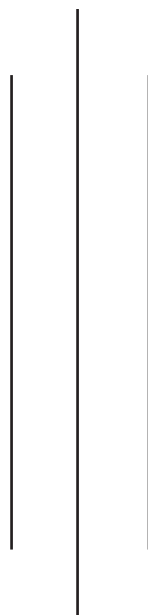


*Unofficial
Summary*

National Information Commission
Summary of Annual Reports
(Fiscal Year 2008-09 to 2013-14)



National Information Commission
Kathmandu, Nepal

Message from Chief Information Commissioner

We are pleased to bring you this book-- Summary of Annual Reports (Fiscal Year 2008-09 to 2013-14) –with an overview of actions and achievements made by National Information Commission (NIC) since its establishment in 2007. As the title suggests, this book is a summary of the NIC's annual reports published since the fiscal year 2008-09 to date. Although NIC has been publishing its Annual Reports in Nepali language every year, this is the first of its kind publication of NIC in English language. This book is designed basically to provide information about its activities and challenges faced so far by the NIC in the implementation of Right to Information Act, 2007 to larger audience.

This book consists of summary of the complaints, appeals received and decision taken on those complaints and appeals by the NIC and promotional activities and other activities carried out so far to fulfill its mandate to protect, promote and enforce citizens' right to information. The report also consists of summary of monitoring and evaluation activities carried out so far and list of recommendations made by the NIC to the Government to Nepal in order to bring effective implementation of Rights to Information Act, 2007.

I thank journalists Kosh Raj Koirala, Kamal Dev Bhattarai and Lekhnath Pandey and Shanti Ram Sharma for bringing out summary of NIC's activities in the present form after going through the NIC's annual reports published so far. Without their hard work, this book would not have come to this shape. I hope this report will be useful for all those interested to learn about major activities carried out by the NIC and the researchers and others alike would find it equally valuable to understand Nepal's experience in the implementation of Right to Information Act, 2007. Readers may access this report also through our official website – www.nic.gov.np.



.....
Krishna Hari Baskota
Chief Information Commissioner

Every citizen shall have the right to demand or receive information on any matter of his or her interest or of public interest. Provided that nothing shall be deemed to compel any person to provide information on any matter of which secrecy is to be maintained by law.

Article 27, Interim Constitution of Nepal, 2007

Whereas it is expedient to make the functions of the state open and transparent in accordance with the democratic system and to make responsible and accountable to the citizen; to make the access of citizens simple and easy to the information of public importance held in public bodies; to protect sensitive information that could make adverse impact on the interest of the nation and citizen, and for the necessity to have legal provisions to protect the right of the citizen to be well-informed and to bring it into practice, the 'Legislature-Parliament' has enacted this Act.

Preamble of Rights to Information Act 2007

Everyone has the right to freedom of opinion and expression. This right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers.

Article 19, Universal Declaration of Human Rights, 1948

"Freedom of information is a fundamental right and is the touchstone of all the freedoms to which the United Nations is consecrated."

United Nations Resolution 59 (1) endorsed in 1946

National Information Commission



Krishna Hari Baskota
Chief Information Commissioner



Kiran Kumar Pokharel
Information Commissioner



Yashoda Devi Timsina
Information Commissioner



Laxman Prasad Mainali
Secretary

A Brief Introduction of National Information Commission

National Information Commission (NIC), Nepal is an independent statutory body established under the Right to Information (RTI) Act, 2007 with the objectives of protection, promotion and exercise of right to information. The RTI Act, 2007 was introduced with the objective of making functions of state open and transparent in accordance with democratic system and making responsible and accountable to the citizen, making simple and easily accessible the information of public importance held in the public bodies to the citizens, protecting sensitive information that could make adverse impact on the interests of the nation and citizens and making level provisions to protect the right of the citizens. Its office is located in Kathmandu.

NIC consists of Chief Information Commissioner and two other Information Commissioners. While a committee comprising of Speaker of Legislature-Parliament as chairperson, Minister for Information and Communications and President of Federation of Nepalese Journalists (FNJ) as members makes recommendation for the Chief Information Commissioner and other Commissioners, the Government of Nepal (GoN) makes appointment of them through cabinet decision. The term of Chief Information Commissioner and other Commissioners is of five years. Chief Information Commissioner and Information Commissioners cannot get re-appointed as per the existing legal provisions.

Right to Information (RTI) Act has made a provision for individual, who is denied of information related to public importance, to file a complaint with the NIC within 35 days of such notice received. NIC is authorized to summon and take statement of the concerned Chief or Information Officer, direct him/her to submit written document, take statement of witness and evidence or demand any document from public body while investigating and deciding the appeal received. While investigating and deciding on the appeal, NIC may order the concerned Chief to provide information to the applicant without fee, if appeal is found reasonable, dismiss the appeal if it is found not reasonable and give final verdict on the appeal within a specified time.

NIC is mandated to observe and study the records and documents of public importance held in public bodies, order for maintaining list of information related to the document, order concerned public body to make information public for citizen's notification, prescribe timeframe and order concerned public body to provide information demanded by applicant within such timeframe and order concerned party to fulfill liabilities in accordance with the RTI Act, 2007. Providing necessary suggestions and recommendations to Government of Nepal and various other public bodies regarding the protection and maintenance of right to information and issuing other appropriate orders regarding the protection, promotion and exercise of right to information are also among the duties of NIC.

NIC's Chief Commissioner or Commissioners must be persons of eminence in public life with wide knowledge and experience in law, justice, public administration, information technology, management and mass communications and journalism. The Chief Information Commissioner and other Commissioners must have received at least Bachelor Degree from a recognized University and possess fifteen years of working experience in their respective fields. NIC Chief Information Commissioner and other Commissioners shall not hold any other office of profit or be associated with any political party or hold any business or pursue any profession. Former Secretary Mr. Krishna Hari Baskota is currently serving as Chief Information Commissioner while senior journalists Mr. Kiran Kumar Pokharel and Ms. Yashoda Devi Timsina are serving as Information Commissioners.

Preface

Right to Information Act, 2007 was introduced with the objective of ensuring people's access to information on issues related to public importance in order to make the activities of government transparent and rulers accountable to ordinary people. An independent National Information Commission (NIC) was formed subsequently to protect and implement people's Rights to Information (RTI). Although a modest achievement has already been made in the field of people's rights to information through the collective efforts of NIC, Government of Nepal, non-government organizations and citizens, there is still a long way to go to ensure easy access of public information to citizens.

Citizens' easy access to public information not only helps to ensure accountability on the part of the state but also ensures good governance in the country. This enables citizens to learn if the government is carrying out its activities in proper manner. Easy access to public information equally helps to increase people's participation and access to governance and helps to ensure supremacy of citizens. As 'openness' and 'transparency' are pillars of democracy, all concerned stakeholders including the government, civil society, media organizations, journalists, information seekers, information providers, political parties and non-government organizations need to be active in bringing effective implementation of the Rights to Information Act, 2007.

NIC's own experience is a testimony to the fact that the implementation of RTI Act will contribute to the economic growth of the country through effective public service delivery. This will also help in raising people's income level, generating employment opportunities, alleviating poverty, ensuring equitable price of goods and services, ending cartels and hoarding of daily essentials and ensuring timely maintenance of public utilities including broken electricity supply, drinking water facilities and telephone service. It is also through the effective implementation of RTI Act, 2007 university students have now been able to see and get a copy of answer sheets of their examination if they are not convinced with the marks obtained. The more we are able to implement the RTI Act, the more we will be in a position to make public bodies accountable to the people. This will help end dilly-dallying in citizens' works and curb endemic corruption and irregularities seen in the works of government bodies. This can positively contribute to make sure that programs run through tax payers' money yield expected returns to the people.

Nevertheless, formulation of laws alone does not help to achieve these successes. A dedicated administration, active citizenry and mass media and RTI activists are a must to implement those legislations. Over the past seven years since its establishment, NIC has been conducting various promotional programs including providing orientation to government officials, civil society organizations as well as individuals working in the field of people's right to information to make them further active in promoting people's rights to information. Other programs conducted by NIC even in the face of resource constraints include training, orientation, interaction, discussions and seminars.

NIC has also been preparing documentaries, poster, pamphlets, brochures, SMS awareness message, songs, success stories, radio programs and promotional materials in different local languages. Yet, there is still a need to be further active in this field. NIC needs to launch various new aggressive campaigns to make people aware of the importance of their rights to information while giving continuity to the programs it has been conducting since its establishment. Various promotional activities on RTI have created awareness among people on the use of their right to information. Decision of various universities to allow students to see their answer sheets of their examination if they are not satisfied with their marks is an example how people have been able to exercise their right to information. Various proactive initiatives of NIC over the past few years of its establishment has contributed towards increasing national revenue by publicizing the document that contained information about those evading Value Added Tax (VAT) to the state, ensure restoration of public office bearers suspended allegedly for leaking information and providing them with compensation and stop random distribution of petroleum products to the government officials.

There has been a significant increase in the tendency among general public to seek information on expenditure made in the local development activities and social welfare programs conducted by the government such as allowances provided to the elderly people. This has hugely contributed towards ensuring good governance and accountability on the part of public officials. Local people are also found putting pressure on concerned government officials to complete development works as per set norms, design and quality. This clearly illustrates that there has been an increased level of awareness among people on RTI.

This is not to say that there are no hindrances in the implementation of RTI Act. There is a tendency among public officials to defy the directives given by the NIC, deny information of public importance to the public and charge more money from those seeking such information apparently to discourage information seekers. As

for an instance, Tribhuvan University, Purbanchal University and Pokhara University did not abide by the Supreme Court's order to let students see their answer sheets for about four years. Although they have now started implementing the verdict of the apex court, the universities have set over NRs. 5,000 fees to allow students see their answer sheets. There are many government institutions, which have not shown any initiation on their part to abide by RTI Act. It is, therefore, high time that all concerned bodies stepped up monitoring and encouraged public offices to abide by RTI Act through different proactive measures.

While there is a need to promote the use of people's rights to information, public offices need to be equally responsive and accountable towards the implementation of RTI Act. Political and administrative leadership also need to assimilate openness and transparency in governance from their heart. NIC believes that it is necessary make information dissemination simple and easily accessible to people, publish updated information of public importance on a regular basis, appoint information officer in each government office, provide them with minimum physical facilities, establish information section in each government body and ensure their access to information and conduct regular monitoring to see if RTI Act is being implemented fully. Likewise, it is necessary on the part of decision makers to classify if the decision made is confidential or not to ensure that information of public importance easily reaches to public through media. Above all, a strong political will is a must for complete realization of RTI in Nepal.

NIC in its annual reports has been making several recommendations to help fully implement the RTI Act. It is necessary for the Legislature-Parliament now to deliberate on those recommendations and suggestions and give directives to the concerned government bodies to help implement RTI Act effectively. We hope that all government bodies will cooperate with NIC to help implement RTI Act. NIC believes that the implementation of RTI Act, which remains a pillar of democratic system, will help to establish good governance in the country as it helps to make government accountable and responsive and ensure openness and transparency. This report aims to give brief overview of NIC and its activities carried out so far. The recommendation part of the report highlights on the challenges faced by NIC in the implementation of RTI Act, 2007 and some of the ways to address those difficulties.

National Information Commission

Kathmandu, Nepal

Abbreviation

CCRI	Civil Campaign for Rights to Information
CSOs	Civil Society Organizations
DFID	Department for International Development
ESP	Enabling State Program
FNJ	Federation of Nepalese Journalists
GoN	Government of Nepal
ICAI	Independent Commission for Aid Impact
INGOs	International Non-government organizations
MoHA	Ministry of Home Affairs
MoIC	Ministry of Information and Communications
MIS	Management Information System
MoHP	Ministry of Health and Population
NIC	National Information Commission
NGOs	Non-government Organizations
PSC	Public Service Commission
PADT	Pashupati Area Development Trust
PAC	Public Account Committee
RTI	Rights to Information
SC	Supreme Court
ToT	Training of Trainers
VDC	Village Development Committee

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Executive Summary

National Information Commission (NIC) was set up in 2007 in order to implement, promote and monitor the provisions set in the RTI Act, 2007. This report contains major highlights of the activities carried out by NIC since its establishment to fulfill its mandates. NIC is mainly involved in three different tasks. They include taking action against those filing petition for seeking information of public importance and helping Nepali citizens get easy access to such information, promoting people's rights to information and conducting monitoring and evaluation of the implementation of RTI Act on a regular basis. NIC also issues necessary directives to the concerned government bodies to ensure strict adherence of the RTI Act, 2007. As a summary of NIC annual reports since the fiscal year 2009/10, this report contains introduction in the first part, a detailed list of its activities carried out in each fiscal year since its establishment in the second part and promotional activities carried out to promote people's rights to information in the third part. While the fourth part of this consolidated report gives a brief overview of the monitoring and evaluation works conducted by NIC, the concluding part consists of recommendations made in all NIC annual reports published so far to ensure effective implementation of RTI Act, 2007.

Information seeking trend through the use of RTI Act's provisions has increased gradually. Initially, complaints and appeals of personal nature were dominant, but now the cases of broader public importance have also been increased significantly. When analyzed the registered complaints in last six fiscal years, the public have been interested in getting information from public offices by using RTI Act. A total of 12 cases were lodged in the fiscal year 2008-09, while NIC witnessed a three-fold increment in registered cases (39 complaints and appeals) in the succeeding fiscal year 2009-10. The year 2010-11 witnessed a total of 47 complaints, whereas the following year received 109 complaints and appeals, more than that of all three previous years' combined. Likewise, 260 cases were registered in NIC in the fiscal year 2012-13, and as many as 470 cases were registered in the succeeding fiscal year 2013-14, and out of which 409 cases or over 87 percent cases were successfully resolved and remaining 61 cases were transferred to the fiscal year 2014-15.

Nevertheless, number of people exercising their right to information is still very negligible mainly due to the fact that ordinary people are still unaware of the RTI Act and its importance. Keeping this in view, NIC has been launching various promotional activities despite limited resources at its disposal to sensitize people about the importance of RTI Act and encourage them to exercise their right to information. NIC conducted interactions, awareness campaigns among chiefs of government offices, information officers, advocates, teachers and representatives of non-governmental organizations. In the ongoing fiscal year 2014/15 alone, NIC organized interactions in various 18 districts. A total of 929 people attended in those programs. Similarly, orientation programs were conducted in eight districts to inform people about the RTI provisions. Even Non-Government Organizations (NGOs) have readily joined their hands in the efforts of NIC to protect and promote people's rights to information. Various activities launched by non-governmental organizations are seen equally effective to create awareness among public and pressure government bodies for the effective implementation of RTI Act. NIC is extending its support to their activities by providing materials related to Training of Trainer, brochures, RTI directives and other materials.

Formulation of laws and implementation of certain programs alone does not ensure expected results. Keeping this in view, NIC has been undertaking various monitoring and study activities to make an overview of the implementation status of RTI Act. It has been issuing necessary directives to concerned government bodies failing to abide by RTI Act. NIC's survey which is carried out every year covers issues like responsiveness of public bodies to the provisions of RTI Act, their

information management system, trend of seeking information and dissemination of the information. Budget and other resources made available to public offices for the purpose of information related activities was also an issue identified in the survey. Based on the findings of the monitoring and survey activities, the NIC has been giving necessary directives to concerned government offices. Separately, it has also been making recommendations to the government based on the findings of those monitoring activities.

Although some modest achievement has been made in the implementation of RTI Act, much needs to be done yet. The implementation aspect of RTI Act is still not very encouraging as there is tendency among government bodies to be reluctant towards providing information. Likewise, majority of ordinary citizens do not appear to have realized importance of RTI Act. The concluding part of this report consists of the recommendations made by NIC to ensure full implementation of RTI Act. NIC has made as many as 53 recommendations to the government to help it fulfill its objectives. Important recommendations among them include making NIC more powerful with adequate mandates, ensuring a strong political commitment to the implementation of RTI Act, bringing amendments in other Acts that contradict with RTI Act, providing NIC with its own office building, creating High Level Authority for the Implementation of RTI and observing RTI Day every year to make people aware about the importance of their right to information. Yet, hardly any of these recommendations are fully realized despite NIC's efforts to draw attention of the government and the Legislature-Parliament. Some of the Annual Reports are yet to be tabled in the Legislative Parliament.

Complaints, Appeals, Decisions and Other Activities of NIC

There has been a gradual improvement in the trend of people seeking information through the use of Right to Information (RTI) Act provisions. Although complaints and appeals of personal nature were dominant initially, cases of broader public importance have witnessed a significant increase in recent years. On analyzing the registered complaints in last six fiscal years, general public are now using RTI Act provisions to get information from public offices.

While a total of 12 cases were lodged in the fiscal year 2008-09, NIC witnessed a three-fold increment in registered cases (39 complaints and appeals) in the following fiscal year 2009-10. NIC received a total 47 complaints in the fiscal year 2010-11. But in the fiscal year 2011-12, the number of complaints and petitions seeking information reached to 109 complaints and appeals. As many as 260 cases were registered in NIC in the fiscal year 2012-13 and 470 similar cases were registered in the fiscal year 2013-14. Of the total registered cases with NIC in the fiscal year 2013-

14, 409 cases were successfully resolved and remaining 61 cases were transferred to the fiscal year 2014-15.

The implementation aspect of RTI Act, however, does not seem encouraging as government bodies themselves do not appear keen to implement RTI Act provisions. Nevertheless, it is good to note that ordinary public has started realizing the value and essence of the RTI Act. They have become aware that the government offices need to provide information if sought; and if they fail to do so, complaints can be lodged against the concerned offices in NIC as per RTI Act and obtain information. Initially, many government offices were reluctant to provide information and even refused to register the public applications for the same. This compelled people to send their applications to the government offices through postal service. Likewise, many information seekers were forced to undergo unnecessary hassles to get information due to lack of proper understanding of the process and procedures. The situation has greatly improved with NIC launching various public awareness campaigns to inform people about information seeking process as per the provisions set in RTI Act, 2007.

Over the years, the NIC received various types of public applications, complaints and appeals seeking information and documents from the public offices. While university students registered complaints seeking copies of their examination answer-sheets from universities and campuses journalists have filed petitions with the NIC to seek official documents to gather evidence for their investigative reports. Likewise, guardians sought details of income and expenditure of the academic institutions where their children study. Lawyers have filed applications to collect necessary evidences to make their legal case strong. Many government staffs and other people who were punished on charge of providing or leaking information to media have started approaching NIC by using the provision of RTI Act 2007 so as to get protection and get the charges and penalties put on them annulled.

People have been able to receive information from the universities and other academic institutions, various government offices, ministries, departments, constitutional bodies, banks, non-governmental organizations and corporations through the use of RTI Act. If such bodies fail to avail sought information, people have started filing complaints against such institutions at NIC. NIC has been directing concerned public bodies to provide valid and required information in accordance with the law acting on such complaints.

Details of the National Information Commission's annual activities of the past six fiscal years are as follows:

Activities of NIC in the Fiscal Year 2008-09

Complaints, appeals and decisions

A total of 12 complaints and appeals were registered at the NIC during this fiscal year. All but one case were resolved in the same fiscal year while one pending case was transferred to next fiscal year. In the beginning, most of the complaints sought information relating to personal-nature. But in the following years, NIC received complaints seeking information of broader public interests such as performance evaluation marks of government staffs and a copy of students' answer-sheets studying in various universities in case students are not satisfied with their results. The following are the key decisions made by NIC on various types of appeals and complaints received in this fiscal year.

- Acting on a complaint filed by Keshav Devkota of Kathmandu, NIC ordered Nepal Press Council to provide the details of information regarding classification of newspapers in the fiscal year 2006-07.
- NIC ordered the Ministry of Health and Population (MoHP) to provide information about the eligibility criteria of candidates to be appointed in any posts by the MoHP and World Health Organization. Ishwori Datta Bhatta of Mahendranagar Municipality-6, Kanchanpur, had lodged a complaint seeking such information.
- Concerned officer of the Gorkhapatra Corporation agreed to provide information to Rajiv Kumar Singh, a staff of the Corporation, relating to the advertisement and decision of his promotion.
- NIC dismissed an application lodged by advocate duos Rishi Ram Ghimire of Bilandu-5, Okhaldhunga and Krishna Pokharel of Nawalparasi on ground of procedural flaws in their application. They had sought a certified report and its digital copy from the Ministry of Home Affairs (MoHA) regarding the death of Rishi Prasad Sharma, an election candidate of constituency number 1 in Surkhet district during the first Constituent Assembly election held in April, 2008. The application was not properly addressed to the Information Officer of the MoHA. NIC, however, concluded that the applicants have rights to get such report.
- Pashupati Das of Rajbiraj Municipality-4 filed an application seeking information regarding teachers appointed by headmaster Vijayanand Jha and his deputy KhelanandJha of Shree Kesho Aniruddhawati Higher Secondary School in Saptari district. NIC initially ordered to provide such informa-

tion within three days. After non-compliance of its order, NIC penalized Rs 1,000 to the headmaster Jha and directed concerned government body for further departmental action against him if he failed to provide the information sought within a week.

- Rakeshwor Pramaniraj, an inmate serving his time in Birgunj Prison, filed a complaint seeking information regarding review petition from Patan Appellate Court. The commission directed the court to provide the sought information within three days.
- Pappu Mandal, an inmate in Birgunjprison demanded a copy of the verdict of Kathmandu District Court. NIC ordered the court to give such information.
- NIC ordered Kamal Deep Dhakal, Chief of Shankar Dev Campus in Kathmandu to provide details of income and expenditures of BBA program from fiscal year 2001-02 to 2007-08 as well as of BBS, MBS programs in the fiscal year 2007-08. BBA student Ganesh Bahadur Thapa (academic year 2005-06) had filed a petition with NIC seeking such information.
- NIC ordered Ministry of Agriculture and Cooperatives to provide Work Evaluation of Durga Prasad Panthi, a staff of District Agriculture Office in Kanchanpur district.
- Rakeshwor Pramaniraj, a convict of Birgunj Prison, sought information on provision of any review petition regarding his release from the Office of Attorney General, Kathmandu. NIC directed the Office of Attorney General to avail such information and asked it to duly notify about it to NIC as well.
- Mingma Sherpa, an inmate of Birgunj Prison, filed an application seeking the Supreme Court's verdict regarding the punishment on robbery charges against him. NIC asked SC to provide the information to Sherpa.
- Prabhat Kumar Gupta of Birgunj-3 Parsa filed a writ petition in the Supreme Court seeking review on his case. The apex court had neither registered his case nor had rejected it for long. Later, Gupta lodged a complaint seeking reason behind such inaction. NIC discussed with concerned staffs of the Supreme Court, which later agreed to inform Gupta about the reason behind the inaction on his review petition.

Many government offices were reluctant to provide information and even refused to register applications for information. This compelled people to send applications seeking information through postal service to the concerned government bodies. Also, a large number of people faced unnecessary hassles in getting information due to lack of understanding about due procedure to get information as per RTI

law. NIC has now decided to launch public awareness campaigns to make people aware about information seeking process.

Activities of National Information Commission in the Fiscal Year 2009-10

Complaints, appeals and decisions

A total of 39 complaints were lodged on various issues in this fiscal year. One pending case of the previous fiscal year was also transferred to this fiscal year for settlement. A total of 29 registered cases were resolved this fiscal year while remaining 10 cases were transferred to the next fiscal year.

Initially, complaints related to personal nature were quite high in this fiscal as well. This situation changed in latter part of this fiscal year with NIC receiving complaints and appeals of greater public importance and larger significance. Among the registered complaints with larger public importance include:

- Students filed petition seeking copy of their examination answer-sheets from universities as well as campuses in case they were not satisfied with the examination results.
- Journalists filed petitions to gather official documents as an evidence for their investigative and in-depth reporting
- Guardians registered complaints seeking details of income and expenditure of the schools and colleges where their children were studying.
- Advocates filed application to collect evidence for the legal cases they were handling.
- Government employees and other people, who were punished on the ground of providing or leaking information to media, started approaching NIC by using the RTI Act's provisions to get fines scrapped and other punishment annulled.

Public interest on RTI Act significantly increased in the fiscal year 2009/10. People acquired information from various universities and other academic institutions, government offices, ministries, departments, constitutional bodies, banks, non-governmental organizations and corporate institutions by using RTI provisions. People started to file complaints against such institutions if they denied information. NIC issued various orders to the concerned public bodies to provide valid and required information in accordance to RTI Act, 2007.

- **Writs filed in the Supreme Court against the NIC decisions**

Acting upon the petition filed by a student, NIC ordered the Tribhuvan University to show the student's examined answer-sheet. Concerned officials of the Tribhuvan University filed a writ petition against the NIC's order in the Supreme Court. A division bench at the apex court, however, refused to give an interim order on the writ filed by TU officials. This has been one of the landmark decisions in the effective implementation of RTI Act, 2007.

- **Monitoring, study and other activities**

NIC has been carrying regular monitoring activities in order to assess the readiness of public offices to disseminate information related to public-interest and see if such bodies are willing to fulfill their duty as provisioned in the RTI Act 2007. Likewise, the monitoring activities were aimed at assessing information seeking trend from public offices as well as its volume and take stock on availability of human and financial resources in public offices to deal with the volume and pressures of the information seekers. A study was conducted in this fiscal year to assess exact situation of the implementation of RTI Act, 2007 in 155 government offices located in 19 districts across the country.

The study showed that the implementation aspect of RTI Act 2007 is not so encouraging and the government bodies themselves seem reluctant to it. However, the public have started realizing value and essence of this law. They have known the fact that the public offices have to provide sought information and if they didn't comply they can lodge complaints against such public bodies at the NIC and get information sought.

Key points of the study:

- Although most heads of government offices are aware about RTI Act 2007 they do not know about its provisions in detail.
- Most government offices have appointed an information office. But they have not set up a separate information desk citing insufficient human and financial resources.
- Since most information officers have to do their assigned works as well they cannot shoulder the responsibility of the information officer as well and cause unnecessary delay in providing information.

- No arrangement of additional budget, trained human and financial resources for information management in the government offices.
 - Most of those working at district level offices lack knowledge about classification of information.
 - Information officers lack clarity on nature of information can be released.
 - Lack of information to information officers himself/herself due to restriction put on them by chiefs of those offices to access information.
- **Submission of Annual Report**

Chief Commissioner of NIC, Mr. Binaya Kumar Kasaju submitted NIC's annual report of the fiscal year 2009/10 to Prime Minister Madhav Kumar Nepal in October 2009. On this occasion, the Chief Information Commissioner briefed Prime Minister Nepal of various difficulties faced by NIC in implementing RTI Act and other activities of the Commission. The prime minister immediately directed concerned government agencies to do needful for the effective implementation of the Act.

- **Universities were ordered to make public on issues of affiliation to academic institutions.**
- **NIC ordered concerned universities and other bodies to make public the list and basis of affiliations of various academic institutions like colleges and campuses.**

Activities of NIC in the Fiscal Year 2010-11

Complaints, appeals and decisions

A total of 47 complaints and appeals were lodged in the NIC during this fiscal year. Among them, 16 cases were related to public nature while remaining 31 cases were of personal nature. On the whole, NIC this year finalized at least 22 cases while other 25 cases were transferred to the succeeding fiscal year 2011-12. Besides, 10 pending cases of previous fiscal years were transferred to this fiscal year and all of those cases were resolved successfully this fiscal year.

Most of the complaints and appeals were related to finance and education (12 cases each), whereas rest were about security, electricity, administration, law, information, construction, transportation and health.

Complaints include demand of photocopy of examinees' answer-sheet, annual report of university, attendance-sheet in practical examination and expenditure

details of including in infrastructure construction of the campus, university and schools. Six complaints were lodged seeking information relating to banking sector that include the status of land kept as collateral, providing bank statement, debt and other documents and the details of bank's policy, operation modalities and its expenditure.

Similarly, complaints regarding denials of public bodies to provide information were against police, the government attorney, district courts, district administrative offices, Nepal Electricity Office, Supreme Court, Public Service Commission, various ministries, district health offices, Kathmandu Valley Municipality Development Committee, Pashupati Area Development Trust and Village Development Committees.

Nearly half of the applications, complaints, and appeals were related to such public offices. Complaints against the ministries, district offices, courts and other government agencies are related mainly on their denial to provide sought information such as reports, annual income and expenditures details, photocopy of the petitions, verdicts and other documents.

A trend to seek information by using RTI Act, 2007, has been increasing steadily. Although in limited in number, NIC started receiving cases of broader public interests and NIC was successful in settling most of these cases. When analyzing the data of last four fiscal years, there is a growing trend among public to seek information from the government offices through NIC.

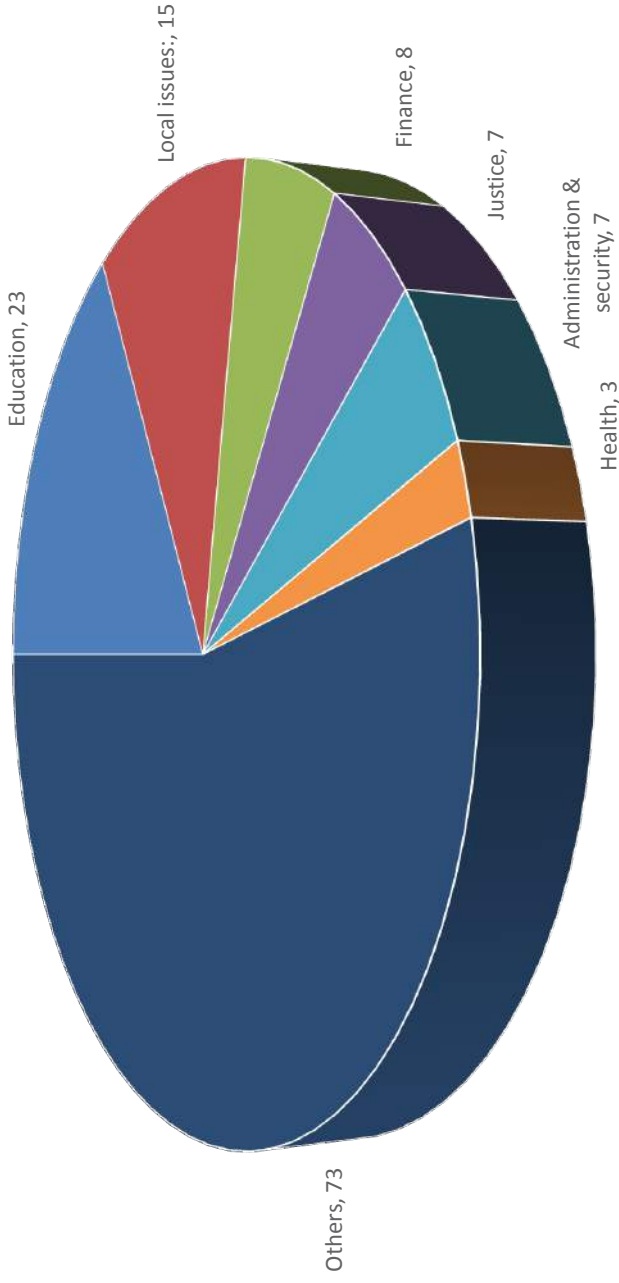
Major Activities of NIC in the Fiscal Year 2011-12

Complaints, appeals and decisions

A total of 136 complaints and appeals were lodged in NIC during this fiscal year. NIC finalized 90 cases while 46 other cases were transferred to the succeeding fiscal year 2012-13. Among 90 finalized cases, NIC directed the concerned authorities to provide the sought information on various 81 cases and scrapped nine other cases as there were some procedural flaws on the part of information seekers.

Altogether 25 cases that were transferred from the previous fiscal were also successfully settled in this fiscal year. The cases settled this fiscal year include 92 cases were related to public concerns while remaining 44 cases were of personal interest. The complaints and appeals were also related to education (23 cases), local issues (15), finance (7), justice (8), administration & security (7), health (3).

Various Complaints and Appeals Received in the Fiscal Year 2011-12



In this fiscal year, five writ petitions were filed in the Supreme Court against the decisions taken by NIC. Likewise, two more writs were filed in Patan Appellate Court against NIC's decisions.

- Acting on a writ petition filed by Vijayananda Jha, Headmaster of Shree Anirudrawati Higher Secondary School, Rajbiraj, against NIC's decision to issue NRs 1000 fine for not providing information sought by Pashupati Das, a resident of Rajbiraj Municipality-4, Appellate Court in Rajbiraj dismissed NIC's decision referring to the procedural flaw. NIC then clarified to the court that it had authority to take action against those who didn't comply its order and it had simply followed due process of law while taking decision on Jha's case.
- The Appellate Court also dismissed an earlier decision of NIC regarding the case of Pushpa Karki, a teacher of Sarashowti Lower Secondary School, Kailali. Koshraj Paneru of the District Education Office, Kailali, had filed a writ petition in the Appellate Court. The Court dismissed NIC's decision saying the body didn't give time to clarify the defendants. Referring to the Court's order, NIC later stated that it was not required to give an opportunity of clarification because NIC had not taken any action against Paneru and others and then issued a fine of NRs 5,000 on the charge of not complying with its order. Following the NIC's action, the Court once again looked into the case and dismissed the entire actions and case against the Paneru.

Other Major Activities

- NIC prepared the draft proposal for the amendment of the Right to Information Regulations 2009 and submitted to the Ministry of Information and Communication for cabinet approval in order to ensure effective implementation of RTI Act 2007 and smooth functioning of NIC.
- NIC also prepared the Plan of Action for the establishment of the Central Nodal Agency in the Office of the Prime Minister and Council of Ministers to ensure effective implementation of the RTI Act from the very top-most level of the government. Likewise, Right to Information Center was set up in August 2012 with the objective of providing services to those who want to know about the use of people's right to information. The Center was set up with the cooperation of the Citizens'

Campaign for Right to Information (CCRI) and of the DFID/ESP of the UK government.

- Similarly, NIC prepared and implemented a five-year National Strategic Plan of Action on Right to Information in Nepal (for the year 2013-2018 AD). The Strategic Plan of Action has been launched to help promote effective implementation of RTI Act, 2007 by encouraging various public offices to be more transparent and open in their works.
- Suresh Prasad Acharya of Merest Nepal lodged a complaint seeking information from the Legislature Parliament Secretariat about the time-bound details of the activities of the Legislature Parliament in May, 2011. While deciding on the complaint, NIC issued an order in the name of General Secretary of the Legislature Parliament Secretariat to provide the sought information and asked to make public such information of the Parliament henceforth regularly. NIC stated that the activities of the Parliament are matters of public interest and that the Secretariat should avail such information to the public.
- While deciding on the complaint lodged by Ashesh Neupane, an examinee of SLC examination in the year 2010, NIC ordered concerned authorities to show his answer-sheets. However, authorities denied doing so for long arguing there were no such regulations in place. The Supreme Court later upheld NIC decision, thereby ensuring the rights of hundreds of SLC and other students to see their checked answer-sheets if they were not convinced with their results.
- Likewise, Keshav Prasain lodged an appeal seeking to know his marks in the examination of Public Service Commission (PSC). NIC ordered PSC to show his marks. However, PSC showed its reluctance claiming that it was a matter of secrecy. NIC again stated that the mark of the examinees is not a matter of secrecy once the result has been published. Thousands of the PSC examinees now are able to know their marks in the examination with the active initiation of NIC.
- With the initiation of NIC, the government reclassified all official information—which is of public interest and which should be treated as a matter of secrecy-- in January 2012. In accordance to the provision of the RTI Act, a committee headed by the Chief Secretary classified the government information for the first time in January 2009. But as this was not

in spirit of the RTI Act and was intended to suppress information rather than bringing them into the public, many media and other professional organizations launched protests against this move.

- Public Account Committee of the Legislature Parliament praised the roles of NIC to make public VAT defaulter by using the fake bills. PAC had earlier asked the concerned government agencies to produce the details of those who were dragged into the scandal but the government didn't comply. Later, an organization with the support of NIC was able to get the details of those who were involved in such financial crimes through the use of RTI Act provisions.

Major Activities of NIC in the Fiscal Year 2012-13

Complaints, appeals and decisions

A total of 260 complaints and appeals were registered at NIC in this fiscal year. Among them, 199 (76.5 percent of total cases) were finalized and remaining 61 were transferred to the succeeding fiscal year 2013-14. NIC took action against 18 people, who refused to provide information to the public. Likewise, as many as 23 people filed writ petitions in the Appellate Court and in the Supreme Court against the NIC's decisions.

Complaints and reviews registered in NIC included cases of various serious public interest matters including corruption, embezzlement of funds, delay in the implementation of development projects and construction works and quality compromise in works and goods etc. With the use of RTI Act, students have been able to get or see their examined answer-sheets. People living in countryside are able to increase their vigilance on activities of public offices of their localities. They have also started seeking information from public offices on various pressing and public interest issues such as education, drinking water, health, social security allowances being given to elderly people, single women and physically challenged people and income and expenditures of VDCs, municipalities and national-level projects.

A major responsibility of NIC is to protect and promote the people's rights to information as provisioned in the RTI Act, 2007. Besides, NIC has also been carrying out various promotional and other activities to fulfill its mandates within the limit of human and financial resources allotted to it. As the government budget was released to NIC in three installments in this fiscal year, promotional and other activities could not be carried out as expected. However, the NIC in cooperation with

various non-governmental organizations launched a number of activities throughout the year.

Some of the major activities carried out in the fiscal year 2012/13 were as follows:

- **Establishment of the Right to Information Center:** A Right to Information Center was set up in August 2012 with the objective of providing services to those who want to know about the use the people's right to information. The Center was formed with the support of the Citizens' Campaign for Right to Information (CCRI) and the DFID/ESP of the UK government.
- **Interactions, discussions, orientations and conference participation and study visit:** A series of interactions, discussions and study visits were made in order to promote and protect people's right to information and make aware concerned information officers and ordinary people about the right to information in this fiscal year. NIC officials also attended international seminars and conference in various countries in the world and held talks with representatives of various organizations including The Asia Foundation and World Bank in order to learn practices of other countries and get necessary improvement in its own activities at home. NIC organized interaction programs in various districts with active participation of the representatives of NGOs, Federation of Nepalese Journalists, Bar Association, Civil Society, Teachers' Union, Youth NGO Federation and Heads of public offices. 173 Information Officers of five districts— Lamjung, Kaski, Ilam, Udayapur and Dadelhdhura-- were provided with orientations on how to provide information to people effectively.
 - NIC Secretary Shree Ram Panta took part in a biannual international conference of Information Commissioners in Germany in September 2013. The participation was fruitful to learn about experiences and practices of other countries.
 - Similarly, a five-member NIC delegation led by Secretary Panta made a study visit of National Information Commission of India to learn about its working system, organizational structures, rules and regulations, its experience and problems and challenges in October 2013. Discussions and interactions were held with NIC officials of India as well as some NGO-affiliated RTI activists in the course of the visit. The visit was highly fruitful in sharing experiences of Nepal and learning Indian experience in the implementation of RTI Act.

- Separately, Secretary Panta held discussions with World Bank's consultant Denielle Lynn Pearl about various programs being implemented in the financial support of the global body in Nepal. Discussion was also held between NIC officials and representatives of various NGOs regarding the concept of the Open Government Partnership, an initiative launched by various governments to create an Open Data Platform to bring effectiveness and transparency in governance system.
- **Details of Information Officer:** As informed to NIC, a total of 1,567 information officers have been designated in various government officers across the country in accordance to RTI Act 2007. Besides, secretaries of 3,915 Village Development Committees (VDCs) and 35 Wards of Kathmandu Metropolitan City have also been nominated as information officers. NIC has sent circulars and issued public appeals to other municipalities and public offices as well to appoint information officers. While publishing public notices and appeals, it has also asked other remaining public offices to complete nomination of Information Officers within 30 days and immediately publish data and other details of their activities to ensure greater transparency in their works.
- **Operationalisation of a Five-Year Strategic Work Plan:** An agreement was signed in March, 2013 to accept the fund worth Rs.2.90 million from the Enabling State Program (ESP) of the UK Government's Department for International Development (DFID) to launch one year's Operation Plan, which is a part of NIC's five-year's strategic work plan. A year-long program entitled "Improving the Implementation of Right to Information in Nepal" was launched starting from January 1, 2013 to December 31, 2013 with the financial support to help promote effective implementation of RTI Act, 2007 by encouraging various public offices to be more transparent and open on their works. The main objective of the operation plan was to increase the demand for information by citizens, enhance competence of NIC staff and capacity of Public Information Officers to improve the performance of NIC.
 - Outcomes of the project include completion of baseline survey for the establishment of Management Information System (MIS) at the District Administration Office, District Education Office, District Urban Development and Building Construction Office, Division Road Office, District Agriculture Development Office and District Public

Health Office in various five districts including Morang, Parsa, Kaski, Banke and Dadeldhura. Another major outcome of the project is the establishment of MIS software system to enable NIC and the concerned ministries as well as departments to monitor online status of the application filed for seeking information and the responses given by the public offices.

- NIC also prepared a communication strategy report while making various suggestions and recommendation such as the need to include RTI topic during the trainings of all government staffs and incorporating RTI-subject in school curriculum of Grade 8 to 10. NIC recommended scrapping all laws, which were contradictory to the provisions of the RTI Act, 2007 and RTI Regulations 2009. Acting on NIC's recommendations, Government of Nepal and the Office of Prime Minister and Council of Ministers directed concerned bodies to make amendments as recommended by NIC.

Major Activities of the NIC in the Fiscal Year 2013-14

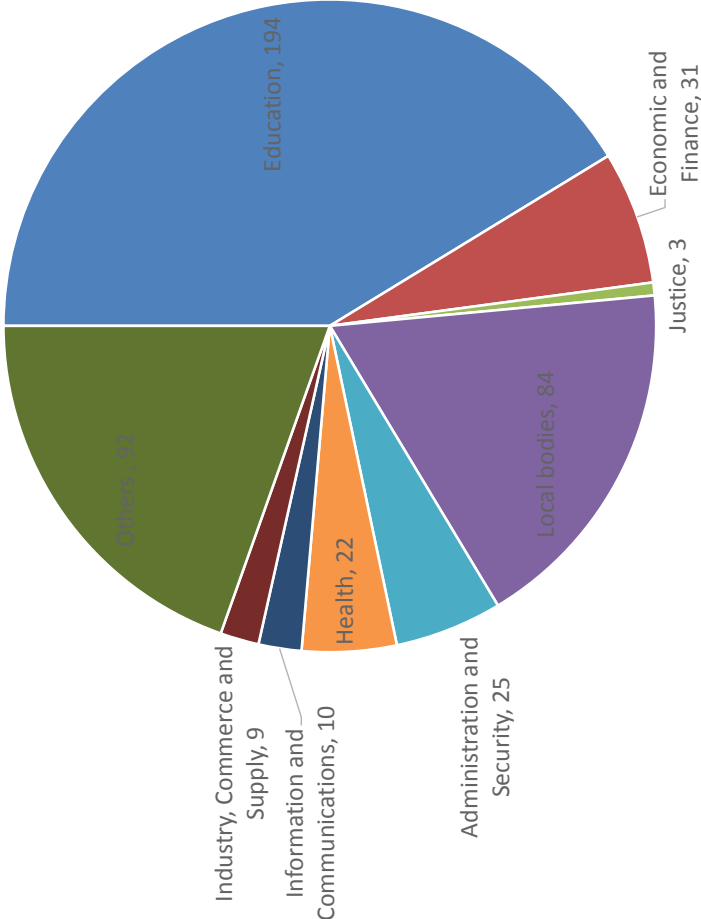
Complaints, appeals and decisions:

As many as 470 complaints and appeals were registered in NIC in this fiscal year. Most of the complaints were related to education sector, followed by local bodies and economic and finance.

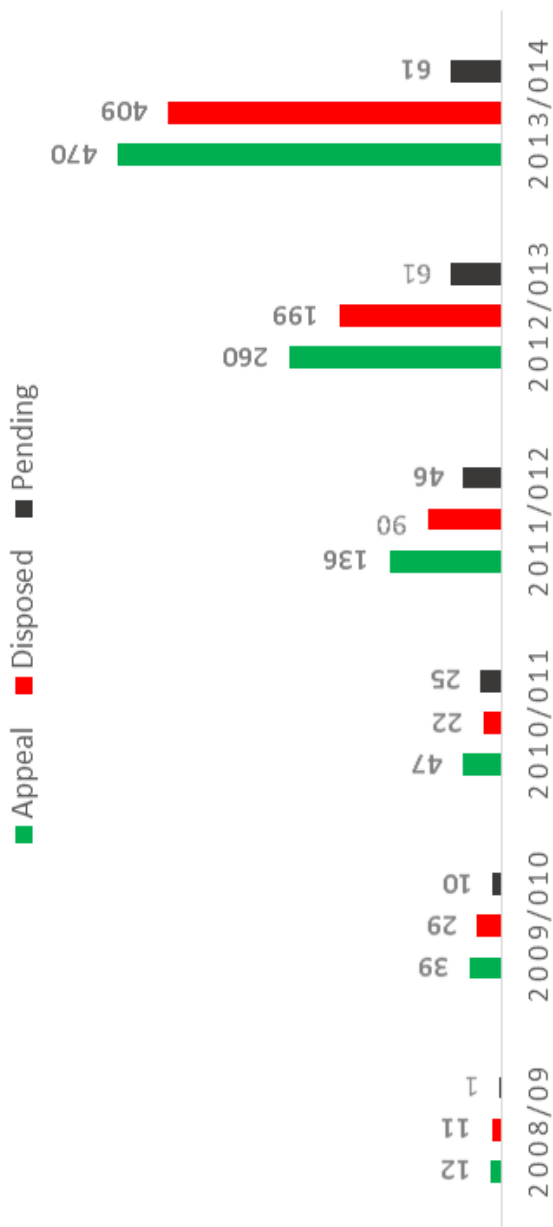
Sectoral complaints, appeals and reviews in the fiscal year 2013/14 are as follows:

Education	194
Economic and Finance	31
Justice	3
Local bodies	84
Administration and Security	25
Health	22
Information and Communications	10
Industry, Commerce and Supply	9
Others	92
Total	470

Sectoral Complaints, Appeals and Reviews in the Fiscal Year 2013-14



YEARLY STATUS OF APPEAL, DISPOSAL AND PENDING RTI CASES



Altogether 25 organizations and individuals filed cases in the Supreme Court or the Appellate Court against the decisions taken by NIC during this fiscal year. As per the clause 34 of the RTI Act, 2007, concerned institutions and individuals can file cases in the court seeking review over NIC's decision within 35 days.

Of the total 470 cases received in the fiscal year 2013-14, 409 cases were successfully disposed and 61 other pending cases were transferred to the succeeding fiscal year 2014-15. NIC successfully resolved 87.09 percent of the cases it received during this fiscal year.

The information seeking trend over the past six years has shown steady improvement. The following chart shows the registered complaints seeking information from public offices at the NIC and the number of such cases resolved and those yet to be resolved in each of the last six fiscal years.

Fiscal Year	Appealed	Disposed	Pending
2008/09	12	11	1
2009/10	39	29	10
2010/11	47	22	25
2011/12	136	90	46
2012/13	260	199	61
2013/14	470	409	61

Other Major Activities of the NIC in the Fiscal Year 2013-14

- Amendment of Right to Information Regulations, 2009:** Right to Information Regulations, 2009 was amended in this fiscal in order to ensure effective implementation of the Right to Information Act, 2007 and smooth functioning of NIC. Major amendments in the existing regulations include making a provision that only one commissioner can give a preliminary order on application of complaint or review or appeals. Earlier, there was a provision that at least two commissioners should be involved in any appeal for review or complaint right from the beginning to the end. The provision of mobile bench teams in various places-- has also been envisioned in the amended regulations in order to effectively implement the RTI Act, 2007. The second amendment in the Right to Information Regulations, 2009 was brought on the basis of the decision taken by the Office of the Prime Minister and Council of Ministers in July, 2013. The cabinet decision was published in Nepal Gazette in August 2013. The full text of the second amendment has been kept on NIC's official website--www.nic.gov.np.

- **Establishment of the Central Nodal Agency:** A Central Nodal Agency has been set up at the Office of the Prime Minister and Council of Ministers in the initiation of NIC to ensure effective implementation of RTI Act from the very top-most level of the government. Besides, a monitoring unit has also been established in the Ministry of Information and Communications for the effective implementation of the people's right to information and for the classification of information. The body will submit its report to the government twice a year and provide policy inputs and help enhance capacity of information officers.
- **Interactions, Discussions, Orientations and Conference Participation and Study Visit:** NIC organized various interaction and discussion programs throughout this fiscal year in as many as 18 districts in order ensure effective implementation of RTI laws. Interaction and discussion programs were participated by cadres of various political parties, NGO activists, office bearers and members of Federation of Nepalese Journalists, Nepal Bar Association, civil society leaders, teachers, Youth NGO Federation activists and heads of district level government bodies and information officers. A total 929 people representing various organizations took part in these interactions. NIC also organized one-day orientation programs for information officers in various eight districts including Sarlahi, Okhaldhunga, Nuwakot, Lamjung, Kapilvastu, Dhanusha, Morang and Bardiya during this fiscal year. A total of 398 information officers of these eight districts took part in the orientation program.
- **Details of Information Officer:** A total of 2,175 information officers have been designated in various government officers across the country in accordance to the RTI Act, 2007. NIC has sent circulars to other remaining public offices, including the ministries, municipalities and District Administration Offices to complete nomination of Information Officers within 30 days and immediately publish the data and other details of their activities, which public bodies are supposed to do on a regular basis.
- **Broadcasting and Publications:** With the aim of promoting RTI laws, a radio program entitled "Suchanakao Hak Sambandhi Janasewi Udghos" was on aired by Rainbow FM for one month from May to June, 2014. Besides these, NIC also published and distributed various books, booklets and reports including directives, brochures and its annual reports.

- NIC produced a 20-minute long video-documentary entitled the "Right to Information for Democracy and Transparency". It was aired in various six national television channels in order to create awareness among people on RTI and help ensure effective implementation of RTI laws.
- NIC, as per the RIT Act, 2007 and RTI Regulations, 2009, recommended the Government of Nepal to upload details of Information Officers on a separate website --www.nepal.gov.np. This is an integrated portal set up by the government itself to provide information to the public.
- **National Information Day and International Right to Know Day:** The third of Bhadra (that generally falls on the third week of August) has been marked as National Information Day in Nepal on the occasion of the establishment of NIC. In this fiscal year, the National Information Day was marked while promoting public awareness about the Right to Information by distributing various materials and booklets on RTI at six major cross-roads of the Kathmandu Valley. Likewise, various promotional and awareness activities were carried out on September 28, International Right to Know Day, as declared by the United Nations.

During this fiscal year, an SMS message that read "Right to Information means right to claim and receive significant public information from public entities" was sent to over 200,000 postpaid mobiles in order to promote public awareness on RTI. NIC also launched a Notice-Board Service with the number 01-1618-4601212, through which people can get information about NIC's works and activities.

- **Interaction with Parliamentarians:** The Development Committee of Legislature Parliament organized an interaction program with the various agencies related to the Ministry of Information and Communications (MoIC). The interaction was aimed at briefing the House panel about works and work plan of the MoIC and related agencies under it in the fiscal year 2013-14 and 2014-15. Minister for Information and Communications Dr. Minendra Rijal made a detailed presentation about the various works carried out by the MoIC and other various agencies under it. NIC Secretary Shree Ram Panta also took this opportunity to apprise lawmakers about the various significant decisions taken by NIC including students' rights to see their examination answer-sheets in case they were not convinced with the results and restoring a justice to his post, who was dismissed on the ground of providing information to the public.

- **Training of Trainers:** With the aim of facilitating effective implementation of RTI laws, a two-day Training of Trainers (ToT) program was organized in June, 2014 for senior trainers/ trainers recognized by the various government bodies. Likewise, another two-day TOT program was organized in May 2014 for Information Officers of various government offices and department level public entities.
- **Advanced Training of Trainers:** A two-day-long advanced Training of Trainers (ToT) was also conducted in early June, 2014 with an objective of producing special Right to Information (RTI) Trainers in Nepal. Altogether 36 trainers of the various government agencies, financial institutions, banks, I/NGOs, journalists and law professionals received the advanced training on RTI. NIC Secretary Shree Ram Panta, Chairman of the Administrative Court Kashi Raj Dahal, former Acting Chief Information Commissioner Shree Acharya, former Information Commissioner Sabita Bhandari, Chairman of Freedom Forum Tara Nath Dahal and former Registrar of the Supreme Court Dr. Ram Krishna Timilsina were among the resource persons in the advanced ToT.
- **Discussion with ICAI Representative:** NIC Secretary Shree Ram Panta and Independent Consultant Lance Croffot and Kai Hopkinns of Independent Commission for Aid Impact (ICAI) discussed about the effectiveness of foreign assistance for the effective implementation of the RTI Act in Nepal in May 2014. Secretary Panta responded in details on various queries raised by the ICAI representatives such as the roles played by RTI laws in promoting transparency and controlling corruption and challenges seen in the implementation of RTI laws in Nepal.
- **Agreement between NIC and Governance Facility, Nepal:** An agreement was signed between National Information Commission and Governance Facility, Nepal to implement the second-year's project (for the year 17th July 2014-16th July 2015) of the Five-Year Strategic Work Plan. The focus of the project was to strengthen and enable NIC towards the implementation of RTI. NIC Joint Secretary Shanti Ram Sharma and GF Nepal's Head of Program Niels Hjortdal signed the agreement to provide grant assistance of NRs 32.49 million to NIC.

Promotional Activities of National Information Commission

Although awareness among people on RTI is increasing gradually, there is a need to make aggressive campaign to make people aware about the importance of RTI Act and encourage them to seek information on public importance to make public bodies more accountable and transparent in their activities. Keeping this in mind, NIC has been carrying various promotional activities including interaction and orientation program. Separately, various NGOs working in the field have also joined hands with NIC to promote RTI Act in Nepal. Some of the important promotional activities carried out by the NIC have been described below.

Promotional Activities Conducted by NIC in the Fiscal year 2013-14

National Information Commission conducted interactions, awareness campaigns among chiefs of government offices, information officers, advocates, teachers and representatives of non-governmental organizations. Altogether 929 people attended the interaction programs organized in various 18 districts during this fiscal

year. Similarly, orientation programs were conducted in eight districts to inform people about the provisions in the RTI Act. Interaction and orientations were held in Nuwakot, Dhanusha, Kapilvastu, Lamjung, Okhaldunga, Sarlahi, Morang and Bardiya during this fiscal year.

Promotional Activities Conducted by NGOs on RTI

Various NGOs working in the field of RTI have also been carrying out promotional activities. NIC has been extending its support in their activities to help make people aware about the importance of RTI Act and make government bodies transparent and accountable in their works as the efforts of NIC alone are not enough in this regard. The activities launched by non-governmental organizations have proved to be equally effective in creating awareness among public and push the government bodies for the implementation of RTI. NIC has been providing materials related to Training of Trainer, brochures and RTI directives to these NGOs.

Promotional activities undertaken by Freedom Forum on RTI

- Freedom Forum carried out several activities for the promotion and protection of RTI laws. The organization is also conducting the study and research as well as increasing the international network of RTI.
- Radio and Television program on a weekly basis in collaboration with organizations working in the field of RTI have been produced. The programs broadcast from Radio Nepal and Himalaya Television focus on creating awareness on RTI and help ensure good governance through transparency and accountability on the part of the government officials.
- RTI related books and audio as well as visual materials were distributed to people.
- Orientation programs were given to women groups, youths and students in various districts.
- A study was conducted in Dhulikhel, Byas, Narayan and Bhim Dutta Municipality about the impact RTI in good governance. The study found that people's participation in selecting the policy and program was ensured and it was found that government organizations started maintaining transparency in their works after the several campaigns were organized on RTI.

- A study to learn about the situation of good governance has begun in additional 20 municipalities.
- A study on implementation of RTI laws in South Asian countries has been conducted
- A study on people's access in budgetary information was completed recently.
- Three-day training to the office heads and information officers of five municipalities on record management and flow of the information was organized.
- Training on public finance management was given to 43 journalists.
- Trainings were provided to 210 youths of various political parties.
- A rally was organized on International Right to Information Day.
- Members of Freedom Forum and Volunteers sought information from various government offices.
- Legal assistance was provided to those seeking information from the government bodies.
- Discussions were held on policy-related issues.

Promotional activities undertaken by Media Advocacy Group on RTI

Media Advocacy Group is working on Right to Information, gender and cross-cutting issues of media. The main activities carried out by the Media Advocacy Group on RTI are as followings.

- A two-day civic education training was organized for the female journalists in Itahari. A session was focused on RTI and Civic Education. Participating journalists came from Panchathar, Illam, Terathum, Dhankuta, Sunsari and Morang districts.
- An orientation program was organized targeting the representatives of women groups of 16 districts following the request from Tewa group.
- Civic awareness activities were conducted in the Mahotari and Kailai districts. The main purpose of these activities was to make people aware on using RTI to make the government offices more accountable.
- An interaction program was organized on Role of RTI in the constitution drafting process.

Promotional activities undertaken by Mirest Nepal on RTI

- A seminar program was organized in Kathmandu on the current status of RTI. Altogether 89 people including former Chief Commissioner of NIC, party leaders, heads of the government bodies and people working in the field of RTI were present in the seminar.
- Orientation program on RTI was conducted in Kanchanpur, Humla and Mustang districts.

Promotional activities undertaken by GOGO Foundation

Since its establishment GoGo (Good Governance) Foundation has been undertaking various activities for the promotion and protection of RTI. It is holding a series of training and orientations to the information officers of Ministry, Departments and other government offices. The Foundation is also undertaking various researches on RTI.

- GoGo Foundation has established RTI Help Desk. This has helped to institutionalize the RTI campaign across the country.
- The GoGo foundation has sought the information from various government offices to promote accountability and transparency in their works.

Monitoring and Evaluation

Monitoring and Evaluation is important to make sure that all activities being carried out yield expected results. During the first six fiscal years (2008/09-2013/14) of its establishment, NIC has undertaken various monitoring and study activities to make an overview of the implementation status of RTI Act in Nepal. Based on the findings of Monitoring and Evaluation, NIC has also taken appropriate measures in order to address the problems seen and improve implementation status of RTI Act. The following are some of the major Monitoring and Evaluation activities carried out by NIC during the fiscal year 2008-09 to 2013-14.

Monitoring and Evaluation Activities in the Fiscal Year 2008-09

NIC conducted monitoring and evaluation survey with a view to track the situation of the implementation of the RTI Act. The survey covered issues like whether public authorities are responsive and prepared enough to bear responsibilities in accordance to the provisions of the RTI Act, their information management system, trend of seeking information and disseminating them and work pressure that it

would put on to information officers. Budget and other resources made available to public offices for the purpose of information related activities was also an issue of the survey. NIC used the services of four consultancy firms including Agri-professional Pvt. Ltd., Informative Law Associates Private Limited and Samaj Bikas Abhiyan for the purpose of monitoring and evaluation.

The questionnaire for the survey was prepared in joint directions of NIC and Article 19 and the survey covered some government offices and the regional directorates of five development regions and the government offices of various 15 districts. In this connection, the survey team reached 198 government entities in different parts of the country. The survey questionnaire contained questions on issues like implementation status of RTI Act, the responsibility of officer in-charge and information officers, information management system and requirement of that particular office to discharge its responsibilities efficiently. The findings of the survey were analyzed by experts from different perspectives, discussed with NIC officials and other stakeholders before preparing final report for the submission to the NIC.

The substance of the report is that there is no substantial progress on the implementation of RTI Act and the government authorities themselves appear to be less concerned about it. Likewise, the report also showed that people are not aware of the existence of this Act and that information officers are bound to disseminate information upon such request. The findings of that report are as follows:

- Most of the office in-charge have knowledge of the existence of this Act, but are fully informed about the contents of this Act.
- Most of the government offices have failed to appoint information officers with separate information section. There is also lack of resources to carry out this activity.
- In most cases, information officers tend to be officers doing also other normal duties. They cannot spare extra time and attention to carry out this particular business.
- There is no separate budget for information management. Government offices lack trained manpower with sound technological knowledge for information management.
- Applications seeking information are very few in number. Although information is being provided upon such request, no appeals were found to have been made upon the denial of information sought.
- The government offices at district level are not informed about information

classification and they are unable to distinguish which information is subject to publication/ dissemination and which are not.

- As most of the information seekers tend to be journalists, there is an impression among information officers that RTI Act is enacted for journalists.
- There is a complete absence of information culture, openness and transparency in public offices.

Monitoring and Evaluation Activities in the Fiscal Year 2009-10

NIC conducted field monitoring and follow-up of 155 government offices with a view to find out implementation status of the RTI Act in different districts. The monitoring was aimed at assessing the facts like whether public authorities were responsive as well as prepared to bear responsibilities in accordance to the provisions of the Act, their system of information management, trend of people seeking information and dissemination of such information, work pressure put on information officers and the budget and other resources made available by the government to public offices for the purpose of RTI Act related activities.

The findings of the monitoring and evaluation revealed that there was no substantial progress and the government itself was less concerned about ensuring full implementation of the RTI Act. NIC faces same problems as in the previous fiscal year regarding inordinate delay in appointment of information officers, availability of resources, use of modern technology, deployment of technical persons for information management and difficulties faced by information officers to get access to information etc. Nevertheless, ordinary people are gradually getting knowledge about the existence of this Act and are also informed that in case of the denial of information of public importance, an appeal can be made at NIC.

Monitoring and Evaluation Activities in the Fiscal Year 2010-11

NIC had carried out on-the-spot monitoring and follow-up of 167 government offices located in 22 districts with a view to observe the situation of the implementation of the RTI Act. Monitoring aimed at getting feedback on various operational issues like what preparations and arrangements are made for the effective implementation of RTI Act, concern and response of public authorities towards observance of the provisions of the RTI Act, the system of information management, the trend of asking for information and disseminating information, situation of

information officers and their access to information and resources and on the basis of that, recommend appropriate remedies to overcome the difficulties that came across the smooth implementation of RTI Act. The monitoring was conducted in offices like, district administration offices, district development committees, land revenue offices, municipality offices, whose activities tend to be the major concern of the general public.

The following were the key findings of the monitoring and evaluation.

- More people are aware of the existence of RTI Act and its Regulation as compared to the previous years. But the rate of seeking information is still low.
- Information officers are not appointed in all offices and necessity of such appointment is not in the knowledge of many offices although there is an increasing trend to do so.
- Lower level staffs are being appointed as information officers. They have no idea of such appointment and are not conversant in the nature and responsibility of their job.
- Information officers lack access to adequate information within their own offices.
- Neither separate chambers for information officers are provided nor do their name plates appear in the offices.
- Information is not preserved systematically by most of the offices.
- Computers were not used for the dissemination of information.
- No pro-active disclosure of information is made as it is required to do so in the interval of every 3 months.

Monitoring and Evaluation Activities in the Fiscal Year 2011-12

In the fiscal year 2011/12, NIC conducted field monitoring and follow-up of 336 government offices, especially those of which are situated outside Kathmandu Valley to identify various operational issues like what developments and plans are made for the effective implementation of provisions stipulated in the RTI Act, whether substantial steps are undertaken to promote the RTI Act and concern and response of public authorities towards it. General trend of people seeking and disseminating information, capacity of information officers and their access to information and resources were also among the issues observed during field monitoring. NIC made a number of recommendations on the basis of its findings for the

smooth implementation of RTI Act. The monitoring of 21 ministries, 6 commissions and 309 district level government offices has revealed the following situation:

1. The understanding level of the people regarding the existence of RTI Act has increased as compared to previous years. However, there is still low trend of seeking information.
2. Information officers are not appointed in all offices and necessity of such appointment is not in the knowledge of some offices although many of them have designated information officers.
3. The duties and responsibilities of information officers are not clearly defined.
4. Information are not classified and brought up to date. Such classification is not in the notice of district level offices. There is no separate record of information disseminated or denied either.
5. Lower level staffs are being appointed as information officers. They have no idea of such appointment and are not familiar with the type and responsibility of their job.
6. Information officers have complained that they have no easy access to information.
7. Information officers are not provided with separate chambers. Their name plates do not appear in the offices.
8. Most offices have failed to digitize and preserve information systematically.
9. Computers are not used for the dissemination of information.
10. Pro-active disclosure of information is not made despite it is mandatory in the interval of every 3 months.
11. Information officers have less knowledge of RTI Act and the Regulations under it. Adequate efforts are not made to impart training and orientation to them.
12. Information officers are not provided with adequate resource and infrastructure to help them discharge their job.
13. New information officer is not appointed on time in case of promotion or transfer of erstwhile information officer.
14. Information officers are found waiting for the order/direction of office in-charge before disseminating information as they are not certain whether

particular job falls in their sole responsibility. Likewise, applications seeking information are found to be registered in offices only upon the order of office in-charge.

15. The office in-charge and information officers have tendency of fear of getting unnecessary trouble after disseminating certain information.

Monitoring and Evaluation Activities in the Fiscal Year 2012-13

Despite limited financial and human resources at its disposal, NIC conducted monitoring of 343 government offices including 43 departments and 300 offices situated outside Kathmandu Valley. The monitoring sought to understand various operational issues like the implementation level of RTI Act, the appointment of information officers and their access to information and resources they need to be responsive to their duties and creation of minimum infrastructure needed. The result of the monitoring indicated the prevalence of following situation:

1. There is a general understanding about RTI Act and its Regulations.
2. Information officers are not appointed in all offices. However, several district offices have designated information officers and it is in the increasing trend. But it is not in the knowledge of some officers.
3. Many district offices have appointed information officers of officer level only.
4. Many of information officers have no idea of such appointment and are not aware of the nature and responsibility of their job.
5. Information officers are not provided with separate chamber. Their name plates and citizens' charter do not appear in their offices.
6. Information is not digitized and preserved systematically by most of the offices. No computers are used for the dissemination of information.
7. Information officers are deprived of the information and the means/resources they need to discharge their duties responsibly.
8. Pro-active disclosure of information is not made although it is required to do so in the interval of every 3 months as per the Section 5 (3) of the Act.
9. The practice of seeking information is still low using the appropriate provision of the RTI Act, 2007.

10. Information are not classified and brought up to date. There is no separate record of information sought, disseminated or denied.
11. The duties and responsibilities of information officers are not clearly defined.
12. Information officers have a less knowledge of RTI Act and the Regulation under it. No adequate efforts are made to impart training and orientation to them.
13. Information officer is not immediately appointed in case of the promotion or transfer of erstwhile officer.
14. Information officers are found waiting for the order/ direction of office in-charge before disseminating information as they are not certain whether particular job falls in their sole responsibility. Likewise, applications seeking information are found to be registered in offices only upon the order of office in-charge.
15. The office in-charge and information officers tend to get panicked owing to the fear of getting unnecessary trouble after disseminating information.

Monitoring and Evaluation Activities in the Fiscal Year 2013-14

NIC monitored 743 government offices in various 40 districts during this fiscal year. The monitoring sought to understand various operational issues like the implementation level of RTI Act, the appointment of information officers and their access to information and resources they need to be responsive to their duties and creation of minimum infrastructure need. The findings of the monitoring indicated the prevalence of following situation:

1. There is a better understanding about RTI Act and its Regulation.
2. Information officers are not appointed in all offices. However, several district offices have designated information officers and it is in the increasing trend. But it is not in the knowledge of some officers.
3. Many of district offices have appointed information officers of officer level.
4. Many of information officers have no idea of such appointment and are not aware of the nature and responsibility of their job.
5. There are no separate chambers given to information officers. Their name plates and citizens' charter do not appear in the offices.

6. Information is not digitized and maintained systematically by most of-fices. Computers are not used for the dissemination of information.
7. Information officers are deprived of the information and the means/re-sources they need to discharge their duties responsibly.
8. No pro-active disclosure of information is made despite it is required to do so in the interval of every 3 months as per the Section 5 (3) of the Act.
9. The practice of seeking information using the appropriate provision of the RTI Act, 2007 is still low.
10. Information are not classified and brought up to date. There is no separate record of information sought, disseminated or denied.
11. The duties and responsibilities of information officers are not clearly de-fined.
12. Information officers have limited knowledge of RTI Act and the Regula-tion under it. Adequate efforts are not made to impart training and ori-entation to them.
13. New information officer is not immediately appointed in case of the pro-motion or transfer of erstwhile officer.
14. Information officers have no knowledge of classification of information.
15. Information officers are found waiting for the order/ direction of office in-charge before disseminating information as they are not certain whether particular job falls in their sole responsibility. Likewise, applications seek-ing information are found to be registered in offices only upon the order of office in-charge.
16. The office in-charge and information officers tend to get panicked owing to the fear of getting unnecessary trouble after imparting information that may involve inappropriate activities.

Recommendations Made by NIC to the Government of Nepal

The NIC of Nepal has been making various recommendations to the Government of Nepal (GoN) to promote, protect and implement right to information in Nepal through its Annual Reports. As the NIC's recommendations remain largely unaddressed, NIC has been repeatedly making similar recommendations in its Annual Reports so far. The following are the consolidated recommendations made by NIC of Nepal since the fiscal year 2008/09-2013/14.

1. Right to Information, Commission and the Constitution

If transparency and accountability are imperative for sustaining democratic governance, access to information is a vital instrument of societal transformation and the RTI Act helps in achieving these objectives of the state. It is the NIC, which has been assigned with the responsibility to ensure free flow of information to all state organs through effective implementation of RTI, identifying appropriate means and acts and watching over their implementation through monitoring. Therefore, it is needed to induct the provision of making NIC powerful, independent and competence in the Constitution itself.

2. Changes are required in Outdated Perception and Mentality

In democratic system, RTI holds paramount place on the top of all human rights, which is equally true in the case of Nepal. Besides ensuring a greater transparency, it also acts as a deterrent against the arbitrary exercise of public powers. Public enjoy their full right to access to information of public and personal concern and public authorities embrace the notion that people's such right cannot be refuted or reduced in any case. In addition, there is a need to make government officials self-esteemed to provide information readily following the trend of open and transparent era of governance. This needs careful planning for the training and scientific management of information.

The aims of RTI are to transform country and society into open and transparent from closed one. The preamble of RTI Act states that its first objective is the creation of open governance. However, promulgation of the Act alone cannot change the society. This requires full assurance of its implementation from the leadership level of the state. For this, outmoded perception and mentality should be abandoned, which is the main impediment to the full execution of the Act.

3. Main Source of Information and Liability for its Flow

Although RTI Act embraces all public entities from constitutional bodies to village development offices established by law, the main source of information is the large stockpile of information held by the state. The Act is enforced so as to ensure workings of the state in accordance with the democratic norms of open and transparent society. Therefore, the leaders of the state and its machinery should vow for its speedy implementation by making concrete plans and programs.

4. Right to Information and Political Commitment

Unless political parties do not express their firm commitment to the implementation of RTI, other organs and mechanisms of the state would not readily provide information to the public. Therefore, an effective response from all dignitaries who hold the position of policy making in the state machinery including political parties should come forward to encourage effective implementation of the RTI Act. Such response may also indicate that they all clearly and regularly respect new culture and environment of transparency. Such dedication also facilitates the building of human resource and physical facilities that help effective implementation of the RTI.

5. RTI and Information Management

In the light of fast development of simple, cost effective and newer means of communication, if appropriate means and technology for the documentation, management, dissemination and preservation of information are not adopted, such documentation may turn unusable, perished or the user may bear the unusual pressure and influence from IT developers in the long run. Therefore, it is required to constitute a technology determining committee to develop policy and laws relating to the use of inexpensive, simple and easily available software so as to replace the illicit software which are in use of government agencies presently and establish uniformity in the use of software in government working.

Likewise, there is a practice of maintaining of government records in files, closets, cloth bags or in old boxes at present. As a result, locating information and records immediately is not that easy. If there is no proper system and process in place for producing, managing, storing and accessing to the information in the time of their need, it creates hindrance in the flow of information. Information lies in the centre of RTI and these can be in the form of documents, write-ups, files, memos, audio and video tapes, samples, computer printouts, hard drives, pen drives, CDs and DVDs, which are present-day popular means of information storage. If there is no efficient and reliable information management system with the government, any information produced may be lost, decayed or perished, which may cause difficulty to perform her/his duty even for the honest and meticulous officer. The government shall regularly monitor whether the established information management system works correctly to detect deficiency of the system.

In Nepal too, use of computer is widespread to produce and store information. Use of efficient information technology helps turning articles, words, pictures, sound, films and other information and statistics into the form which can be easily transmitted or flowed cheaply and effectively. For this the information managed in traditional form needs to be digitally converted without any further delay. Computers of an organization can be brought into a network to share the digitized data, information and archives to make the information management systematic and scientific in accordance to the spirit and notion of RTI.

Presently, mobiles and cell phones are in the reach of more than 70 percent of Nepal's population. Necessary and useful information should be transmitted to the large segment of population instantly using this easy and cost-effective means of communication. Likewise, use of more than 400 FM radios can also be

very effective if they are used extensively to convey useful information to the people.

6. Preservation of Information

Article 28 of the Interim Constitution of Nepal, 2007 maintains that except in circumstances provided by law, privacy in relation to the person and to their residence, property, documents, records, statistics and correspondence and their reputation are inviolable. Likewise, RTI Act also advocates that public bodies should not provide information to persons other than the concerned person, meaning that it is the responsibility of public bodies to maintain privacy of individual information such as those related to character, reputation, health and liberty and preserve them properly, preventing disclosure of such information publicly.

In addition, subject matters contained in Section 3 (3) of the Act also need to be classified and preserved framing out appropriate rules as it is the responsibility of the government that the restrictive information in respect of the interests of state and individuals are well protected.

7. RTI and Press/Media

The role of media in society includes acting as a watchdog of government and enhancing free flow of information to the public. In the absence of public culture to seek information approaching public entities directly in societies like ours, media can play a vital role by providing public access to relevant information. In the present political transition in Nepal, it is the prime obligation of the press to communicate accurate information without which the public may be deprived of using right to information. It is important for the media that they are well informed of different facets of RTI and also that it has to be fully knowledgeable about the state of affairs of the country using the RTI Act, before transmitting information to the public.

8. RTI and Non-governmental Organizations

There are several organizations working in the front of human rights and good governance since long. Although subject of RTI is a newer one in the context of Nepal and is considered as the basis of all facets of human rights these organizations are not that active in this front. So, it is imperative for these organizations to work actively to make RTI well realized as per the need of time.

NGOs and CSOs can play an important role in bringing about a practical regime for transparency and accountability in governance that needs initiatives of different ministries to work together with them to enhance their propensity in information management and induce them to be assertive in demanding information and good service under law. Government agencies of industry, trade and supplies regime may work together with consumer forums to devise directives to encourage producers automatically publish information of their produce, asking information and keep track whether provisions per se are followed. As important actors in the governance process and as a bridge between the community and public agencies, NGOs can not only play an important role in monitoring public service delivery, but also in creating awareness and building capacity of the community on RTI activities.

9. RTI and Administrative Machinery

Even after the drastic changes in political system, the bureaucracy of Nepal failed to adapt itself to the culture of transparency and openness, which is taken as the binding character of democracy. The culture and practice of maintaining secrecy, deep rooted in the culture of bureaucracy, makes it yet reluctant to ensure freely the transparency and openness in its work practice. If RTI Act is to be implemented in its true sense, it is important to create such an environment in which the government employees are self-motivated to assume transparency and accountability at their work. For this, Public Service Commission and other commissions should have the provisions of RTI in the curricula of the competitive examination undertaken for the recruitment of qualified employees to the government offices so that they are fully knowledgeable to the contents and spirit of RTI Act. Likewise, separate policy and act/regulation for the management of documentation are equally needed with respect to production/ documentation, storage, preservation, access and distribution/dissemination of information in government offices. Creation of a separate and dedicated agency would help coordination of the management of documentation, its standardization and conduct regular trainings in this area.

10. Secretaries' Role for RTI Implementation

The secretaries are the front line officers, who shoulder the administrative responsibility to bring in the transparency and responsibility in state's actions and so is true in the case of effective execution of RTI. It is irony to find that these officers tend to pretend that they are uninformed about this Act, which is because of the biased approach, a product of obsolete mindset and work culture.

RTI Act has assigned responsibility to provide information to the information officer and the in-charge of the office. However, some such cases are also detected that higher officers of government agencies, who are liable to provide information, have intruded in flowing of information related to their organizations. Notwithstanding, these officers may not get away from the offence resulted by their deed of obstructing the free flow of information.

11. Openness in Expenditure Authority Given to Office In-charge

The budget and expenditure authority given to office in-charge by secretaries or director generals of government departments tend to be confidential and only she/he and her/his account officer are entitled to look upon it. There is no reason to make such authority confidential and at least information officer needs to know this since he is accountable to provide information per se in case of somebody asks for it.

12. Responsibility of the Office In-charge

Information officers have primary responsibility to disseminate information to information seeker. This requires him/her full access to the information that is in possession of his workplace. However in practice, without the consent or approval of the office in-charge they are deprived of information they need to flow although RTI Act clearly stipulates that the office in-charge is liable to give full access of it to information officer. On the other hand, they themselves are appellate authority in case information offices refuse or are unable to provide the information sought. In this situation, the office in-charge holds overall responsibility to disseminate information. Hence, they also are required to be fully acquainted and be able to carry out RTI.

13. Appointment of Information Officers and their Accessibility to Information

Despite repeated instructions of NIC, there is still lukewarm response on the part of public authorities to appoint information officers, establish a separate information section and provide full access of information to information officers. Information officer is the departure point, wherefrom, the implementation of right to information starts to take place. Therefore, the Office of the Prime Minister and Cabinet needs to take leadership by directing all public entities those of government offices, banks and financial institutions, NGOs and CSOs, cooperatives and their regulatory bodies to act in accordance with the provisions of RTI Act in appointment

of information officers and their access to the information in disposition of their organizations. In order to facilitate their access to information, provide them with necessary resources, ascertain their incentives and facilities and arrange trainings there is a need of a separate statutory order in effect.

14. Duties and Responsibilities of Information Officers

The Act clearly stipulates the provision for the appointment of information officers and the Section 7 indicates their duties and responsibilities. However, different stakeholders have suggested the need of clear description of their functions and responsibilities. The application registered in an entity first reaches the office in-charge and upon his instructions only, the information officer has to act upon the application. In the absence of system that ensures access of information to information officers routinely, they themselves have to approach different sections for its collection. This situation shows that information officers have to bear responsibility and face actions in case of failing to discharge their duties even though they do not have rightful authority to act independently thereon. It is experienced that they get no support to discharge their duties efficiently because of not having access to information that has created problems in free flow of information. The office in-charge needs to be liable to give access to information to information officers and comply with other obligations of the Act s/he has to bear on.

There is a need of the regulation directing the process and methods of pro-active disclosure, classification of information of exception as per the Section 3 (3) of the Act, duties, responsibilities and conduct of information officers, without which the information dissemination is still at stake despite there is preparedness to do so. In addition, such regulation may be tailored in accordance to the nature of job of a particular body without departing from the spirit of respective provisions.

15. Pro-active Disclosure of Information

The Act has a provision that mandatory and pro-active disclosure of information related with respective public entities to be published in the interval of every three months. The basic tenet of the RTI Act is that the information is already made available to the public before they ask for it and this indicates public authorities are doing their job as per the aspiration of citizens. This also creates an atmosphere, wherein the information seekers need not approach these entities asking for information. But it is annoying to note that this provision of the Act is still not implemented properly. This shows that there is still no will-power on the part of govern-

ment employees. The government should make sure that self-initiatives are taken to publish information periodically and in the standard format as demanded by the Act through effective monitoring. Such information requires appropriate format for its digitization and maintain them in electronic version for its preservation. Failure to implement pro-active disclosure provision for a longer time may cause misappropriation and abuse of authority and make the government and officials of public authorities irresponsible to general public and the legislative. Therefore, it is advised that regular disclosure of information should be linked with performance of public agencies and their officials.

It is also found that despite having zeal and interest for the pro-active disclosure of information on the part of government officials, absence of directives guiding the mode and ways of such disclosure, classification of the protective information and the duties and responsibilities information officer have together impeded the implementation of the Act with desired results. Therefore, the framing of such directives is needed right away.

16. Training and Incentives to Officials working in RTI

In order to eliminate the prevalent tradition of maintaining confidentiality as per the objectives of RTI Act, there is a need to increase the competency of all employees of Public entities. Systematic and regular training is required to make all employees of public entities realize the importance of the Act, their responsibilities per se and seek commitment towards openness and transparency. The Act urges that mere imparting mechanical or technical skills as regards to the process of publicizing information and information management does not serve the purpose of the Act, but holistic training approach needs to be adopted that emphasizes on openness as the basis of social service. Such training should aim at bringing government nearer to the general people as well as reducing the anxiety and unease of employees while working in new work culture and tradition. This is especially true for information officers and chief of the offices, the skill of whom should be enhanced regarding the mandatory publication of information and providing information to the needy.

17. Amendments of Acts that contradict with RTI Act

The RTI Act has failed to include the provision of the supremacy of RTI Act, in cases in which other acts preclude execution of RTI. This has created non-

execution of RTI in many circumstances. Other Acts which hinder the applicability of RTI Act, regulations which rule out the responsibility of government employees disclosing information and Acts which clash with RTI Act require amendments so as to enhance people's right to information, bring harmonization in related Acts, promulgate supporting acts that help in the execution of RTI and lead government's activities to openness and transparency. Identified such acts are Confidentiality Act, National Security Act, Public Service Commission Procedures Act, Census Act and Acts relating to Public Archives, Civil Service Act and VAT Act.

18. Requirement of Supporting Acts

Other supporting acts deserve equal importance to make RTI Act fully effective and functional. There is a need to set out that the RTI Act overrides other acts and the government employees should have a clear intuition that they are obliged to work in accordance with RTI law in the changed context.

19. RTI and Restrictive Provision of Classification

A number of public information has been classified as protective which fall outside the scope of the Section 3 (3) of RTI Act. As this has jeopardized objectives and spirit of the RTI Act, 2007, this classification requires immediate review. There is a need to classify protective information taking into account of exceptional principles instilled in the spirit of the RTI Act by framing out appropriate regulation/directive by the Government.

20. Oath of Office - not of Confidentiality but of Transparency

In Nepal, taking affirmation of confidentiality before entering on the execution of different offices is called the oath of office and secrecy. However in the present era of democracy, execution of office should be preceded by the oath of not restricting the publication of information for the knowledge of public and establishing transparency in public entities.

21. Effectiveness of Bylaws

Entities executing the RTI Law and the agencies overseeing the execution should be vigilant towards possibility of making RTI ineffective by making bylaws and

regulations. Such bylaws need to be supportive towards enforcing main laws rather than obstructing them.

22. RTI and Right of Consumers

Consumers are entitled to know about the price and the quality of the products and services they consume. It is the liability of the producers of goods and services to disclose all details of their products to consumers in the time of delivery. Effective provisions have to be made in the laws of consumer protection of Nepal to provide enough information to consumers about the products and services available in the market. Consumers as well are required to use their rights asking for such information.

23. Right to Information and Education Sector

It is imperative to include materials of RTI in the syllabus of high and higher secondary (grades 8 to 12) and college level and conduct regular special sessions to the students in this subject. Students and their guardians should also have knowledge of financial matters of institution and matters like appointment of teachers, the practice of the school management and the owners of the school. It falls also under their rights to have the information about the details of fees collected from students and what way and in which activities that is being spent. If school students become enlightened with RTI provision, it helps creating an open and transparent society and developing responsible and devoted citizen.

It is the common perception that all details relating to examinations requires to be kept in confidence, which has brought in distortions putting the educational career of many students at stake. This has also given rise to unhealthy competition among schools. Therefore, even if the information in respect of question paper and the methods of preparing questions and examining and the persons who prepare questions etc are classified, students should have right to know the score of their papers or go through the answer sheet that is examined.

Likewise, it has now been mandatory for various 19 training institutes of the Government of Nepal to include RTI sessions in the curriculum that they tailor for pre-service and in-service trainings of government employees. In addition, reports in respect of RTI related curriculum development at school and training institution level is yet to be realized despite an instruction of this effect by Prime Minister's Office has already been circulated to all public institutions.

24. Physical Infrastructure for the Endurance of National Information Commission

NIC is a permanent structure to work for democracy and good governance. Keeping in view of its principal responsibility to this effect and nature of work in close association of the public, it requires its own building for its effective functioning. For this, the government should have a program to construct a building allocating a suitable plot of land. In addition, it is needed to make plans for the establishment of its liaison offices and mobile benches in other regions of the county to help address appeals of information seekers at local level. Likewise, NIC needs adequate vehicles for monitoring and execution of its programs throughout the country. Lack of adequate vehicles has large impaired its functioning.

25. The Responsibility of the Government of Nepal

The government has to set up information section in all government offices with separate information officer providing him/her with substantial budget, physical and training facilities. The personnel, responsible for providing information and undertake other responsibilities of information management, need to be fully trained on what their responsibilities are under the law, how to manage applications/appeals and of course, how to apply and interpret the law. They are the ones who create and manage the information that the public will be requesting for. If they don't understand their duties properly or if they are not committed to implementing the law, then its effective operation will become difficult. Such officers may require working for extra time to discharge their responsibility, so they are to be provided with incentives and rewards as well.

It is emphasized here that the responsibility of NIC is to watch over the performance of government agencies in respect of RTI Act, including the appointment of information officers and whether they are provided with enough resources to manage and impart information or they have easy access to information of their offices. However, it will be a blunder to perceive that the liability of providing necessary budget, designate information officer or ensure their access to information is also that of NIC. Moreover, all central agencies should have an appropriate mechanism to see whether their institutions are complying with the provisions of RTI, orders and decisions received from NIC have been followed properly and if not followed then issue necessary directions and orders. In order to supervise and coordination of central agencies, it is advised that a Central Nodal Agency should

be constituted in the coordination of the Chief Secretary of the government. The ministries and other central agencies are to perform RTI activities in coordination and direction of CNA.

26. Need of a High Level Authority for the Implementation of RTI

This is a common practice of all countries, where RTI Act is in force, a separate ministry or high level authority is to put in place to facilitate in the appointment of information officers and, arrange necessary trainings and incentives to them, endow the information sections with adequate budget and resources and support them in information management. In the absence of such an institution in Nepal, the information officers are not trained despite the Act states that it is the responsibility of the government to do so. Therefore, this calls for establishment of such a high level mechanism to ensure the undertaking of all activities mentioned above in Nepal as well.

27. Observance of RTI Day

With a view to increase awareness among general public about their right to information and seek greater commitment from public authorities, the government has to declare Bhadra 3rd (that generally falls on August third week every year) as the RTI Day and observe in all government offices for 3 consecutive days all over the country.

28. Reporting of the Use of RTI by Public

There should a provision requiring all government agencies to send reports to the National Information Commission concerning demand of information, delivery of information and actions taken on such demands by keeping separate updated records. This helps NIC to get knowledge of how and to what extent are people using their RTI rights.

29. Need of Massive RTI Campaign

There is a common thinking that only government entities are responsible for disseminating information. However, other government owned or quasi-governmental organizations, organizations established under statutory provisions, political parties and their affiliates, institutions getting foreign aid equally come under the jurisdiction of RTI Act, which are not in the notice of general public. On the other hand, such organizations also have not realized their obligation to publish infor-

mation on mandatory basis and provide information as per RTI Act. Therefore, it is high time attention of the authorities, under which these organizations operate, drawn to make them comply with this provisions of the RTI Act.

30. Uniformity in Information Fees

The RTI Act and the Regulation under it have made a provision to charge some fee for providing information to information seekers. However, many public authorities are found to be charging higher fees than what is prescribed by the Act. Additionally, such charges were fixed and enforced after a long time of the enforcement of the Act, not following the principle of maximum disclosure at minimum cost. Good examples are the fees being charged by the Office of Examination Controller (Rs 700) and Eastern Region University as well as Tribhuvan University (Rs 5,500) to provide marks to students of their examination papers or allow them to go through answer sheets that are examined already by the examiner. Eastern Region University charges Rs. 5,000 for a single paper that a student wants to inspect, which is much higher than the real cost of that piece of work. This implies that such fees are fixed arbitrarily with the intention of discouraging the information seeker and cover up the information, which is in contrary to the spirit of the RTI Act. To this effect, the Supreme Court has also issued orders to fix such fees on the basis of the cost of processing and issuance of information. Therefore, the government should act proactively to fix such fees as minimum as possible to ensure that more people are encouraged to seek information.

31. Exercise of Open Meetings

Except for meetings concerning sensitive information and decisions, there should be an exercise of holding open meetings of various public entities. This can help promote open governance in the country. However, this may need a policy to decide what sort of meetings are to be held behind closed doors. Decisions made in such closed door meetings should also be in the reach of general public. This practice can be initiated from the meetings of VDCs and municipalities.

32. Need of Changing the period of Pro-active Disclosure

The Act has made provision of proactive disclosures - where public agencies make their records publicly available without waiting for specific requests from the public. They are required to affirmatively and continuously disclose records proac-

tively at the interval of every three months in accordance to section 5 (3) and 5 (4) of the Act. On the contrary, there is an established practice in the government, under which the review of budget release and spending, physical and fiscal progress and high-level meeting of problem solving takes place at the interval of every four months and accordingly all documents for this purpose are prepared accordingly. These details thus prepared are almost similar to the required information that has to be included in pro-active disclosure, but requires extra effort, time and cost again to prepare the document again because of the difference in duration. Therefore, there is a need to bring amendment in section 5 (4) making the period of pro-active disclosure at the interval of four months instead of what it is today.

33. Mandatory Provision to provide Information

There is still confusion that persists among people that information officer and officer in-charge get relieved from providing information after they are prosecuted and penalized for not complying provisions of the Act. The Act needs to be amended to make information officer and officer in-charge still responsible towards disclosing information.

34. Protection of Whistleblower

There is a provision of protecting whistleblower in the Act which assists the government and reports it the matter of misconduct. But as a very few appeals are filed with NIC for seeking protection it is difficult to protect whistleblowers since the possibility of retaliation or threat of retaliation persists due to the punitive decisions of NIC to the offenders. For this, the government agencies should take actions, which help the government's performance free of corruption and misconduct and also becomes accountable to the people. The government needs to make sure that NIC's decisions are strictly and rightly executed in order arouse confidence of people.

35. Increment in NIC Budget

NIC is provided with low budget to carryout different programs of promotion, protection and implementation of RTI, which is not enough to bear its responsibility in true sense. In order to enable NIC to bear its responsibility efficiently, there is a need to increase of awareness of people towards RTI, work together with CSOs and NGOs to develop integrated programs of RTI, employ press/media services

to undertake promotional activities, assume school outreach program, mobile service, other promotional activities, trainings and monitoring activities and develop publicity materials, which require substantial budget. Therefore, erstwhile budgetary size needs to be considerably increased.

36. Effective Monitoring System

There is a need to develop systematically tracking and monitoring system to find out whether the pro-active disclosure obligation is being fulfilled and people are provided the information as demanded. This system will be equally useful to see if public bodies are updating and maintaining their records and appointing information officers and ensuring their reach to information and direct them on a regular basis. Such monitoring reports needs to be sent to NIC. The suggestions of NIC, based on its own monitoring, have to be implemented by supervising agencies. There is a need to establish a system of rewarding public offices, which are information-friendly and officers, who are very serious towards disclosing information to the needful.

37. RTI-Subject of Audit

The provisions of the Act pertaining to the appointment of information officer, record management, information classification and updating, pro-active disclosure and alike are being fulfilled or not should also be made the subject of internal and final auditing.

38. Training and Incentives to NIC Officials

In the absence of appropriate incentive and career development package, there is a reluctance of government employees to join NIC. There is a trend among information officers to go on deputation elsewhere, send retiring or uncompetitive officers to the position of information officers or keep these posts lying vacant for longer period of time. The government has paid no attention to send officers of NIC in foreign training and scholarship as compared to other government entities and provide incentives and career development opportunities to them. This has created low morale and less enthusiasm for information officers to work sincerely. Therefore, there is a need to arrange foreign training and scholarships to improve the competence of NIC officers, which provide them with opportunity to learn working skills observing the functioning of information commissions elsewhere and

adopt best practices established abroad. Likewise, NIC should also be provided with adequate budget at par with other constitutional organs and government organizations. For this, adequate budgetary provision has to be made.

39. Information dissemination through Central Portal

Government of Nepal operates a central portal naming, www.nepal.gov.np which has to be used to disseminate information like classification of information, procedures of demanding for and receiving information, details of responsible authorities and their officials, information to be disclosed and the information that is disclosed and provision to receive copies of such information. If websites of government agencies are updated time to time and arrangements are made to publicize information that is sought or required by general people, these agencies would be relieved from getting and processing application seeking information. On the other hand, this way the government would win the confidence of the people.

40. Institution of RTI Award

There is a need to institute RTI Award and distribute them on National RTI Day to acknowledge the contribution of those information officers and office in-charges of government agencies, NGOs and CSOs and other individuals, who have displayed exemplary commitment and performance to the implementation of the RTI Act. The scope of such performance may include managing information efficiently and imparting and publicizing information, acting as facilitator, model and leader in championing implementation of RTI, creating information-friendly environment that lays foundation to ensure open, transparent and accountable government. The award receivers can play as role models to encourage other organization to work effectively in this field. For this, a revolving fund requires to be created.

41. Recruitment of Interns

In order to support and create awareness among students of under graduate, post graduate and doctoral levels to undertake studies and writing thesis in RTI field, there is a need of start an internship program. With a view to attract students to work in this field, certain budget needs to be stipulated.

42. Defense of NIC in Court Procedures

If the orders issued by NIC against the officers in-charge or information officers are challenged in courts, present practice is that the Attorney General Office tends to defend the case on behalf of those who suits case against the order of NIC upon her/his request. In such cases, NIC becomes defenseless that bounds it to hire private lawyers to represent in courts. In such a situation, a policy decision has to be made concerning the procedure that has to be adopted to resolve the problem.

43. Regional Office of NIC

NIC office is located in capital city Kathmandu and has no regional offices. The absence of information seeking and receiving culture, unwillingness on the part of the government employees to provide information sought, lack of implementation of even mandatory disclosure of information and non-existence of regular monitoring practice are the reasons that have necessitated the presence of NIC at regional and district levels too. However from the perspective of cost effectiveness too, it is desirable to assign this scope of work to regional and district offices of Department of Postal Services through administrative decisions for experiment, which presently do not face much work pressure. Their responsibility would be to monitor appointment of information officers, their accessibility to information, regular pro-active disclosure of information and trend of seeking, receiving and providing information. These offices need to be provided with some overhead budget, office equipment, administrative support and necessary trainings to carry out these works. This arrangement needs to be made fully operational if this experiment proves successful.

In sum, the recommendations made by NIC during its functioning of six years are not fully realized despite its efforts to pull the attention of the government and the Legislative-Parliament. Some of the Annual Reports are yet to be tabled in the Legislative Parliament. NIC draws the attention of the government to make necessary arrangement to hold discussions on NIC reports in the Legislative Parliament and implement recommendations made thereon to realize people's rights to information.

Proactive Disclosure Information Items for Public Offices

As per the clause 5 (3) of Right to Information Act 2007 and Rights to Information Regulation (2008), Public Offices need to proactively disclose the following details.

1. Form and Nature of Public Offices
2. Rights, functions and responsibilities of Public Offices
3. Number of employees and their responsibilities
4. Services provided by Public Offices
5. Section and concerned officials of public offices providing services
6. Fee and time duration required to get certain works done
7. Name of concerned official and process to take any decision
8. Name of officials entrusted with responsibility to handle complaints
9. Details of works accomplished
10. Name and designation of information officer and chief of office concerned
11. List of related Act, Rules, By-laws and Directives
12. Updated details of revenue, expenditure and economic dealings
13. Any other details as prescribed
14. Details of any programs or project, if any carried out by public offices in previous fiscal year
15. Details of website, if there is one
16. Details of foreign aid, loan, grant as well as technical cooperation received and contracts reached by Public Offices concerned
17. Various activities carried out by Public Offices and their progress report
18. List of classified and protected information and time period of such protection
19. Details of information seeking petitions received and response given to them
20. List of notices of Public Offices published already or those that can be published