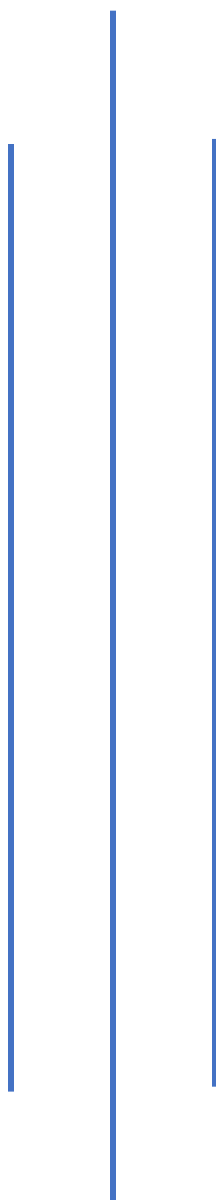


# **National Information Commission Summary of Annual Report**

**(Fiscal year 2076/077 B.S.(2019/2020A.D.)**



**National Information Commission**

**Kathmandu Metropolitan City-10, Kathmandu**

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## **Message from the Commission**

The National Information Commission is pleased to bring this publication of summarized translated version into English language annual report for the fiscal 2076/2077 B.S. (2019/2020). The report has been submitted to Rt. Hon. Prime Minister as per clause 25 (1) of the RTI Act 2007. The publication includes major activities, progress updates and achievements during the reported period.

National Information Commission (NIC) played an important role to develop the culture of right to information to the present level. We are satisfied that the status of RTI implementation in Nepal has improved in the last twelve years' period.

The NIC has organized various activities to create awareness and increase participation of stakeholders and judiciary, public bodies and NGO sectors have been conducted. Field and web-based monitoring activities have been carried out. Training to information officers, professional bodies and media have been conducted. A number of orders have been issued to public bodies to implement RTI.

We believe that such type of activities will increase the awareness too seek information from public bodies and impartment of information, which will make public bodies more transparent, accountable and responsive and respect the citizen's right to information.

The present publication in English version has been brought to provide wider knowledge, information and understanding on the functioning of NIC as well as status of RTI in Nepal. We hope that this publication will be useful to students, researchers, academicians, development partners and RTI stake holders as well.

We would like to thank the officials of the NIC, stakeholders, partners, RTI activists and Media for contributing to this publication.

Ratna Prasad Mainali

Kamala Oli Thapa

Mahendra Man Gurung

Information Commissioner

Information Commissioner

Chief Information Commissioner

## **Subject: - Twelfth Annual Report**

Article 27 of the Constitution of Nepal has stated that ‘every citizen shall have the right to demand and receive information on any matter of his or her interest or of public interest ‘To implement this constitutional fundamental right RTI Act 2007 has ensured legally for the access to the information held in the public body. Accordingly, Right to Information Act, 2007 has provision for an independent National Information Commission (NIC) to protect, promote and enforcement of the right to information. Keeping in view of these provisions NIC has prepared this report including main activities it has conducted in the fiscal 2076/077. The Commission has submitted its annual report containing the activities and functions of the National Information Commission (NIC) to the Parliament through Rt. Hon. Prime Minister. As per the legal provision of the RTI act the report to be published to the general public as we have prepared this report with honesty and sincerity in our mind, words and deeds.

This report has been prepared in eight chapters, four annexes and one summary description of cases in the commission. The report has been published for the information to the general public and can be accessed through [www.nic.gov.np](http://www.nic.gov.np). We would like to express our gratitude to the commission secretariat and RTI activists to help prepare this report.

Ratna Prasad Mainali

Information Commissioner

Kamala Oli Thapa

Information Commissioner

Mahendra Man Gurung

Chief Information Commissioner

## **Executive Summary**

Article 27 of the constitution has guaranteed the right to information as fundamental right of the citizen. To implement this provision of the constitution a Right to Information Act 2007 has been enacted in 2007 and the legislation has the provision for an independent National Information Commission (NIC) to protect, promote and enforcement of the right to information of the Nepali citizen. As per the duties and responsibilities, prescribed in the law, the National Information Commission (NIC) has performed number of activities in the fiscal year 2076/2077 (2019/2020).

The commission received 1 thousand 13 appeals during the financial year and settled all appeals. Out of these appeals, which are categorized into ten categories, 56% cases were related to local level, 21% to NGO sectors, 10% to health and education sectors and 7% to economic sectors. This result has proved more efforts are needed in the local level government regarding the effective implementation of right to information.

Various interaction programs with high courts and special courts judges have been completed. Among them the most prominent are Tulsipur, Butwal, Patan, and Biratnagar high court and special court judges and professional lawyers. NIC also has conducted women empowerment program at Kathmandu where more than 120 women activists participated.

Similarly, the interaction program on RTI for political parties including Nepal Communist party and Nepali Congress were organized. An interaction program targeted to provincial assembly members at Province One, Biratnagar was very useful, and additionally number of interaction programs for RTI activists and information seekers were conducted during the same period. Similarly, the interaction programs were also conducted for information officers and office chiefs at various districts. District level orientations and interaction programs for media and journalists were conducted in various districts on RTI in the Mahottari, Palpa, Gulmi, Dolpa, Nawalparasi, Susta-East, Sankhuwasabha, Rukum-East, and Salayan.

The orientation program, targeting the schools, public bodies and RTI promoters, was another important program conducted by the Commission. These programs were conducted in Dolpa, Mahottari, Salayan, , Sankhuwasabha, Rukum-East, Palpa, Gulmi, and Nawalparasi, Susta-East

Monitoring of RTI implementation is a useful tool to motivate effective implementation and NIC has monitored public bodies of the Jhapa, Morang, Kailali, Kanchanpur, Gulmi, Argakhanchi, Rupandehi and Syanja districts.

Considering the importance of openness and transparency in public bodies, NIC has requested to all the subject committees of the Federal Parliament, Upper House (Rastriya Sabha) and to the Provincial Assemblies and Local Level Government not to include the provision of secrecy, except in the subjects, which are related to the clause 3 (3) of RTI Act 2007, while formulating new legislations or amending the existing legislations.

Proactive disclosure and timely information flow plays very important role for the ordinary citizens. Such disclosure and information flow has become further important during the time of pandemic, because ordinary citizens are scared and vulnerable. Bearing this in mind, the meetings of NIC has decided to issue an instruction to the Chief Secretary of Nepal Government, Principal Secretaries of Provinces and Chief Administrative officers of Local authorities to disclose proactively and impart information regarding Corona pandemic, expenditures during the pandemic. Similarly, another instruction was issued to the secretary of Ministry of Health and Population to impart information to save the lives of people from Dengue and Covid-19 respectively and keep confidentiality of the sufferers as per the law. Another instruction was issued to the Secretary of Ministry of Agriculture and Livestock to impart information regarding where and how the farmers can get fertilizers and pesticides in the Corona lockdown period.

NIC has fined the principal of a Delhi Public School, Bara district and Acting Chief Administrative Officer and Information Officer of an Isha Nath Municipality, Rauthat. and Chief Official of the Nepal Chartered Accountant Institute, for not providing information to information seeker.

“Information is our Right and Information is Fundamental Right” programs have been launched from Nepal TV, Radio Nepal and Gorkhapatra to create mass awareness. The NIC has felt these programs were useful to impart information during the critical period.

The NIC has carried out web-based monitoring of 120 federal ministries and departments and provincial ministries to find out the status of RTI implementation especially for the appointments

of information officers and pro-active disclosures. The status in the federal level has been found satisfactory but there is a greater need to reform in the provincial level offices.

Due to the Corona pandemic, lockdown was implemented by the government for several months, it was not possible for NIC to organize some of the programs, such as NIC establishment Day, Information Day etc. NIC has organized a virtual panel discussion to celebrate the Universal access to Information Day 2019, the first after United Nations decided September 28 as International Day for Universal Access to Information. NIC has also decided to name Best RTI activist prize, distributed every year, after the first Chief Information Commissioner late Binaya Kumar Kasaju as Binaya Kasaju Best Activist Award,

# **Chapter 1**

## **National Information Commission**

### **1. An Introduction**

Nepal has adopted a federal democratic republican system of governance. The preamble of the constitution has stated the objectives of the promulgation of the constitution in order to fulfill the aspiration for sustainable peace, good governance, development and prosperity through the federal, democratic republican system of governance to build the prosper country. According to the constitution of Nepal the sovereignty and power to reins of governance vested in the people of Nepal. Article 27 of the constitution has guaranteed the right to information as fundamental right of the citizen. To implement this provision of the constitution, Right to Information Act 2007 has been enacted by the Legislature-Parliament in 2007 and certified in 5<sup>th</sup> Sharavan 2064 (July, 2007) of the same year and this Act came into force on 3<sup>rd</sup> Bhadra of 2064 (August, 2007). This day has been celebrated as RTI Day since the act came into force.

Right to Information Act, 2007 has provision for an independent National Information Commission (NIC) to protect, promote and enforcement of the right to information of the Nepali citizen. The provision of the clause 25 of the act has provided for mandatory provision to submit its annual report containing the activities and functions of the National Information Commission (NIC) to the Parliament through Rt. Hon. Prime Minister. In this connection, this is the twelfth annual report in sequence of the activities and functions performed by the Commission for the year 2076/2077 B.S. (2019/2020 A.D.) regarding protection, promotion and enforcement of right to information.

#### **1.1 The Constitutional Provision**

The kingdom of Nepal's 1990 constitution article 16 has the provision of right to information as fundamental right for the first time in Nepal. The interim constitution 2006 and constitution of Nepal promulgated in 2015 has also the same provisions regarding the right to information. The interim constitution 2006 further extended this right and guaranteed right to information and privacy as fundamental right.



Article 27 of the interim Constitution of Nepal, 2064 has stated the following provision as a fundamental right of the citizens of Nepal:

“Right to information: Every citizen shall have the right to demand and receive information on any matter of his or her interest or of public interest.”

The same article also has a prohibitory clause:“Provided that no one shall be compelled to provide information on any matter of which confidentiality must be maintained in accordance with law.”

The present constitution of Nepal has also the same provision as mentioned in the interim constitution as stated above and gave continuity for the same.

Similarly, article 28 on Right to privacy states that “The privacy of any person, his or her residence, property, document, data, correspondence and matters relating to his or her character shall, except in accordance with law, be inviolable.”

## **1.2 Legal provision**

Whereas, it is expedient to start legal provision to ensure the right of the citizens to seek and receive information about themselves or of the issues of public concern as provided for in article 27 of constitution of Nepal, whereas 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 the Right to Information Act (2064) and has been published in the national gazette on 5<sup>th</sup> Shrawan , 2064. The Act has come into effect from 3<sup>rd</sup> Bhadra, 2064, as per the mandatory provision of enforcing it within 30 days of certification by the parliament. The Clause (3) of this Act has ensured people's right to information and the right to acquire information of public importance pursuant to the very clause. It has clearly stated that it is the responsibility of the public bodies to make the functioning of the state open, transparent and accountable and to

protect, promote and enforce right to information as per the democratic norms and constitutional and legal provisions.

The government of Nepal has formulated, in consultation with National Information Commission, the Regulation relating to Right to Information, (2065 B.S) 2009 and implemented it so as to implement the Right to Information Act (2064).

### **1.3 Establishment of the National Information Commission**

Clause (11), section three of Right to Information Act (2064) has arranged for constitution of National Information Commission with one chief information commissioner and two information commissioners, with inclusion of at least one female commissioner in it, for the purpose of protection, promotion and enforcement of right to information. The government of Nepal appoints the chief commissioner and commissioners upon recommendation of the committee led by the Speaker of Parliament and members that include Minister for Communication and Information Technology and President of Federation of Nepali Journalists. As per this provision Mr. Binaya Kumar Kasaju was appointed Chief Information Commissioner and Mr. Shree Acharya and Ms. Sabita Bhandari Baral as Information Commissioners on Baisakh 22, 2065 respectively. This was the first such appointment in the Commission. The term of Kasaju came to an end on due to age limitation on Shrawan 3, 2069. Since, Mr. Acharya was serving as the acting Chief Commissioner. But their terms also expired. For the 17 months that followed, the NIC remained without commissioners. The secretariat looked after the affairs during this period.

As per the decision of council of minister on Push 24, 2071, Mr. Krishna Hari Banskota has been appointed Chief Information Commissioner and Mr. Kiran Kumar Pokharel and Ms. Yashoda Devi Timsina as Information Commissioners of NIC as a second batch of NIC Commissioners. They assumed office on Push 30, 2071 and worked till 23<sup>rd</sup> Paush, 2076. As their terms of office completed, Government of Nepal appointed Mr. Mahendra Man Gurung as Chief Information Commissioner and Ms. Kamala Oli Thapa and Mr. Ratna Prasad Mainali as Information Commissioners respectively on 23<sup>rd</sup> Marga, 2076. They assumed office on 24<sup>th</sup> Push, 2076. The tenure of the Commissioners is for five years.

## **1.4 Rights, duties and powers of National Information Commission**

Section three, clause (19) of Right to Information Act (2064) has laid following as rights, duties and powers of National Information Commission: -

1. To observe and study the records and documents of public importance held in Public Bodies,
2. To order for maintaining list of information related with document and records held in such Body orderly,
3. To order concerned Public Body to make information public for citizens' notification,
4. To prescribe timeframe and order concerned Public Body to provide information demanded by applicant within such time frame.
5. To order concerned party to fulfill liabilities in accordance with this Act.
6. To provide necessary suggestions and recommendations to Government of Nepal and various other bodies related to information and communications regarding the protection and maintenance of right to information.
7. To issue other appropriate orders regarding the protection, promotion and exercise of right to information.

## **1.5 Additional Rights, duties and powers of National Information Commission**

1. The Nepali citizen, who has not obtained the information as demanded or who is not satisfied with the information received, may make an appeal to the Commission. The Commission may issue an order to investigate the appeal and provide the information.
2. In case the appeal is made over the committee to classify the information in the public offices, appeal can be made to make such information public. The

Commission will investigate into the appeal and order to make the information public, if it deems the information need not be kept secret.

3. The Commission may write to the concerned offices to fine or take departmental action against the officers, office chiefs or information officers who don't or refuse to information, or who provide partial or wrong information to the citizen.
4. In case the act of denial and refusal to provide information, or the act of providing partial or wrong information or destroying the information, has caused harms to any person, the Commission may cause the concerned office to pay compensation.
5. In case any office or the official has taken more fee than prescribed in course of providing the information, the citizen may register a complaint in the Commission, and the Commission may issue an order to review the fee ceiling.
6. The Commission protects the source of information, and incase harm has been caused to it, the Commission works to provide compensation.
7. In case a person has misused the information obtained from public authority, the Commission may penalize such person.
8. The Commission submits its annual report to the Legislature Parliament through the Prime Minister. Besides, it publishes this report for the information of the general public.

## **1.6 Delegation of authority**

The NIC has delegated certain power and functions to all the 77 chief districts officers except any actions and decision on appeal as authorized by the clause (20) of the RTI Act, 2007. The clause authorizes the Commission to delegate certain power and functions to public officials including Commissioners on the terms and condition ascertained by the Commission. The following are the power and functions delegated by the Commission to the chief district officers:

- a) Right to order to all public bodies in the districts to pro-actively disclose information pertaining to Clause 5 (3/4) of act and Rules 3 of the Regulation 2009,

- b) Right to order to appoint information officers in all the public bodies and publicize their names, photo and contact no. in the flex board as per clause 6 of the act and Rules 24 (Ka) of the Regulation,
- c) Right to order to all public bodies to maintain separate records management system and pro-actively disclose in every three months for the information requested and denied.

## **1.7 Provisions relating to Office and Employees of NIC**

The central office of National Information Commission is located in Kathmandu. NIC may open up its branch offices in other parts of the country as may be required. The Commission has submitted its suggestions to the Government of Nepal that the government should constitute the information commission in all seven provinces to implement the right to information effectively. The Commission has also suggested to the Government of Nepal that until it is done the government should establish provincial and district level contact offices of the commission in all provinces and districts. The government of Nepal manages required number of employees of NIC. There is a provision of Special class gazetted level secretary as the administrative chief of the Commission. The government of Nepal bears the operational expenses of the NIC. The detail regarding citizen charter, organogram, completed programs and description of current employees during the reporting period has been presented in the annex 1 -4 respectively.

## **1.8 Submission of Annual Report**

The Commission has to submit its annual report containing the actions it has undertaken during the year to the federal Parliament through RT.Hon. Prime Minister as per clause 25 of the RTI Act 2007. NIC has been submitting its annual report since establishment. The same report has been publicized in the NIC web-site [www.nic.gov.np](http://www.nic.gov.np) for the information to the general public as per clause 25 sub-clause (2) of the RTI act. The Commission has published eleven annual report from 2065/066-2075/076. This is the twelfth report of the Commission. The reports are yet to be discussed in the federal parliament.

## **Chapter 2**

### **Legal Provision relating to Right to Information**

Right to information is the fundamental right of the citizen guaranteed by the constitution of Nepal. To ensure this right RTI Act 2007 and RTI Regulation 2009 have been enacted. Similarly, a number of other rules, procedures and directives have been formulated and issued to achieve the objectives of the constitution, act and rules as well as to ensure rule based decision, smooth internal functioning and discharge of NIC responsibility and fix accountability. The procedures and directives are as follows; -

1. Meeting Operation Procedural Rules, 2072,
2. Procedural Rules relating to Appeals and Resolution, 2072,
3. Procedural Rules relating to Hearing, Complains and Applications Settlement 2072,
4. Code of Conduct of NIC Employees, 2072
5. Pro-Active Disclosure Directives 2071,
6. Procedural Rules regarding conduct of NIC Bench, 2075,
7. NIC Bench regulations and Cause list Management Directives, 2076,
8. RTI Monitoring Directives, 2076
9. Code of Conduct of NIC Commissioners, 2076.

#### **2.1. Legal Provisions of RTI Act 2007 and RTI Regulation 2009**

**Nepali Citizen has the right to seek or receive information of public importance or of his or her own held in the public bodies. The public bodies have been defined as following: -**

1. A body under the constitution,
2. A body established by an Act,
3. A body formed by the Government of Nepal,
4. Provincial Government offices or a body formed by the provincial Government
5. Local body and its offices
6. Public service providing institution or foundation established by the law,
7. Political Party or organization registered under the prevailing law.

8. Body Corporate under the full or partial ownership or under control of the Government of Nepal or such body receiving grants from the Government of Nepal.
9. Body Corporate formed by a Body established by the Government of Nepal or the law upon entering into an agreement,
10. Non-Governmental Organization/Institutions operated by obtaining money directly or indirectly from the Government of Nepal or Foreign Government or International Organizations/Institutions,
11. Body Corporate under the full or partial ownership or under control of the Provincial Government or such body receiving grants from the Provincial Government,
12. Body Corporate formed by a Body established by the Provincial Government or the law upon entering into an agreement,
13. Non-Governmental Organization/Institutions operated by obtaining money directly or indirectly from the Provincial Government,
14. Any other Body or Institution prescribed as Public Body by the Government of Nepal by publishing notice in the Gazette

## **2.2 Procedures for Demand for Information and Appeal Mechanism**

As per clause (7) of the RTI Act any Nepali Citizen, who is interested to obtain any information shall submit an application before concerned Information Officer by stating reason to receive such information. Information Officer should provide the information immediately if the information by its nature could be provided immediately and has to provide within fifteen days from the date of application if the information by its nature could not be provided immediately. If information cannot be provided immediately then the Information Officer should instantly give a notice with reason to the applicant. Again, if the requested information is related to the security of life of person, the information officer should provide such information within Twenty-Four hours of such request.

Information can be demanded in any form as orally, telephone, email and any medium as the objectives of RTI is to conduct state affairs open, transparent accountable manner. However, for the legal compliance written request for information is required. No fees are levied for demand for information application and can also be requested through legal representative.

Information Officer has to provide information in the format as demanded by the applicant as much as possible. If any individual submitted an application to study or observe the document, material or activity the Information Officer shall provide a reasonable time to the applicant for the study and observation of such document, material or activity.

### **2.3 Fee for Information**

Every public body has to provide up to ten pages of information free of cost. More than ten pages of information an applicant has to pay fee as prescribed while requesting information. Different rates have been prescribed for different types of information. However, fee for information must be based on the actual cost of providing information.

### **2.4 Complaints**

If the Information Officer does not provide information, denies to provide information, partially provides information, provides wrong information or does not provide information by stating that the applicant is not a stakeholder, the concerned person shall make a complaint to the Chief within seven days from the date of information denied or partially information received.

While investigating the complaint received the Chief shall order the Information Officer to provide information as demanded by applicant if it is found that the information was denied or partially provided or wrong information was provided and the Information Officer has to provide information to the concerned applicant if such order is issued. While conducting investigation if it is found that the Information Officer denied to provide information or partially provided the information knowingly or with mala fide intention or provided wrong information, the Chief may take departmental action against such Information Officer and can order to provide information within seven days as per RTI Regulations (5 Ka). Similarly, if it is found that the information cannot be provided the Chief shall make a decision accordingly and provide a notice stating the reasons to the applicant.



## **2.4 Appeals**

Any individual, who is aggrieved by the decision of the Chief made on complaint lodged before him/her can make an appeal before the Commission within Thirty-Five (35) days of the notice of decision received. The appellants can make an appeal by appearing oneself, through legal representative, email, online, post office or district administrative offices.

## **2.5 Decision Procedures by the NIC**

Upon receiving the appeal through due process of law the Commission may summon and take statement of the concerned Chief or Information Officer, order to submit a document, take statement of witness and evidence or demand copy of the document from a Public Body while deciding the appeal.

In the course of proceeding and deciding the appeal the Commission may do the following: -

- a) May order the concerned Chief to provide information, within a given time, to the appellant without fee, if appeal is found reasonable.
- b) If the Commission finds that Head of public Body or Information Officer has held back information without valid reason, refused to information or provided partial or wrong information or destroyed information; the Commission may impose a fine to such Chief or Information Officer from Rupees One Thousand Rupees to Twenty-Five Thousand Rupees and if such Head or Information Officer is in a disciplined position, it may write to the concerned Body for departmental action.
- c) If the Head of a public Body or Information Officer, delay to provide information which has to be provided on time without reason, shall be punished with a fine of Two Hundred Rupees per day so is delayed to provide the information.
- d) May dismiss the appeal if it is found not reasonable.
- e) The Commission has to decide within sixty days of appeal on the basis of evaluation of evidence collected and received during the hearing.

## **2.6 Protection of Information**

Public body has the responsibility of updating, classifying and keeping public importance information held in public body. Similarly, Public Body as long as possible, shall update at least of twenty years old information from the commencement of RTI Act 2064 and pro-actively

disclose information for every three months. However, the following information shall not be disclosed and protected for up to thirty-years.

- a) Which seriously jeopardizes the sovereignty, integrity, national security, public peace, stability and international relations of Nepal.
- b) Which directly affects the investigation, inquiry and prosecution of a crime.
- c) Which seriously affects on the protection of economic, trade or monetary interest or intellectual property or banking or trade privacy.
- d) Which directly jeopardizes the harmonious relationship subsisted among various cast or communities.
- e) Which interferes on individual privacy and security of body, life, property or health of a person.

## Chapter 3

### Status of Complaints and Appeals lodged at NIC and their Resolution

#### 3.1 Complaints and Appeals

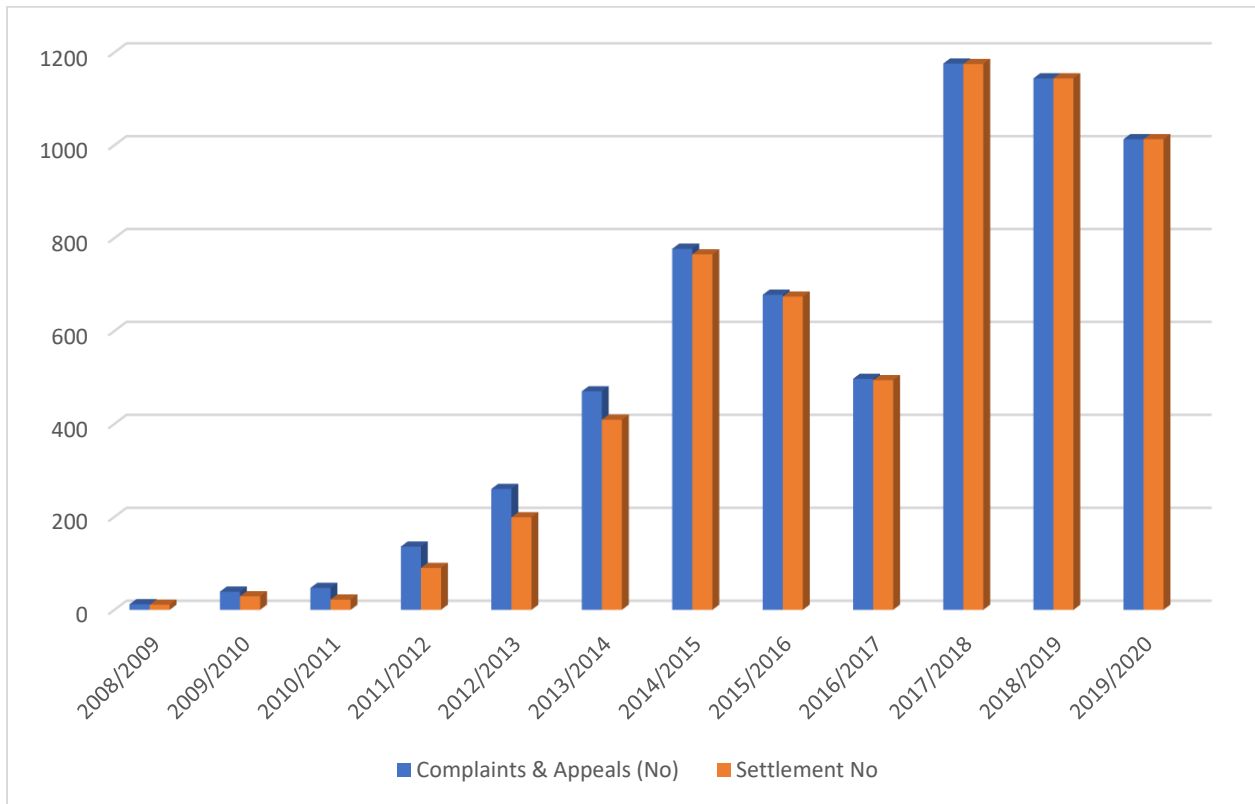
The citizen has the right to seek or receive information from public bodies as per RTI Act 2007 and RTI Regulation 2009. There is a legal provision for the citizen to lodge complains or appeals to National Information Commission against the concerned public bodies or public officials in case if any citizen are denied information. There is a growing tendency in demand for information in every year and has also brought changes in demanding information. The decrease in demand for information in the current year is estimated due to the onset of Covid-19 and subsequent lockdown. Despite the lockdown, the Commission was able to discharge its responsibility for timely settlement of appeals and complaints cases. The following descriptions in table no.1 are only the appeals, complaints and application lodged in the Commission and does not include demand for information lodged in the public body. The Commission felt needs for the use of information technology for integrated statistical information and analysis to reflect the actual case of information demanded, provided and denied. However, the status of information denied and complaints and appeal cases lodged against such denials and their resolution in the current (2076/077 B. S//2019/2020A.D.) and previous eleven years can be studied comparatively from the following table 1 and diagrams below.

**Table 1**  
**Status of Complaints and Appeals at NIC in the last twelve years**

Fiscal Year	Complaints & appeals (No.)	Settlement (No.)	Settlement (%)
2008/2009	12	11	91.67
2009/2010	39	29	74.36
2010/2011	47	22	46.81

2011/2012	136	90	66.18
2012/2013	260	199	76.55
2013/2014	470	409	87.02
2014/2015	777	765	98.45
2015/2016	678	674	99.41
2016/2017	497	494	99.79
2017/2018	1176	1175	99.99
2018/2019	1144	1144	100
2019/2020	1013	1013	100

**Diagram 1**  
**Status of Complaints and Appeals at NIC in the last twelve years**



### 3.2 Status of sector-wise application, complaints & appeals.

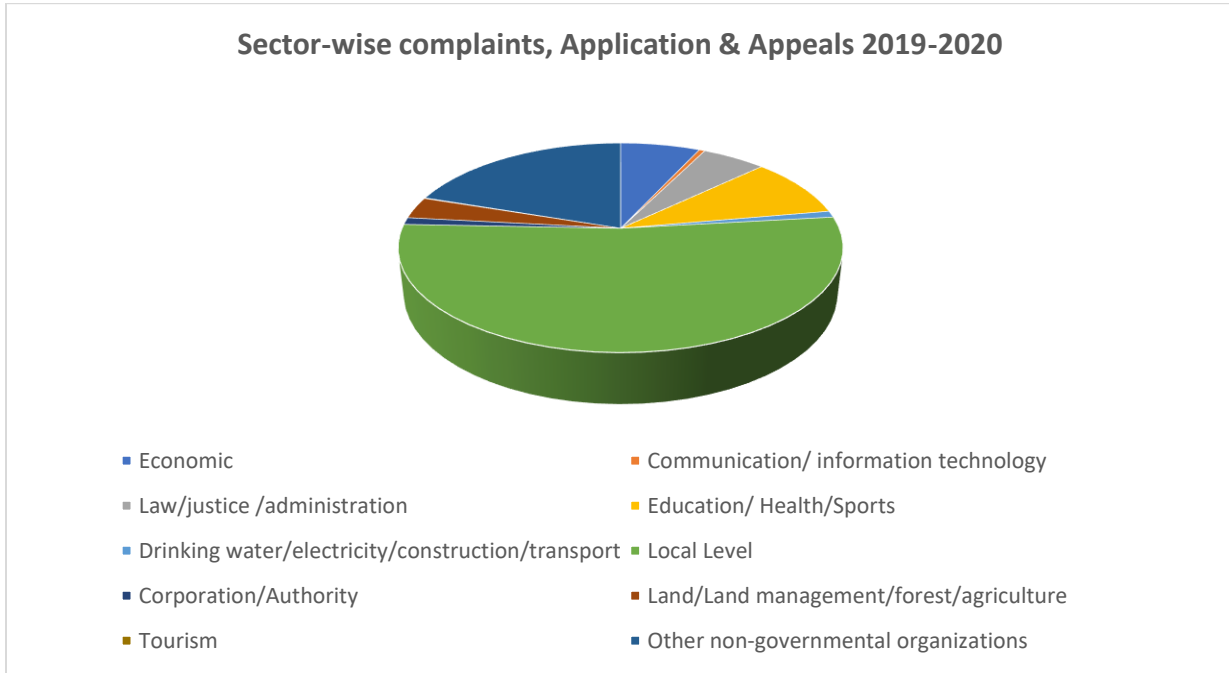
Following is the status of sector-wise complaints, applications & appeals for the fiscal 2076/2077 B.S. (2019/2020A.D.) Out of 1013 cases, local level cases are the largest in numbers and demand for information related to non-governmental organizations are also significant.

**Table 2**

#### **Sector-wise Application, complaints & Appeals**

Sectors	No.	Percentage
Economic	70	6.9
Communication/ information technology	5	.5
Law/justice /administration	56	5.53
Education/ Health/Sports	94	9.28
Drinking water/electricity/construction/transport	10	.1
Local Level	531	52.42
Corporation/Authority	11	1.1
Land/Land management/forest/agriculture	34	3.36
Tourism	1	.1
Other non-governmental organizations	201	19.84
Total	1013	100

**Diagram 2**



### **3.3. Status of Resolution**

During the periods of this report, there were 1013 applications, complaints and appeals lodged in the Commission. The Commission has settled all 1013 cases during the year. Thus, the Commission has been able to resolve 100% case of applications, complaints & appeals. The detail description has been presented in the annex.

## Chapter 4

### Decisions and Directives by the Commission

Out of the 1013 appeal, complaints and application the following orders and decisions have been made in the year 2076/077.

S.N.	Descriptions	No.
1.	Appeal case	267
2.	Complaints and Applications	746
3.	Order for show cause	227
4.	Order for providing information	101
5.	Provide information within 3 days	21
6.	Provide information within 24 hours	2
7.	Order for action as per clause 32,RTI Act	3
8.	Order for review on fees	1
9.	Order for keeping into pending	503
10.	Order for settlement	207
11.	Order to public bodies to comply RTI	763
12.	Order for refusing appeals/complaints	19
13.	Communication letters for appeals	1126

**Some of the Important Decisions made by the Commission during the year are as follows; -**

- a) The commission has fined Rs. 3000/- to the principal of Delhi Public School, Bara District, for not providing the information even after the order of the commission.

- b) An order has been issued to fine as per clause 32 of RTI act to Acting Chief Administrative Officer and Information Officer of an Isha Nath municipality, Rauthat.
- c) The Commission has fined the Chief Executive of Nepal Chartered Accountant Institute Rs. 10,000/- for not following the order of the commission to provide the information to information seeker.
- d) Considering the importance of information on Dengue and Covid 19 to the ordinary citizen, the commission, after a meeting with concerned officials, has issued instruction to the Secretary of Ministry Health and Population to impart information to save the lives of people from Dengue and Covid-19.
- e) During the period of Corona Pandemic, number of activities has been carried out by public bodies to prevent and control the impact of Covid, for which the large amount has been spent on purchases, the details on the activities and expenditures needed to be made public, so that transparency and accountability is upheld. Keeping in view, the Commission has decided to issue an instruction to federal public bodies through Chief Secretary, to provincial public bodies through Principal Secretaries of Provinces and Chief Administrative Officers of local levels to proactively disclose the information.
- f) Similarly, Considering the importance of openness and transparency in public bodies, NIC has requested to all the subject committees of the Federal Parliament, Upper House (Rastriya Sabha) and to the Provincial Assemblies and Local Level Government not to include the provision of secrecy, except in the subjects, which are related to the clause 3 (3) of RTI Act 2007, while formulating new legislation or amending the existing legislation.



## **Chapter 5**

### **Financial and Physical Progress**

#### **5.1 Status of Budget and Expenditures**

The total budget appropriated for the Commission was Rs.5,03,41,000/- only during the fiscal year 2076/077. Out of total budget, the commission has used Rs. 3,86,14443/- only. Due to the Corona pandemic, there was a lockdown for more than 4 months of the financial year, therefore, the commission was not in a position to conduct number of programs. Therefore there was a low level of budget expenditure.

## **Chapter 6**

### **Key Activities Performed by the Commission**

#### **6.1 Background**

During the period, the commission has carried out number of orientation and interaction programs to promote the use of Right to Information. The programs were targeted to provincial assembly members, judges of high and district courts, attorneys, head of the offices, information officers, bar association members, local elected members, and various professional associations members among others. The main objectives of these programs were as follows:

- a. To create awareness among elected members, judicial professionals, civil servants and general public,
- b. To motivate officials of public bodies to respect RTI,
- c. To promote Pro-active disclosure,
- d. To facilitate appointment of information officers and make them competent through training and orientation,
- e. To motivate to maintain the separate record keeping system for information requests,
- f. To motivate responsible official to provide information on time,
- g. To inform on classification and exceptions
- h. To impart information on RTI and provide knowledge on global practices.

#### **6.2. Interaction programs with high court and district courts judges**

An interaction program was conducted to high court and district court judges, attorneys and bar association members in Morang, Dang, Butwal. During the interaction program, provision regarding RTI in Nepal, recent developments in the RTI in global context and status of implementations in Nepal were discussed and shared. Participants expressed the program was very useful, informative and provided wider perspectives on RTI.

### **6.3. Women empowerment program**

An interaction program was conducted with female information officers and officers of federal ministries, female members of Nepal Bar and districts Bar associations, female officers working on media sector, officers working on security sector and female representatives from various professional organizations. The chief guest of the program was Minister for communication and Information Technology Mr Gokul Prasad Baskota, special guest was the Chair of Parliamentary Committee on Development and Technology Ms. Kalayani Kumari Khadhka. Chief Information Commissioner Mr. Mahendra Man Gurung chaired the program. Similarly, the Information Commissioners Ms. Kamala Oli and Mr. Ratna Prasad Mainali and secretary of the commission also participated in the program. The Minister highlighted the need for more participation of women members in the state affairs as the constitution has guaranteed 33% participation and such programs also needed to carry on remote and terai provinces.

### **6.4. Interaction Programs with Provincial Assembly members**

An interaction program was conducted with assembly members of Province 1 in Biratnagar on Bhadra, 2076. In the program, assembly members, secretaries of the provincial ministries, information officers and chief district officers among others participated in the program. Knowledge and practices on RTI, need for implementation and present status, legal provisions and universal practices were widely shared discussed in the program. Altogether 118 officials participated in the interaction program.

### **6.5. District Level Interaction Program**

District level interaction programs on RTI were conducted in various districts. The districts covered in such programs were Dolpa, Mahottari, Rukum-East, Salayan, Palpa, Gulmi, Susta-East Nawalparasi, Kathmandu and Sankhuwasabha. Various Districts level officials, information officers, civil society members and representatives, professional association members, security sector officials, media, right activists and RTI promoters were present in the program. Knowledge and practices on RTI, need for implementation and present status, legal provisions and universal practices were widely shared discussed in the program.

## **6.6 Annual Report Submission**

The National Information Commission has submitted its 2075/076 annual reports with key activities and suggestions there on to the Rt. Hon. Prime Minister as per the provision of the RTI Act 2007. The legal provision of the RTI Act 2007 is that the report be required to be tabled in the parliament through the prime minister.

## **6.7. Promotional Activities on RTI by the Mass Media**

The National Information Commission has hosted different mass media campaigns through Radio Nepal, Gorkhapatra and Nepal Television to create awareness , protect and promote RTI in Nepal. ‘**Information is our Right**’ program was aired 20 episodes by Radio Nepal.. Similarly, more than twenty RTI related information, message, awareness related materials were published in Gorkhapatra Daily. As per the agreement with Nepal Television, ten talk show programs named "**Information is my Right**" were aired by inviting prominent personalities, officials, activists to RTI. It is believed that these programs were very useful on creating awareness on RTI to the viewers from remote and rural population.

## **6.8. Impact of Covid-19 on programs**

Due to the Corona pandemic, the government had imposed complete lockdown for long period of time, therefore it was not possible and wise to conduct number of programs approved for the financial year.. To name a few programs, RTI Audit, celebration of NIC establishment Day, prize distribution to information officers and right activists, women empowerment program in district, capacity development program of NIC staffs and various district level interaction and orientation programs were the programs which NIC could not complete.

## **6.9. Establishment of Binaya Kasaju Best Activist Award**

The Commission has been giving away best RTI activist prize every year for the exceptional contribution in the field of RTI. The Commission has decided to establish this prize in the name of its first Chief Information Commissioner late Mr. Binaya Kumar Kasaju for his exceptional contribution to promote RTI. The prize is named as “**Binaya Kasaju Best Activist Award**”.

## 6.11. Additional programs conducted beside the annual programs

The Commission has undertaken a web-based monitoring program of 120 public bodies of federal ministries, departments, provincial ministries and departments. The objectives of such monitoring were to find out whether these organizations have appointed information officers and pro-actively disclose the information or not.?. The results were as follows: -

1. Out of 22 federal ministries, 21 ministries have been found appointed information officers while one ministry has not done yet.
2. Among the information officers two of them were joint secretaries and eighteen under secretaries..
3. Only seven ministries have been found published the proactive disclosure.
4. Id disclosed position      No. of ministries      No. of ministries not disclosed
  - a. Phone no                      13                                              9
  - b. Email id disclosed      17                                              5
  - c. Mobile no disclosed      9                                              13
5. Similarly, the 49 federal departments' results are as follows: -

<b>Descriptions</b>	<b>No. of Ministries done</b>	<b>No. of ministries not done</b>
Information officer appointed	32	17
Designation(IOs)	18 under sec.	13
Pro-active Disclosure	12	37
Mobile No	22	27
Email ID	24	25
Telephone No.	20	29

6. The results of the 49 provincial ministries are as follows; -

<b>Descriptions</b>	<b>No. of Ministries done</b>	<b>No. of ministries not done</b>
Information officer appointed	37	12
Designation (IOs)	3 under sec./18 section officer	12
Pro-active Disclosure	5	44
Mobile No	31	18
Email ID	38	11
Telephone No.	22	27

Based on the findings of the web-based monitoring of the federal ministries, departments and provincial ministries, the Commission has issued following instructions

1. Appointments of information officer from among the senior most officers within 15 days,
2. The information relating to the information officer must be shown in entrance gate with name, designation, room no, phone, email id and mobile no. The same has to be in web site too.
3. Pro-actively disclose information within the elapse of 15 days of every three months,
2. Defaulters of these orders be reminded of clause 32 (5) of RTI Act 2007.

## **Chapter 7**

### **RTI Activities Conducted by Other Public Bodies**

The Commission has delegated some of its authority to enforce RTI and facilitate its implementation to Chief District Officers of all the districts. The district administration offices of Argakhanchi, Lamjung, Chitwan, Police Headquarter, Dhadeldhura, Dolkha and Bhojpur have conducted number of interaction programs in their districts.

## **Chapter 8**

### **Recommendations and Suggestions**

The Commission has already submitted eleven annual reports to the parliament through RT. Hon. Prime Minister as per RTI Act, 2007. The main responsibility of the Commission is to protect, promote and enforce RTI in Nepal. All the recommendations and suggestions have been made in consistent with these objectives and remain unimplemented. The current report also suggested and recommended important matters needed to be implemented immediately. These recommendations and suggestions have been made under the power vested in the Commission as per RTI Act 2007 and the Commission's own experiences, ruling and decisions during the course of discharging its responsibility as well as to implement RTI effectively. The suggestions and recommendations are as follows; -

#### **1. Constitution of High level Coordination Committee**

The status of implementation of RTI act and regulation has not been found satisfactory. The public bodies have not reconciled with the RTI and their attitudes are even more pessimistic towards it. A recent study made by the Commission at federal and provincial level ministries and departments found weak situation regarding the appointment of information officers and pro-active disclosures. Therefore, the Commission has reached to a conclusion that a high-level coordination committee be constituted as deputy prime minister and provincial chief minister as coordinator at federal and provincial level respectively to coordinate and for effective implementation of RTI.

#### **2. Empowerment of Information Officers**

As information officers are the backbone of the RTI, there is a need for empowerment of them through authority delegation and capacity development. They need to be provided mobile phone, sim card and internet facility to be able to impart information. Besides following steps are also to be taken Viz: -

- a. A separate information desk has to be established if there are more than 50 employees and budget amount exceeding Rs.20 crore.



- b. Separate RTI budget to be allocated for implementation of RTI function in every public body.
- c. Information officer must be appointed from among the second senior most officials of one level below of the office chief.

### **3. Entrance management at Singh Darbar Secretariat**

Access of ordinary requesters for information to central secretariat at Singh Darbar is very difficult due to security reason. Therefore, the Commission recommends that a separate RTI desk be established at the entrance gate of the Singh Darbar to register the demand for information, give receipt, carry the demand at designated office and return with the impartment of the information to the information seekers.

### **4. Classification of Information**

Classification of information is mandatory as per clause 27 of RTI Act,2007 but not has been done as yet. NIC has requested many times for this. Therefore, the Commission is of the opinion that this work must be completed as soon as possible as this will facilitate public bodies to impart information in time.

### **5. Whistleblower protection Regulation**

The RTI act, clause 29 has provided that the whistleblower of any public bodies has to give information of any wrong, criminal, corruption, irregular activities to the concerned authority. Given the information the identity of the whistleblower must be protected. In the absence of such regulation, it is very difficult to control irregularities. This is why the Commission has recommended that whistleblower protection regulations be enacted and bring into force.

### **6. Usages of Different National Languages**

The RTI Act 2007 has provided the public bodies to impart and broadcast any information in different national languages and through the use of mass media besides Nepali language. If the information is imparted in different national languages using the

mass media all the ethnicity and national languages speakers will have access and they can better understand the information. Therefore, the Commission recommends that the federal provincial and local level government provide and broadcast information in Nepali as well as other national languages.

## **7. RTI Implementation as Basis of Rewards and Punishments**

The top-level leadership position in the public bodies requires honesty, sincerity and commitment towards good governance, transparency and accountability. The proper implementation of RTI is one of the standards among many other standards. The leadership which pro-actively disclose and impart information can also contribute to the development of the country and bring good governance. Therefore, the Commission recommends that RTI implementation must be a basis or evaluation criteria for the promotion of higher-level position and requirement of background check whether such person has been awarded any punishments or not before appointments.

## **8. Annual Report Discussion in the Parliament**

The Commission is required to submit its annual report to parliament through Rt. Hon. Prime Minister as per RTI Act 2007, clause 25 and there is no any discussion in the parliament so far. From this year onwards the Commission will send the annual reports to provincial assembly and local level governments through provincial governments. The discussion of the report is required in parliamentary, provincial and local level subject committees in length to understand the reforms needed and to strengthen governance. The Commission suggests that such discussions and directions will pave the way to protect, promote and enforce RTI and make accountable and responsive towards citizen. Therefore, discussion must be held in the concerned Committees of the parliamentary as well as provincial and local level committees.

## **9. Abolishment of Secrecy**

As state functions are to be carried out openly, transparently and accountably and responsively as per RTI Act and regulations. Some exceptions are there for not to be

disclosed. Except that all other information should be disclosed and imparted. Accordingly, a request has been made to all the subject committees of the federal parliament and upper house (Rastriya Sabha) and also to the provincial assemblies and local level to formulate new acts, reviews and amendment of the existing act as per not being contrary to the clause 3 (3) of the RTI Act, 2064. Similarly, the Commission also recommends to the federal, provincial and local level government to adhere to the RTI act exception clause 3 (3) and make compatible with the RTI Act by abolishing secrecy provisions while formulating new act and amending the existing act.

### **10. Maintenance of Separate Records Keeping System**

The Commission has recommended to maintain and keep separate records in every public body for demand for information and pro-active disclosures. The function of public body is very important and various information is required for any strategic decision-making process. Such information is held in public body. Therefore, the Commission has requested federal, provincial and local level government to direct to keep such information in every public body and report to the Commission regularly.

### **11. Authority of Budget Allocation to be Given to NIC**

NIC receives annual budget as decided by the government of Nepal. Sometimes the budget is allocated in such a way that the NIC well thought out programs are either cut or insufficient amount is allocated. In such circumstances a well thought out and necessary programs could not be taken. Therefore, the Commission recommends that a lump sum be allocated to NIC and NIC itself allocates in desired programs.

### **12. Establishment of Contact Office at Provincial Level**

The head office of the Commission is located in the Capital city Kathmandu valley. It has been mandated to open its offices in any part of the country. Since the large numbers of demand for information and use of RTI are from the local level. In the absence of any offices in the provincial and local level requesters have to frock central office at

Kathmandu and many complaints have been received for this. Therefore, the Commission recommends opening a contact office in all seven provinces for the beginning.

### **13. Construction of Office building**

NIC does not have its own land and building. It has requested many times to the Government of Nepal to provide land and construct office building since it has to pay large amount of money as rent and govt land building are lying here and there without use. Therefore, the Commission recommends providing such land and building or constructing appropriate building as soon as possible.

### **14. Provision of own Employees**

The Government of Nepal provides required employees to the Commission. But the employees deputed by the government do not remain for even for prescribed time. The government also transfers employees at a very short time.. As a result, the commission has felt its difficulty in carrying its responsibility. Therefore, NIC recommends that like the Human Right Commission it also has its own employees for better performance.

## **1. Annexes**

There are five annexure and one summary description on the action taken on appeals, complaints and applications in the main annual report of the National Information Commission. They are as follows: -

Annex-1 citizen character of the Commission.

Annex-2 organogram of the Commission

Annex-3 summary description of the completed programs in the f.y. 2076/2077.

Annex-4 Commissioners and employees of the Commission in the fiscal 2076/077 (2019/2020 A.D.)

Annex-5 orders by the Commission

**2.** The annual report for the fiscal 2076/077 (2019/2020 A.D.) has additional supplementary descriptions on appellants and plaintiffs on the action taken on an appeal filed in the Commission in 1013 appeal cases.

## **Abbreviations**

F.Y	:	Fiscal Year
IO	:	Information Officer
MIS	:	Management Information System
MOCIT	:	Ministry of Communication and Information Technology
NIC	:	National Information Commission
NSPA	:	National Strategic Plan of Action
OPMCM	:	Office of the Prime Minister and Council of Ministers
PAD	:	Proactive Disclosure
PADMS	:	Pro-Active Disclosure Management System
RTI	:	Right to Information