacity of information providers.**

PIOs interviewed highlighted the need for greater training and capacity building for officials tasked with implementing the RTI Act. These officials tended to have limited knowledge of their roles and responsibilities, and in some cases did not even have access to copies of the RTI Act. Efforts should also be made to motivate and incentivize officers, including recognizing diligent and proactive officials within departments by, for example, instituting RTI awards.

- **Allocate sufficient infrastructure and human resources.**

At the level of public authorities tasked with providing information under the RTI Act, necessary investments in infrastructure and human resources should be made, including appointing additional staff, arranging RTI training, and formulating internal norms of information disclosure.

- **Ensure effective implementation of proactive disclosure.**

Concerted efforts should be made to ensure that PAs covered by the RTI Act, both government and NGOs, comply with the proactive disclosure provisions of the law. Websites should be comprehensive and regularly updated; PAs must be instructed by the government and the Bangladesh Information Commission to use websites as a major medium of proactive disclosure. Additionally, to facilitate the efficient disclosure of mandated information, PAs covered by the RTI Act should formulate and implement proactive information disclosure policies. Information proactively disclosed must also be regularly audited by the BIC or an independent third party.

- **Ensure the autonomy and strengthen the capacity of the Bangladesh Information Commission.**

The BIC must play a more proactive role in ensuring compliance with its orders and in monitoring the implementation of the RTI Act. It must exercise its power more effectively in complaints and appeals, and adopt a more citizen-friendly approach when dealing with complainants. The BIC must also utilize its budget more effectively, increasing expenditures on training, outreach, and publicity campaigns. Moreover, although the BIC was created as an independent and autonomous organization, it still has to seek budgetary approval from the Finance Ministry and the Public Administration Department. The BIC must be given full autonomy and independence.

- **Recognize and incentivize champions within government.**

To help foster a culture of transparency and information disclosure within government, efforts should be made to identify and recognize information champions. This could be done in various ways, such as instituting an annual RTI awards ceremony to recognize proactive officials.

- **Simplify the process of seeking information.**

The application form for seeking information should be simplified to allow more people to avail themselves of the RTI Act. Efforts should also be made to ensure that the application form is readily available in the offices of all PAs.

## 8.4 Nepal: Country Recommendations

### Demand Side

- **Build greater public awareness of the law.**

The lack of awareness of the RTI Act among citizens is one of the key obstacles to its successful implementation in Nepal. This weak demand side should be propped up through a series of measures. Immediate, short-term action should include large-scale countrywide RTI campaigns involving government, civil society, and the media. Community radio, which is widespread and popular in Nepal, can be an effective medium to raise awareness, particularly in rural and remote areas. Nepal also has a strong tradition of the performing arts, which can also be used to raise awareness. A national taskforce comprised of communication experts, media representatives, government officials, and CSO members should be convened to create an effective RTI awareness campaign.

- **Focus advocacy efforts on effective implementation of the law rather than on amending it.**

Nepal's RTI Act is considered a strong law that covers all government agencies, political parties, and CSOs. Although there is always room for improvement in any law, current efforts should focus on the Act's effective implementation rather than possible amendments. Any subsequent reform of the law should follow from its rigorous use, to ensure that reforms are realistic and responsive to the needs of citizens.

- **Create a national taskforce to advocate for effective implementation of RTI.**

A productive and sustainable collaboration among the various stakeholders, including government, civil society, the media, and political parties, is necessary to effectively implement the RTI regime. The national taskforce should focus on how to create such a collaboration and ensure its stability over time.

- **Advocate for the repeal of secrecy laws that contravene RTI**

Several secrecy laws in Nepal currently create major obstacles to the implementation of the RTI Act and the realization of an effective transparency regime. Civil society and other stakeholders should work for the repeal of these secrecy laws.

- **Include RTI in school, university, and public service examination curricula.**

One long-term strategy to promote greater awareness of the RTI regime would be to include it in school, college, and public service curricula.

### Supply Side

- **Ensure the appointment of public information officers in all public authorities.**

The appointment of PIOs is a critical first step in implementing the RTI Act. In Nepal, most PAs have yet to appoint PIOs. Nepal's National Information Commission must comprehensively review the status of PIO appointments across the country and order concerned PAs to make appointments within a stipulated timeframe. The NIC should also seek government cooperation in setting up an information section in each government office to deal with RTI-related matters.

- **Train PIOs, appellate authorities, and other civil servants in the RTI Act.**

In addition to the inadequate human resources mentioned above, another key implementation constraint is the inadequate training of PIOs and appellate authorities in the principles and provisions of the Act and their responsibilities under it. Once the required PIOs have been appointed, there should be a focus on their training. In addition, RTI should be included in the training curriculum for all civil servants, and regular refresher courses should also be provided.

- **Improve records management and information systems.**

The timely supply of information under the RTI Act requires strong records management and information systems. In Nepal, as in many South Asian countries, record keeping systems in most government departments are so archaic that PIOs have trouble retrieving information within the stipulated timeframe. Updating the information system will require the government's commitment and the allocation of adequate resources. A high-level government body, possibly within the prime minister's office, should be established for this purpose.

- **Appoint commissioners and strengthen the capacity of the National Information Commission.**

The key posts at the NIC – the chief information commissioner and two additional information commissioners – have been lying vacant for over a year, adversely affecting its functioning. The government must fill these positions immediately. In addition, the NIC's budget should be augmented so that adequate resources are available for hiring and training staff and promoting RTI across the country.

- **Improve the effectiveness of the NIC.**

The NIC must be more effective in ensuring that PAs comply with key provisions of the RTI Act, such as the appointment of PIOs, proactive disclosure, etc. It must also be more effective in ensuring that its orders, once issued, are actually complied with. In addition, the NIC must energetically campaign to create RTI awareness in different parts of the country. In so doing, it must seek to build alliances with RTI stakeholders within the media, civil society, and political parties.

## **8.5 Pakistan: Country Recommendations**

### **Demand Side**

- **Build greater public awareness of the law.**

As in other countries in this study, the lack of awareness of RTI laws in Pakistan is one of the key obstacles to their successful implementation. Concerted efforts are needed to spread awareness of existing federal and provincial RTI legislation among a range of stakeholders, including CSOs, grassroots activists, the media, and academics. Efforts must focus on creating awareness of RTI as a legal right of direct relevance to people's everyday lives. Real life success stories of information access must be publicized so that citizens witness the effectiveness of the law in empowering them to demand information, and ultimately accountability, from their government.

- **The media must play an active role in promoting RTI.**

Media organizations have an important role to play in advancing the RTI regime. Currently, the coverage of RTI-related news and information, particularly in Urdu newspapers, is limited. Media organizations and journalists must make it a practice to publish RTI-related news and information, including domestic, regional, and international success stories and best practices. It is also important that they utilize RTI as a tool for investigative journalism.

- **RTI must become a tool for academic research.**

RTI must be included in the curricula of schools, universities, and research institutions. Students must be made aware of the possibility of obtaining information from public bodies for academic research. Not only would this lead to a more credible body of knowledge, it would also enable the largest section of Pakistan's population, its youth, to take the lead in promoting the RTI regime.

- **Civil society organizations should consistently advocate for improved RTI legislation, and more effective implementation at the federal and provincial levels.**

CSOs and other stakeholders must continue to advocate for improved RTI legislation and its more effective implementation so that the law is translated into a tangible right for citizens. The recent

enactment of progressive RTI legislation in the provinces of Punjab and Khyber Pakhtunkhwa represents a significant opportunity for civil society to advocate for similar legislation at the federal level.

- **Encourage CSOs to set a positive example by proactively disclosing information.**

CSOs can set a positive example by voluntarily disclosing key categories of information about their operations. In an environment where government agencies are reluctant to part with information, this can serve as an example of best practice and demonstrate civil society's commitment to a robust information regime that covers all aspects of civic and political life.

- **Identify and work with champions in government and the political establishment.**

Efforts should be made to identify champions of transparency within the political elite and the bureaucracy who will support advocacy efforts by civil society and media.

## **Supply Side**

- **Bring existing legislation into line with international best practices and support the effective implementation of these laws.**

The country's federal, provincial, and district transparency laws must be revised to meet international best practices, or, at a minimum, the standards of other progressive RTI laws in South Asia. Moreover, there is an urgent need for RTI laws that comprehensively cover the provincial and district levels.

- **Implement transparency provisions in other laws.**

In the absence of an effective RTI regime at the national level, efforts can be made to implement transparency provisions in existing legislation at various levels of government.

- **Train and build the capacity of federal, provincial, and district officials.**

The absence of dedicated information officers in Pakistan has been noted as a key implementation constraint. There is a strong need to build broadly based awareness of RTI among officials across various tiers of government. Furthermore, government officials must be trained and encouraged to understand the advantages of disclosing information to the public and operating in a culture of trust and participatory decision making.

- **Establish an independent information commission.**

An independent information commission that operates on principles enshrined in international best practices must be established immediately to address citizens' RTI-related grievances. Creating a commission dedicated to RTI issues would go a long way toward supporting and advancing national efforts to establish a robust RTI regime.

- **Support the proactive disclosure of information by government departments at various levels.**

Government departments at various levels must be encouraged to regularly, proactively disclose information that concerns the public. Information should be made accessible by various means, including notice boards, posters, websites, etc.

- **Improve records management and information systems.**

Information management systems must be overhauled so that public information can be retrieved efficiently by both citizens and government officials. Making complete, accurate, and up-to-date information available online is an important step in giving the public productive access to it.

## 8.6 Sri Lanka: Country Recommendations

### Demand Side

- **Advocate for greater proactive disclosure of information by the government.**

In the absence of a formal RTI law in Sri Lanka, civil society advocacy can focus on encouraging proactive disclosure of information by the government. Proactive disclosure preempts legal requests for information and avoids the costs of formal filings and administrative procedures by ensuring that information seekers have ready access to public information. Proactive disclosure produces transparency, and can be achieved using a variety of means, ranging from publications and official gazettes to publicly accessible notice boards, radio and television announcements, and official websites. Some important steps in this direction are already being made in Sri Lanka.

- **Utilize transparency provisions in existing laws.**

Building on existing government efforts to disclose information online and through citizen charters at the level of local government, CSOs can utilize transparency provisions in existing laws to bring more information into the public domain. For example, they could create a database of key information pertaining to ministries and public services, operate help lines and facilitation centers, and publish handbooks and guides. By demonstrating the benefits of easy access to information, these pre-legislative activities will strengthen the demand for an RTI law.

- **Create greater awareness among stakeholders of the value of information disclosure.**

On the demand side, CSOs can also play a role in spreading greater awareness of the value and importance of information disclosure, particularly where the information is related to services that directly affect the public.

- **Work with journalists and the media to promote proactive disclosure by the government.**

Efforts to encourage and promote greater proactive disclosure of information by the government should include working with journalists and the media. Stories emphasizing the value of information disclosure and highlighting proactive efforts by government can serve not only to educate the public, but also to recognize those agencies or officials who are setting a positive example of information disclosure.

- **Set an example of voluntary information disclosure by civil society organizations.**

CSOs can also set a positive example by voluntarily disclosing information about their programs, annual budgets, etc.

### Supply Side

- **Promote greater proactive disclosure of information.**

Government departments should be encouraged to proactively disclose key categories of information that are particularly relevant to people's lives. It is recommended that the publication and dissemination of information assume a variety of forms, including leaflets, public meetings, libraries, mobile phones, television, and radio. Putting up display boards in public offices also strengthens the dissemination process and helps to empower citizens with critical information.

- **Establish minimum standards of information disclosure by government departments.**

In the absence of a comprehensive legal right to information in Sri Lanka, efforts can be made to establish basic minimum standards of information disclosure for government departments at various levels. The central government should issue clear guidelines for ideal minimum standards of disclosure. Institutions that meet these standards would be distinguished as "information-friendly," thereby earning political points while also encouraging recalcitrant institutions to strive for better disclosure.

- **Ensure the accessibility, comprehensiveness, and usability of disclosed information.**

Efforts should be made to ensure that information disclosed by government departments is relevant to the public, easy to understand, comprehensive, and easy to access. Committed implementation of the government's official language policy is strongly encouraged to ensure that information is comprehensible to the entire population of Sri Lanka. Specifically, the dissemination of information in Sinhala, Tamil, and English should be a fundamental policy. The ability of citizens to obtain public information in the language of their choice is a crucial feature of an effective, proactive disclosure regime.

- **Ensure that information disclosed is relevant and up to date.**

Information posted online or published physically is of little value if it is not up to date. In Sri Lanka, published and posted information is often outdated and no longer relevant. As a result, many institutions that may be willing to share information fall short of a fully functional disclosure regime. To avoid this, regular updating of relevant information is essential.

- **Promote disclosure of financial information.**

The disclosure of financial information is often resisted by governments at various levels. Disclosure of such information, particularly as it relates to the management and implementation of government programs, would go a long way toward creating broader transparency across Sri Lanka and fostering a relationship of trust between citizens and the government.

- **Encourage citizen participation.**

Providing information to individual citizens and the general public is the core of a proactive disclosure regime. The lack of opportunities for citizen participation in decision-making, budget allocation, and policy formulation is concerning, especially at the subnational level, where public participation might be expected to be a central feature of local governance. Although efforts are underway to remedy this lack, there is still much to be done. Open access to information creates government transparency and encourages public participation in the policymaking process, and citizens should be encouraged to help monitor and enforce a proactive disclosure regime.

## BANGLADESH

### Applying RTI in the Shrimp Sector

Social Activities for the Environment (SAFE), a Bangladesh NGO, has been an advocate for workers' rights in Bangladesh's shrimp sector since 2003.

When the Bangladesh government declared a minimum wage for the shrimp processing industry in November 2009, SAFE decided to study the implementation of the new wage law. This required first determining the number of shrimp processors in the SAFE project area that had adopted the new minimum wage. No one anticipated the long and arduous process that getting such a simple piece of information would entail.

A SAFE staff member, Asad, sought information from the Khulna Department of Labor on the number of shrimp processing plants that had adopted the new minimum wage. On July 15, 2010, Asad went in person to the office of the designated officer (DO), the deputy chief inspector, and applied for the information in accordance with the RTI Act. But the DO did not cooperate, forcing Asad to take his request to the DO's superior, the chief inspector of the Department of Labor. When he failed to get a response, Asad lodged a complaint with the chief information commissioner on September 30, 2010.

Asad was subsequently informed that 39 shrimp factories had implemented the new minimum wage, but SAFE found this number to be incorrect. In fact, only 34 factories were in operation while the rest were closed. In March 2011, after a series of hearings at the office of the chief information commissioner, the commission ordered the deputy chief inspector to provide accurate information to the applicant. The deputy chief inspector and two of his colleagues were also rebuked by the commission for their delaying tactics. Asad finally got the information on March 27, 2011. "My constitutional rights can't be overlooked, as I am a citizen. My persistent efforts finally gave me the results – the requested information. If you try with patience, nothing remains unattainable," said Asad.

All 34 shrimp processing factories in the SAFE project area are implementing the new minimum wage for their workers. And SAFE's request for information has made the Khulna Department of Labor more responsive.

### RTI Empowers Rural Farmers

A community of landless farmers in Amanullah Union, an administrative division in the Bangladeshi port city of Chittagong, successfully challenged the union council and thwarted a plan to impose illegal fees when they used the RTI Act to get a copy of the Amanullah Union's budget for 2010–11.

When the Bangladeshi government announced a new “agriculture input assistance card” to provide cash subsidies to small farmers, the Amanullah Union Parishad (the union council) announced a fee of BDT 20.00 each for the cards. The farmers challenged the decision and asked why they should pay for a benefit the government provided for free. The union council first claimed that the fees were part of union revenues under its annual budget. But the farmers had used the RTI Act to obtain a copy of the union’s budget, which was found to contain no such line item. The union council conceded that the fee was not in the budget, but still argued that it was an essential revenue source for the union. When union officials refused to give farmers a legal receipt for the fee, the farmers organized and eventually defeated the illegal payment scheme.

### **RTI Reveals BGMEA Bhaban Facts**

In early 2011, Bangladesh’s High Court declared that the BGMEA Bhaban, the grandiose new office building of the country’s most powerful trade body, the Bangladesh Garment Manufacturers and Exporters Association, was an illegal construction. The court ruled that the building, located in the Karwan Bazar area of the capital city of Dhaka, had been illegally built on a wetland, and ordered it bulldozed within 90 days.

The garment manufacturers promptly appealed to the Supreme Court. The legal process continues, but the case provides an encouraging example of how green activists were able to use the Right to Information Act.

On July 08, 2009, the Bangladesh Environmental Lawyers Association (BELA) filed an RTI request with Dhaka’s real estate regulator, Rajdhani Unnayan Kortripokkho (RAJUK), for information about the BGMEA Bhaban. BELA was seeking documents approving the BGMEA building plan, explaining why RAJUK allowed BGMEA to build on a wetland, etc. When RAJUK did not respond in a timely manner, BELA applied again on December 17, 2009, but to no avail. BELA then appealed to the secretary of the Ministry of Housing and Public Works, the appellate authority for RAJUK.

When a response was not forthcoming, BELA lodged a complaint with the Information Commission, which eventually forced RAJUK to comply, handing over the requested information to BELA on September 19, 2010. The documents clearly showed that BGMEA had violated the terms and conditions related to the building’s approval. With the documents obtained under the RTI Act, BELA was able to mount a legal challenge against the BGMEA in the High Court of Bangladesh.

### **Recovering His Birth Certificate**

Masud Rana is a resident of Nabagram Road in the divisional township of Barisal in southern Bangladesh. He registered for a birth certificate during a birth registration campaign in October 2010. After months had gone by without a word, Rana enquired with the appropriate office of the Barisal City Corporation, where he discovered that the responsible public officers had lost his birth certificate.

Rana expected the officers to act quickly to rectify their mistake, but instead he found himself asking again and again for his birth certificate, to no avail. Finally, Rana filed a request under the Right to Information Act asking for his birth certificate. It worked. The designated officer for birth registration said he would cooperate if Rana would withdraw his RTI request. The officer did act, and Rana got his birth certificate thanks to the RTI provisions.

Masud Rana later realized that, thanks to an RTI awareness workshop organized by local civic groups, he had effectively exercised his right to information as a citizen of Bangladesh.

## **RTI Made Them Informed Citizens**

Manik Mukhter lives in a village in a northern district of Rangpur. He had seen many public works projects in his area – the government spending taxpayers' money to create seasonal jobs for the rural population – yet he and his fellow citizens were unaware about the true extent of the work going on around them. Manik decided to file an RTI application to find out what projects were planned or underway, the cost and scale of the work, the number of workers employed, and the wages being paid.

On October 6, 2010, Manik Mukhter filed two RTI applications with the office of the Rangpur Sadar Upazila project implementation officer (PIO). In his RTI applications, Manik asked how many people were employed by the Haridevpur Union's employment generation program during the 2009–10 fiscal year; he sought the names of people employed, the wages paid, and the criteria for employment. Twenty days later, the PIO gave Manik a 37-page document. Through Manik's efforts, and the RTI Act 2009, he and his fellow villagers received some vital information about their rights and entitlements, job eligibility, and wages.

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### **Information in the Public Interest**

The International Criminal Court (ICC) adjudicates cases of genocide, crimes against humanity, war crimes, and crimes of aggression. When national governments fail to take action against those accused of these serious crimes, the ICC can intervene. The ICC was established in July 2002, upon the ratification of the Rome Statute by 60 nations; 121 countries endorsed it by December of that year. Nepal did not ratify the statute, despite a July 2006 directive of the House of Representatives. The foreign minister's proposal for taking a bill to Parliament in February 2011 failed to get cabinet approval. The government had also formed a task force on October 18, 2006, to study the obligations that would result from joining the ICC, but their report had not been made public.

On December 25, 2011, Taranath Dahal submitted an application to the information officer at the Ministry of Foreign Affairs, asking for a copy of the task force report that had been presented to the deputy prime minister and minister of foreign affairs on December 14, 2006. He also sought information on work done by the government in connection with ratification, and when the government planned to take the bill to the Legislature-Parliament.

Failing to obtain the information, Dahal directed his request to the secretary at the Ministry of Foreign Affairs, the appellate authority. In response, a section officer wrote back saying that the information sought could not be provided because it was "about issues related to the views Nepal would adopt in terms of bilateral, regional, and multilateral relations, and [also because] a meeting of the Information Classification Committee chaired by the chief secretary had decided that such information need not be given." (At about the same time, the government made public a list of 140 kinds of information it had categorized as "classified," which the Supreme Court later struck down.)

Freedom Forum appealed to the National Information Commission (NIC) on February 6, 2012. In addition, it asked the Commission to annul the government's classified information system. The NIC ruled on the appeal that same week, and ordered Durga Prasad Bhattarai, secretary at the Ministry of Foreign Affairs, to deliver the requested information within seven days. The Ministry delivered the information about 15 days after the NIC order.

The Ministry of Foreign Affairs provided photocopied pages of the task force report, and explained that the cabinet had not approved its decision to take a ratification proposal to Parliament in February 2009. It was also this case that for the first time referred to the government's attempt to classify information, which was subsequently annulled by the Supreme Court.

## **Investigation Committee Reports**

The formation of investigation committees has been a normal practice in Nepal, as has the tendency to let matters rest unchanged after the committees report. Successive governments have thought it unnecessary to make the reports public. As with the investigation of the murder of J.P. Joshi, the government had not released the report of the investigation of civil disorder in the Kapilvastu District in 2007.

### **a. Report on the riot in Kapilvastu**

Riots had spread across the district following the murder by unidentified gunmen of one Moit Khan, a resident of Ward No. 7 of Birpur VDC. Violence in 12 VDCs had resulted in the loss of 23 more lives and the destruction of property. The leader of a committee of victims requested the Home Ministry to provide information on its investigation of the riots, as this would be the basis of any compensation they would receive from the government.

He filed an application in May 2010 seeking access to the report of the investigation committee. In response, the information officer said a copy of the report could not be provided because the Council of Ministers had not decided to make it public. The petitioner filed another application addressed to the secretary of the Home Ministry. Failing again to obtain the report, he appealed to the NIC on August 18, 2010.

On September 2, the NIC ordered the Home Ministry to provide the information. However, the information officer responded that the information could not be provided in accordance with the classification of information in the RTI Act. The NIC wrote back to the Ministry on January 31, 2011, asking why the head of the Ministry should not be punished. The Ministry eventually provided the information to the NIC on February 11, 2011.

### **b. Report of a property investigation**

In Fiscal Year 2001–02 His Majesty's Government of Nepal had formed a judicial commission led by Supreme Court Justice Bhairab Prasad Lamsal to investigate the property of all individuals who had held public office since 1990. The commission had submitted its report to the government, based on which the Commission on Investigation of Abuse of Authority (CIAA) had detained some politicians and government officials for further investigation. The courts were still examining some cases filed by the CIAA when this report was completed, and some of the accused were serving jail terms.

The CIAA investigation report, however, had not been made public, and there were accusations that the CIAA had arbitrarily targeted some suspects and ignored others. Taranath Dahal and Sanjeeb Ghimire of Freedom Forum filed an information request with the CIAA seeking access to the report. They asked for names of individuals facing corruption charges based on the commission's report, and the statements of the suspects. They also wanted information on the status of cases that the commission had recommended for further investigation, and the names of public agencies whose officials faced corruption charges and investigations.

The CIAA did not deliver the information requested, nor did it give a reason for its refusal. Next, the applicants took their case to the chief of the CIAA, to no avail. They then appealed to the NIC. The CIAA provided partial information after an NIC order on December 20, 2012, but withheld some information.

The CIAA provided the names of individuals charged, and details of the charges, in 33 cases of graft based on the report (which had recommended charges against 508 individuals). It also revealed that additional investigations had been pursued against another 474 individuals named in the report, but that this phase of the probe was not complete. It did not make public the names of those who had been charged on the basis of the additional investigations.

## **Journalists Using RTI to Access Information**

Unidentified assailants had killed Jagat Prasad Joshi, a journalist in Kailali District on November 28, 2008. On December 3, the government formed an investigation committee headed by Umesh Prasad Gautam, a lawyer, and gave it 15 days to submit its report. The committee included a representative of the police, and a journalist. It submitted its report to Prime Minister Madhav Kumar Nepal 11 months later, on November 1, 2009. All this while, the family of Joshi had received no support from the government, which had also made no effort to apprehend the killers.

Ramji Dahal, a reporter at *Himal Khabarpatrika*, sought information on the committee's work and published a story. Information obtained using the RTI Act helped him reveal that the team had spent NPR 3 million on a probe that was supposed to have been completed in 15 days.

On January 26, 2010, Dahal asked the Home Ministry for information on the committee's expenditures, including bills and receipts. The next day, the Home Ministry informed him that it had no information on the workings of the probe committee. The same day, however, a source at the Ministry provided some information about the funds that had been released for the investigation and some details of the expenses. This information showed that the committee had a budget of NPR 3.096 million, and that it had spent NPR 2.9 million in 11 months. The story was published by *Himal Khabarpatrika*, following which a Council of Ministers meeting on January 24, 2011, decided to provide NPR one million as compensation to the family of the slain journalist.

Because the information provided was not complete, Dahal made another request to the secretary of the Home Ministry on February 2, 2010. When he had not received the information in seven days, Dahal appealed to the NIC on March 7. On March 19, the NIC ordered the Home Ministry to deliver the information sought by Dahal or give reasons why it would not do so. The Ministry responded on March 22 that the requested information had been delivered, but that it was not possible to provide the bills and receipts because the accounts had not been audited. On May 17, 2010, the NIC ordered the Ministry to provide the information, as there were no lawful reasons for not doing so. Thereafter, the Ministry provided copies of the requested bills and receipts.

The information showed that the committee had spent NPR 14,000 on telephone recharge cards; it had spent NPR 90,000 on petrol on a single day, yet a look at the vehicle's travel log revealed that it had not travelled outside the Kathmandu Valley on that day.

## **RTI Act Protects Whistleblowers**

The RTI Act of Nepal includes extensive protections for whistleblowers. Section 29 requires employees of public bodies to provide information on corruption or irregularities, or the possibility thereof, and makes it a duty of the recipient of this information to protect the identity of the whistleblower. Another section of the law says that the whistleblower shall not be punished for having given information, and if punished, can seek compensation and reversal of the punishment. This provision was tested in a decision by school authorities against a teacher in Far-Western Nepal.

#### a. RTI helps reinstate teachers

Pushpa Karki, a teacher at Saraswoti Lower Secondary School in Dhangadhi in the Far-Western Region, had given information to the media about irregularities taking place at her school, revealing that teachers there discriminated against Dalit students. Following the media reports, on May 27, 2009, the school authorities wrote ordering her to stop teaching classes.

Karki asked the school authorities the reason for their decision, but they refused to say. She then requested the same information from the Kailali District Education Office (DEO). The DEO told her she was being transferred with “good intention” to a more convenient workplace closer to her home. However, the office was also withholding her salary and allowances.

On August 25, 2009, Karki petitioned the NIC to reverse the transfer order, claiming that she had been punished for being a whistleblower. In response, on August 27, the NIC ordered the DEO to reinstate her at her old workplace, and to restore her salary and allowances pending a decision on her petition.

The DEO responded to the NIC on November 13, 2009, arguing that the School Management Committee had the right to take action against a teacher, and that school officials did not discriminate against Dalits as claimed by Karki. The letter also accused Karki of violating the code of conduct for teachers, and said she was wrong to have approached the NIC. The allegations against Karki grew over time. The school authorities wrote letters to the DEO accusing her of manhandling their family members, opening the school on a public holiday without permission, and stealing important documents.

Karki reported the DEO’s collusion with the school authorities to the NIC, called their allegations false, and asked the NIC to expedite its decision on her case. She also told the NIC that its ruling of February 21, 2010, ordering the DEO to reinstate her at the school and restore her salary and allowances, had been ignored.

The NIC wrote a second letter to the DEO, asking why the district education officer should not be punished, in accordance with Section 32 of the RTI Act, for ignoring its earlier directive, adding that the law provides for a fine of up to NPR 10,000 for non-compliance. The DEO did not respond, leading the NIC to issue a third letter on May 13, 2010. This time the NIC decided to find out whether Karki had been punished for whistleblowing, or for something else, and it ordered the DEO to document its allegations. This letter was also copied to the Ministry of Education. After examining the evidence, the NIC concluded that Karki had been punished for blowing the whistle on discrimination and other misconduct at the school.

The NIC ruled that no action could be taken against any employee for simply making information public, particularly information that ought to be revealed. It also penalized the DEO for failing to comply with its earlier order, and for failing to justify its non-compliance. Concluding that its order had been deliberately flouted, the NIC ordered the DEO to pay a fine of NPR 5,000 under Section 32 (5) of the RTI Act.

The DEO appealed the fine to the Appellate Court, and petitioned the NIC on August 13, 2010, to suspend the fine. Karki has been reinstated at her school (she is currently deputed to Lalitpur District). The Appellate Court was examining the DEO’s appeal at the time of this writing.

In another school case, Devendra Pratap Singh, a teacher at Budhanilakantha School in Kathmandu, requested information from his school on December 16, 2011, regarding recruitment and promotion of employees, enrollments, financial transactions, budgets, and audit reports. The school principal denied his request and instead fired him from his position as head of the Department of Social

Sciences on January 17, 2012. Singh appealed the school's decision to the NIC on January 20, seeking protection under Section 29.

In response, on April 30, 2012, the NIC ordered the school principal to show cause for his actions against Singh. In his reply, the principal said Singh had been removed from his job for committing acts against "the betterment of the school, under the influence of unscrupulous elements," and for his "involvement" as secretary of the staff union. He specified that Singh had not been fired just because he had requested information.

Unconvinced, on August 10, 2012, the NIC invited the principal to its office to make his case in person. On October 2, 2012, the NIC ordered the school to reinstate Singh, who it concluded had been fired for seeking information. It also concluded that the principal's claims that Singh had given false documents to the NIC and had acted to bring disrepute to the school were not true. The school informed the NIC of Singh's reinstatement on October 5, 2012.

## **RTI and Democracy**

Nepal held elections for its first Constituent Assembly (CA) on April 10, 2008. Its 601 members were required by statute to promulgate a new constitution in two years. When it failed to do so, the CA's term was extended several times, until it was finally dissolved in May 2012 following a Supreme Court ruling. The inability of the CA to produce a constitution had led to widespread criticism of lawmakers and the waste of public resources. On May 26, 2011, Taranath Dahal of Freedom Forum filed an application seeking information from the Parliament Secretariat. He asked for information on:

- The number of CA meetings in the previous three years, with dates, times, and attendance.
- The number of committee meetings, with attendance and the records of the meetings.
- The number of Legislature-Parliament meetings after 2008, with dates and times.
- The number of bills approved by the CA and the Legislature-Parliament, with titles, dates and times.
- The details of salaries, expenses, and perks of all members.
- The number of foreign trips made by the 601 members, with names and countries visited.
- The names of members who had health check-ups, with dates and costs.
- The expenses of CA members on district and constituency visits, with names of members and itineraries.
- The expenses of the CA in drafting the constitution, with details of the relevant budget and expenditure lines.

Unable to obtain the information in 15 days, Dahal filed an application with the Chairman of the CA and the Legislature-Parliament Secretariat. The Parliament Secretariat provided most of the requested information in about a month. The expenditure details were not included, largely because of poor record keeping by the Secretariat, but Dahal was assured that he would receive those details at a later date.

### **a. Salaries and perks of parliament members**

On June 4, 2012, Sharada Bhusal, the coordinator of the Mahottari anti-corruption campaign, asked the Parliament Secretariat for information on the expenses of CA members. She asked for details of all meetings held, their minutes, progress reports of CA activities, and the names of all the different committees formed by the CA and their duties and responsibilities. The Parliament Secretariat provided Bhusal with the information on June 8, 2012. According to the records, the expenses, including salaries, allowances, and perks, added up to NPR 2.93 billion.

## **b. RTI helps judge's reinstatement**

In 2004, the Judicial Council dismissed Chitra Dev Joshi, a judge at the Syangja District Court, for allegedly making defamatory remarks against King Prithivi Narayan Shan, Nepal's founder. Joshi denied making defamatory remarks, and challenged the Council for denying him access to the documentary evidence and the right to make a statement before his dismissal.

Joshi sought information on his dismissal from the information officer at the Judicial Council on January 11, 2010. He wanted to examine the documents used by the Council to make their decision. The information officer denied the request, and Joshi's subsequent appeal to the head of the office was also denied. Next, Joshi appealed to the NIC.

On March 1, 2010, the NIC asked the Council for its reasons for not providing the information. The Council responded with several justifications. It argued that Article 27 of the Interim Constitution allowed it to withhold "information that should be kept secret under law," and that its own regulations also did not require such information to be made public.

The NIC summoned the head of the Council to appear at its offices on March 16, 2010, but the summons was ignored. The NIC wrote to the Council again on April 15, 2010, ordering its representatives to appear at the Commission within a week. The Council's section officer, Madhav Prasad Poudel, appeared at the NIC and argued that the information could not be released because the case had reached the Supreme Court, and the Council would be required to present the documents in court.

On May 19, 2010, the NIC wrote again to the head of the Judicial Council and the information officer, ordering the Council to deliver the requested information within 15 days, and citing the same article of the Interim Constitution cited by the Council, as well as the Judicial Council Law and Regulations, as justification. But the Council did not provide the information. Eventually, after repeated follow-up, the Judicial Council delivered the information to the NIC on February 9, 2011. The Council had also filed a writ at the Supreme Court, however, challenging the NIC order, saying that it had caused the Council to break the law by forcing the disclosure.

The information revealed that Chitra Dev Joshi had not used the words he was accused of using, and that the recording of his remarks did not provide grounds for dismissal. He was eventually restored to his position when the Supreme Court ruled that the dismissal was illegal.

## **RTI in local government**

Two women and a man from Banauli-Danuli VDC in Mahottari District started a fast-unto-death hunger strike demanding an investigation of the corruption in their VDC, and punishment of the guilty. After 13 days, the prime minister's office sent a team to the area and convinced the hunger strikers to break their fast, assuring them that the government would make efforts to address their demands.

When these assurances proved empty, one of the hunger strikers, Sharada Bhusal, filed an information request at the Ministry of Home Affairs. She wanted a copy of the investigation commission's report, which she received in about 35 days. The report confirmed the hunger strikers' allegations, and showed that corruption was widespread in the VDC. The report also recommended remedial actions by the Ministry of Local Development and further investigation by the Commission for the Investigation of Abuse of Authority (CIAA). But following the CIAA probe, the accused VDC secretary, who had earlier been suspended, was allowed to return to work.

On October 30, 2012, Bhusal filed an application at the CIAA demanding that its report be made

public. CIAA refused to provide the information, saying that the investigation was still underway. Bhusal also asked why the suspension of the VDC secretary had been lifted. It was only after an appeal to the NIC that the CIAA provided some information, but there was still no explanation of why the VDC secretary had been reinstated. Bhusal filed yet another appeal, seeking this information, but the situation remained unresolved at the time of this writing.

## **RTI in local development**

Jumla is among Nepal's most under-developed districts. It lies in the country's northwestern region and is one of five districts of the Karnali Zone. Three village development committees in Jumla – Ghode Mahadev, Raralihi, and Malika Dhanta – came together in 2011 to build a road connecting their villages. Their idea was to lobby the government for a bridge on the Tila River.

Following a meeting in December 2011, 18 villagers and three VDC secretaries traveled to Kathmandu to lobby for the bridge. The team included representatives from every ward of the three villages. The team of 57 had come to the capital with NPR 200,000 drawn from the development budgets of the three VDCs.

In Kathmandu, the team stayed in cheap lodgings and spent the month of January lobbying for the bridge. They met the prime minister, other ministers, and members of the National Planning Commission (NPC), and they were assured that the government would allocate funds for the bridge. Their meeting with the prime minister appeared as a main story in the state-run newspaper, *Gorkhapatra*. The story called the bridge a government priority. The team returned to Jumla with confidence that their application had reached the Department of Roads from the NPC, and that construction would begin the following year.

Seven months later, Dan Bahadur Basnet, a young activist from Malika Dhanta, came to Kathmandu for a week of RTI training. As part of the training, he wrote an RTI application seeking information on the status of the villagers' request. He filed his application on September 11, 2012, at the Department of Roads (DOR) and received a call five days later asking him to come and collect the information. The file, signed by a DOR officer, said the bridge on the Tila River had been listed as a project, but its "survey, cost estimate, and design" had not been carried out for lack of a budget. It also said that from 2013, bridge construction over local rivers would be handled by the Local Infrastructure Development and Agricultural Roads Office under the Ministry of Local Development.

Basnet took the information back to Jumla and gave copies to all three VDCs. After receiving the information, the locals asked their VDC secretaries to account for their spending during the Kathmandu visit. It turned out that the VDC secretaries had actually spent some NPR 900,000 out of the VDC development budget on the lobbying trip to Kathmandu. Based on the information obtained through RTI, local youths in the area have been demanding that the local party cadre that accompanied the secretaries on the trip to Kathmandu pay back the money.

## **RTI and municipal transparency**

Municipal bodies managing Kathmandu Valley's public parking spaces had never been transparent. Parking contractors were not selected by competitive bidding, and no rules had been issued on parking fees. Contractors charged different rates in different areas, fees often changed arbitrarily, and there was no information on where the money went. On July 19, 2012, Sanjeev Ghimire of Freedom Forum filed an RTI request with the Kathmandu Metropolitan City and the Lalitpur Sub-Metropolitan City seeking the following:

- Copies of policies, guidelines, and decisions on parking spaces.
- Information on public spaces designated as parking zones.

- Details on parking spaces leased out to contractors or individuals, their names, the conditions of the contracts, etc.
- Parking income of municipal bodies from 2008 to 2011, with details for each parking area.
- Numbers and types of vehicles that used the parking lots from 2008 to 2011, with separate information for each parking area.

The municipal bodies failed to provide the information within 15 days. After several reminders, the applicant submitted a petition addressed to the chief executive, but it was denied because the clerk said he needed authorization from higher officials to accept an application. The chief executive could not be contacted. Instead, the acting chief offered to provide information, but he would not give permission to register an appeal with the appellate authority. On his next attempt, on August 28, 2012, Ghimire visited the office while the chief executive was present. This time he was given additional information, but still not everything he requested.

On October 3, 2012, Ghimire took his appeal to the NIC. The NIC ordered the municipal bodies to provide the information, which they still did not do. Kathmandu municipal officials eventually provided most of the information, but withheld the contracts.

The information confirmed the arbitrary leasing of parking spaces, and because the contracts were withheld, there was reason to suspect further irregularities. The case also showed that the two cities had a poor idea of their responsibilities under the RTI Act.

## PAKISTAN

### Prime Minister's Overseas Trips

Under the Freedom of Information Ordinance 2002, RTI activist Saleem Iqbal filed a request with the Ministry of Foreign Affairs seeking information on the total number of foreign trips made by the prime minister from April 2008 to March 2012, and the total cost of the prime minister's air travel, accommodations, and miscellaneous expenses. After the request was initially denied, the Ministry eventually complied, under orders from the ombudsman, revealing that the prime minister's travels during the period had cost a total of PKR 49,102,313.

### Renovation of Commissioner's Residence in Sahiwal

Haji Abdul Rehman, age 61, is a permanent resident of Sahiwal. He filed an application with the local building department seeking details of the lavish expenditures on construction and maintenance of the commissioner's house at a time when the area was flooded. After pursuing his RTI request methodically but unsuccessfully for six months, Rehman appealed to the provincial ombudsman on the recommendation of local NGO's.

The ombudsman called each party and initiated a complaint proceeding, ordering the building department to provide the requested information. Since then, however, the building department has appealed the provincial ombudsman's order to the governor of Punjab. This is the first time that a public agency in Pakistan has contested an order by the provincial ombudsman, and the matter is still pending at the time of this writing.

### Anti-Narcotics Force Budget and Performance Information

The Centre for Peace and Development Initiatives (CPDI) submitted an information request under the Freedom of Information Ordinance 2002 to the secretary of the Ministry of Narcotics Control.

CPDI was seeking information about the total quantity of narcotics recovered from July 2008 to June 2009, and the total current and development budget of the Anti-Narcotics Force (ANF) during the same period.

Shortly after the request was submitted, CPDI was visited by an ANF official saying he was there to check their credentials. CPDI heard nothing more after this visit, despite a number of letters to other relevant departments. Finally, CPDI filed a complaint with the federal ombudsman that produced results: documents detailing the various quantities of opium, heroine, hashish, and morphine recovered in 2008–09, and showing a total ANF budget for that period of PKR 622.78 million, and a total development budget of PKR 93.625 million.

### **Attendance Record of the Sindh Assembly**

Zahid Abdullah filed an information request with the secretary of the Sindh Provincial Assembly under the Sindh Freedom of Information Act 2006, seeking the attendance records of each member of the Assembly for the 2010–11 parliamentary year. After the request was denied, a complaint was filed with the ombudsman that resulted in the release of the requested information.

### **Project Information about the Biometric Identification Electronic System Phase I**

Qambar Abbas filed an information request with the Sindh Information Technology Department under the Sindh Freedom of Information Act 2006, to discover how funds were allocated and spent for the Biometric Identification Electronic System Phase I project in Fiscal Year 2010–11. When the requested information was not forthcoming, he lodged a complaint with the provincial ombudsman. On the ombudsman's orders, the Department reported that the budget for the project in fiscal year 2010–11 was PKR 88.97 million, of which PKR 71.28 million was spent. The Department also provided a copy of the project contract.

### **Education and Budget Allocation**

Malik Saleem Iqbal filed an information request with the district of Mianwali under Article 137 of the Local Government Ordinance 2001, seeking the Fiscal Year 2009–10 budget for education projects in the district, the revised budget, and actual spending on all education projects. After first denying the request, the district eventually complied under an order from the ombudsman, revealing that a total of PKR 171.362 million was allocated for education projects in Mianwali in Fiscal Year 2009–10, and detailing spending on each individual project.

### **Crime Statistics from the Mardan District Police Office**

Imran Khan filed an RTI request for crime statistics from the Mardan District Police Office. The Office refused to provide the information, and referred the request to the deputy inspector general (DIG). The DIG office also refused to provide the information. After several follow-ups and meetings, DIG forwarded the information to the provincial police officer of Peshawar for approval, but there was no response. Finally, Khan approached the provincial ombudsman, who promptly responded to the complaint stating that as there was no provincial RTI law, the complaint was outside the ombudsman jurisdiction.

### **Total Budget for the Construction of a Bridge at Pirsabaq, Nowshera**

Under Article 137 of the Local Government Ordinance 2001, Qambar Abbas filed an information request with the Nowshera Works and Services Department asking for information on the total budget for the construction of a bridge at Pirsabaq, Nowshera, and a certified copy of the project.

Following an order from the ombudsman, the office of the executive engineer of the Nowshera Communication and Works Department provided the requested information, showing that spending on the Pirsabaq Bridge in Fiscal Year 2010–11 was PKR 10.051 million, and the total spent as of the date of the report was PKR 90.8491 million.

### **Information about a Bridge Construction Project at Koral Chowk, Rawalpindi**

Under the Freedom of Information Ordinance 2002, Qamber Abbas requested information from the Capital Development Authority (CDA) concerning funds allocated for bridge construction at Koral Chowk. When the CDA denied his request, he appealed to the federal ombudsman. The information that was subsequently provided showed that there was no project under way at that location, and that no funds were allocated for such a project in Fiscal Year 2010–11.

### **Information about a Bridge over the Jhelum River at Azad Pattan**

Under the FOI Ordinance 2002, Qamber Abbas requested information from the National Highway Authority (NHA) regarding the construction of a bridge over the Jhelum River at Azad Pattan. When ordered by the federal ombudsman, the NHA stated that no NHA funds had been allocated for the construction of the bridge, but that expenses totaling PKR 150,867 was incurred on the bridge and was met through PSDP allocation for Fiscal Year 2010–11.



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