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## RTI Footprints in South Asia: Tapping its potential for public causes



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Our region is well-known for its deep-rooted culture of official secrecy inherited from colonial times. So why the proliferation of a rigorous law that gives citizens a tool to probe their governments and restrain their arbitrary use of power? Nearly all countries in South Asia have now enacted a Right to Information (RTI) Act.

The answer may lie in the fact that the majority of around 115 countries worldwide which have adopted the law so far have done so in little more than two decades following the demise of the Soviet Union and the emergence of newly independent democratic states from its ashes. The world seems to have suddenly discovered the importance of transparent and accountable governance for democracy.

But adopting a law is not the same as using it. This is evident from the extent and nature of the application of the law in the region.

In India, the law got off to a heady start from the beginning, as evidenced by the large number of RTI requests filed with public authorities annually, at both federal and state levels. That has not been the case in other countries, where the number of requests, both in absolute and relative terms, is much smaller. In terms of the nature of RTI requests, except for India and more recently Sri Lanka, the law is used more for personal reasons than for public causes. Unless the latter happens and RTI footprints in a country deepen, the efficacy of the law will be minimal.

Below are a few recent examples from the region showing how the law has been used to obtain strategic information from public offices.

## **Sri Lanka:**

The Airline Pilots Guild of Sri Lanka filed an RTI request to the SriLankan Airlines for all correspondence and information, including profits, losses and damages, related to its entry into a lease agreement with Pakistan International Airlines (PIA) and subsequent termination of that contract; information related to the cancellation of orders for Airbus A350s from another airline; details of salaries, allowances and other benefits of the CEO, the Head of Human Resources and the Chief Commercial Officer.

After the carrier refused the request citing exemptions, the Pilots Guild lodged an appeal with the Right to Information Commission of Sri Lanka. After hearing arguments from both sides, the RTIC ordered SriLankan Airlines to release nearly all the information sought. It was revealed that SriLankan's CEO received a monthly salary of Rs 3.27 million; his flying training cost the national carrier USD 23,568; he received a company-maintained vehicle and driver; and SriLankan Airlines agreed to pay a total of USD 161 million to terminate the lease agreements for four Airbus A35.

## **India 1:**

As in Bangladesh, prisons in Uttar Pradesh (UP), India, are heavily overcrowded, lodging a much larger number of prisoners than they can accommodate comfortably. About 60 percent of the prisoners are under trial, many having stayed in jail longer than the prison terms prescribed under the law for their offences.

In response to an RTI query from a member of the National Campaign for People's Right to Information (NCPRI), the Inspector-General (Prisons) of UP admitted that the total number of prisoners lodged in state jails is more than the maximum population of prisoners they can support. His response was used to file a public interest litigation to the Supreme Court, which issued a notice to the Centre and all states giving them five weeks' time to respond. The SC also issued a notice to the National Crime Records Bureau and urged it "to intervene and direct government to frame a policy to grant bail to prisoners facing trial for offences in which punishment ranges between three and seven years."

## **India 2:**

To find out about the incidence of medical negligence in hospitals in the Gurgaon district near New Delhi, an activist filed an RTI request to the district authorities. The disclosed information revealed that from 2016 to 2017, there were 46 cases of gross medical negligence at private and government hospitals in the area. Inspection reports on both small and large hospitals, filed by the Food and Drugs Department of the Haryana government, revealed various lapses. Another damning report resulting from a different RTI request revealed that over 224 private clinics in the Gurugram district were being operated by charlatans. As a result of the revelations, the Haryana government is considering bringing in a Clinical Establishment Act to address the problem.

## **Nepal:**

Nepal is often crippled by shortages of petroleum products. Waiting for hours in long queues for a small amount of petrol causes hardship to students, office-goers and people from all walks of life. The inability of Nepal Oil Corporation (NOC) to clear debt owed to the Indian Oil Corporation was cited as the reason for the short supply of petroleum products in the country.

However, the statement of the then Supply Minister of Nepal differed with the NOC's claim and exposed that the real reason for the crisis was management, inefficiency and distribution of free coupons by NOC. An activist filed an RTI request seeking the names of free coupon beneficiaries and the criteria for their eligibility. NOC replied that no record was kept of the recipients of free coupons and thus no information was available. On appeal, however, the National Information Commission (NIC) of Nepal ordered NOC to disclose the requested information, which was done. Since then, there has been a complete halt in free coupon distribution.

## **Pakistan:**

In Pakistan, an assistant professor of a government college in Lahore filed an RTI request to the Public Information Officer (PIO) of the Higher Education Department of Punjab under the Punjab Transparency and Right to Information Act 2013. He sought copies of the probe report made on him by the Directorate of Public Instruction (DPI) of colleges, the summary of the report sent to the Chief Minister and the latter's order on the summary.

Unhappy with the non-cooperation of the PIO and not receiving the requested information, the applicant filed a complaint to the Punjab Information Commission. At the hearing, the Commission told the PIO that he was duty bound under law to provide the requested information, irrespective of the views of his seniors. The information could only be withheld if its disclosure would harm any of the interests mentioned in the law. And as the summary of the report to the CM was already approved, indicating that the deliberative process on the matter was completed, the disclosure of the information would not be premature.

The above are only a few examples of the varied use of RTI in South Asia. Though the law has not lived up to the expectations of its ardent supporters, except perhaps in India and, more recently, Sri Lanka, it is hoped that once the potential of the law is better known, the situation will change.

While citizens are the prime movers of the law, governments can help by inculcating a sense of confidence in—and ensuring protection of—applicants who fear retaliation from those affected by the disclosure of sensitive information. The Information Commission too can play a decisive role by encouraging prospective users through a teleological application of the law.

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