

Diminishing Transparency: A Critical Analysis of India's Right to Information Act and Lessons from Nepal

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Abstract: *Although it is a notable legislative intervention of India's transparency architecture, the Right to Information Act of 2005 demonstrates a clear disconnect between effectiveness in operation and statutory sophistication. This paper synthesizes and assesses academic scholarship that includes doctoral jurisprudence, empirical studies, comparative institutional analysis, and critical policy values in order to examine the constitutional history, implementation strategies, and systematic barriers of RTI over its two decades of existence. The research reveals a crucial impasse: India's RTI loss rank sixth globally for statutory quality, yet their effectiveness and implementation rank sixty-sixth, indicating several enforcement flaws that seriously undermine the law's capacity to achieve transformative social changes. The evolution of informational rights under legal framework demonstrated how judicial activism translated implicit rights under Article 19(1)(a)¹ into explicit statutory architecture, redefining transparency as a normative standard of democracy rather than a legislative peculiarity.*

The effectiveness of RTI is perpetually undermined by seven significant operational pathologies; the 2019 amendment's² erosion of Information Commission's independence through executive control over tenure and compensation; the strategic deployment of exemption provisions as obfuscation mechanisms; the continued exemption of publicly-funded political parties from disclosure requirements despite explicit judicial directives; the ineffectiveness of penalty provisions as deterrents; widespread bureaucratic resistance manifested through personal vacancies, procedural delays and antiquated record management processes, complete non-compliance with proactive disclosure mandates under Section 4³; and the absence of adequate whistleblower protections framework highlighted by documented activist deaths. Comparative analysis with Nepal's RTI framework reveals instructive lessons regarding institutional device design, enforcement mechanisms and civil society mobilization. Important gaps remain in present research including comparative institutional studies and evaluating progressive transparency models; intersectional analyses investigating disparate access patterns among marginal communities; technological integration evaluations assessing digital governance applications; and longitudinal econometric analyses linking RTI utilization with corruption indices. Realizing the RTI's democratic potential necessitates prioritizing sectoral efficiency evaluations, technology-enabled transparency innovations, rigorous impact assessments, and comprehensive enforcement architecture reconstitution beyond merely symbolic legislative compliance.

Keywords: Right to Information Act, Transparency and Accountability, Information Commission Independence, Bureaucratic Assistance

¹ INDIAN CONSTITUTION 1950, SEC. 19(1)(a), INDIA <https://indiankanoon.org/doc/1378441/>

¹ RIGHT TO INFORMATION ACT, 2019 AMENDMENT, INDIA

¹ RIGHT TO INFORMATION ACT 2005, SEC 4, INDIA



I. INTRODUCTION

The is one of the pillars of democratic government since it serves as an accountability tool as well as constituent element of participatory citizenship. In the modern democratic theory, transparency is not just a virtue of administration, but a prerequisite of informed political participation, governmental accountability and anti- corruption. The acknowledgement that the citizens have a natural right to information available to the governmental bodies is a paradigmatic move towards the traditional bureaucratic secrecy of information to a governance that is based on transparency, accountability, and empowering citizens. This conceptual development is an expression of wider changes in the theory of democracy, in which it is thought of not as an owner of information, but a custodian who possesses information on behalf of the people. The legislation that came out in India was the Right to Information Act of the Year 2005, which was seen as a landmark form of legislative intervention aimed at putting these democratic ideals into operation by formulating laws to make them operational. The Act was the culmination of decades of civil society mobilization, grassroots organizing, and long-term advocacy over years by transparency organization that viewed information access as one of the core pillars of corruption fighting, service delivery, and marginalized group empowerment. The legislative framework had defined broad disclosure requirements on the part of public authorities, institutionalized institutional frameworks via Information Commissions on a central and state basis, and defined principles of proactive disclosure to democratize access to information instead of its reactive application processes. The passing of the ad created a lot of expectations as how much it could change the state-citizen relationship and also help in breaking the centuries old Wales of bureaucracy and also contribute to a more responsive and responsible government system.

This study combines the doctrinal legal study, empirical implementation literature, institutional assessments and comparative frameworks in order to evaluate success and ongoing failures in the transparency regime in India. It also includes a comparative learning experience of the RTI in Nepal, where the suspects of the institutional design, enforcement and the mobilization strategies used by the civil society will be analyzed to provide possible lessons and what can be done to improve the transparency architecture that is operating in India. Placing the issues of RTI in India in comparative and theoretical context the paper is aimed at going beyond instances of failure to implement it and, instead can find feasible reform avenues that, in turn, may result in increased enforcement effectiveness, greater institutional autonomy. Increased equitable access and achieving the democratic promise of the Act. This study will conclude by arguing that meaningful transparency governance can only be achieved through more legislative acumen, but an entire institutional overhaul, political goodwill, continued civil society scrutiny, things without which the discrepancy between the statutory promise and the reality of RTI has remained constant, and also regarding political goodwill.

II. THE TRANSPARENCY GAP: LEGISLATIVE SOPHASTICATION VERSUS IMPLEMENTATION REALTITES IN INDIA'S RTI FRAMEWORK

Twenty years after its adoption, though, the RTI resign in India represents a situation of paradoxical landscape: that is statutory sophistication and high implementation shortfalls. Transparency laws ratings scorecards have placed the India RTI Act at the 6th position in the world in terms of statutory quality, considering the generality of its provision and expansive coverage and soundness of theoretical framework. However, it is these same ratings that place India at the rank of 66th of perceived implementation effectiveness, which shows there is a significant disparity between the will and the deed. Such anomaly sheds light on basic problem facing transparency efforts in emerging democracies by the legal frameworks are often challenged by ineffective bureaucratic cultures, political interference, lack of institutional capacity and institutional impedance that cripple transformational potential. The ongoing failure of the statutory excellence to be linked with implementation inadequacy emerges vital questions on the determinants of effective transparency governments. Which institutional, socio cultural, and political factors mediate translation of legislative provisions into behaviors of tangible accountability? What are the ways bureaucratic structures evolve, oppose or get around transparency requirements? How do far exemption clauses that were meant to serve a purpose of safeguarding a



legitimate governmental interest serve as an instrument of obscurity? What can information commissions do to support disclosure obligations? And what is the impact of their institutional dependence on the effectiveness of implementation? What are the distributional implications of RTI, implementation of power asymmetries, informational inequalities, and additional access capabilities? Such question pre suppose an increased rate in case they are discussed in the context of comparative lenses that shed light on alternative institutional designs, implementation parts and enforcement system.

The experience of the India in the comparison with Nepal, the Right to Information Act, 2007¹ and Nepal that was initiated soon after the Indian legislation gives informative comparative views. Although the RTI frameworks in Nepal is facing similar developmental issues, political instabilities. And bureaucratically legacies, it's peculiarities in institutional design, enforcement architecture, and involvement of civil society have significant systematic analysis. Compared analysis shows convergent problems such as bureaucratic obstacles, implementation loopholes and resource limitations, and divergent strategies to institutional independence, punishment policies and active disclosure systems that can highlight ways to remedy and institutional reinforcement. This paper presents critical research on the Right to Information Act, 2005² in India and its institutional underpinnings statutory framework, structural limitations through its two-decade of history of operation and also regarding the operational dynamics. The study through systematic analysis of 7 critical operational pathologies such as erosion of Information Commission, undergoing strategic use of exemptions, political party exemptions, bureaucratic opposition, inadequate punishment, ineffective disclosure failures and low protection of whistleblowers, provides structural barriers to the transformation effect of RTI.

III. CONSTITUTIONAL FOUNDATIONS AND LEGISLATIVE DEVELOPMENT

The origin of information rights as a part of Indian constitutional process is indicative of a slow development process that is mainly by the judicial interpretation as opposed to the constitutional enumeration process. In contrast to the situation in some modern constitutions that clearly understand access to information as an inherent right, the Constitution of India of 1950³ has no direct laws determining the right to access information in itself. Rather, the right to information developed in progressive judicial activism that gradually construed in Article 19(1)(a)⁴ that all citizens are afforded the right to freedom of speech and expression. This interpretive development indicated wider tendencies in Indian constitutional jurisprudence in the direction of oppressive interpretation where the courts acknowledged implied rights without which there could be conscious exercise of the fundamental freedoms being stated by the Constitution. The legal development of information rights has started with a landmark case in *State of U.P. v. Raj Narayan* (1975)⁵, where the Supreme Court stated that the democratic leadership implies the right of the people to be informed about governmental actions. The court argued. Informed participation in the democratic process requires secrecy and transparency is anti-democratic in its operation.

This identification provided a basis of recognizing information to access, not as a concession of legislation, but a fundamental part of constitutional democracy. This was gradually refined and enlarged by subsequent jurisprudence, and finally arrived at its conclusion. In the case of *S.P. Gupta v. Union of India* (1981)⁶, Justice PN Bhagwati expressed this rule, as follows: There cannot be many secrets in a government of responsibility, such as government in which all the instruments of the people must be answerable to their actions. These judicial notes laid down the constitutional building blocks on which statutory arrangements could be built to alter an informational accessibility that was discretionary and administrative authority into a justifiable right.

¹ NEPAL RIGHT TO INFORMATION ACT, 2007

² RIGHT TO INFORMATION ACT, 2005 INDIA

³ THE CONSTITUTION OF INDIA, 1950 (INDIA)

⁴ THE CONSTITUTION OF INDIA, 1950 ARTICLE 19(1)(a). <https://indiankanoon.org/doc/1378441/>

⁵ STATE OF UP V. RAJ NARAIN 1975 3 SCR 333 <https://indiankanoon.org/doc/438670/>

⁶ SP GUPTA V. UNION OF INDIA 1982 AIR 149 <https://indiankanoon.org/doc/112850760/>



The transformation of these constitutional principles into detailed statutory structure was an extended process that was performed in several legislative programs based on the changing political commitments to transparency. The Freedom of the Information Act of 2002⁷ was an early statutory enforcement to operationalize the right to information, but was flawed in many ways, such as being narrow, having weak enforcement and excessive exemptions are promoted for the bureaucratic secrecy which couldn't be followed in India. The civil society, transparency administrations and grass root movements organized constant campaigns about these shortcomings and forced upon stronger laws to be implemented. The advocacy effort was laid down by National Campaign for People's Right to Information, which was based in part upon successful experience elsewhere in Rajasthan, where local governments had already acquired. Informational access to information through direct action, and finally resulted, after several years of campaigning in wholesale legislative reform.

The Right to Information Act of 2005 was a breakthrough in the sense of being more comprehensive in nature, with wide coverage, few exemptions, penalties in case of non-compliance, few exemptions, and institutionalized by the creation of Information Commissions to have a regulatory role in enforcement and appellate purposes. The Act was extended to all constitutional authorities, government departments, instrumentalities to which the state provided significant funding and non-governmental organizations to which state provided significant funding and thus made the public sector virtually comprehensive in the disclosure requirements. The system to appoint Chief Information Commissioners and Information Commissioners was based on multi member committees with the antagonism representation in them, which theoretically would not allow excessive executive influence over the Information Commissioners and his Chief Information Commissioner.

The Act provided the 15 days deadline to respond to information request, and gave exceptions on expedited response in instances where information was related to the interest of life or liberty. It had a hint of proactive disclosure of regular organizational information as in Section 4⁸, which in theory decreased the need of individual applications but democratized access to information. The Act was extended to all constitutional authorities, government departments, instrumentalities to which the state provided significant funding and non-governmental organizations to which state provided significant funding and thus made the public sector virtually comprehensive in the disclosure requirements. These exemptions were however framed with narrowness and an interest override by the public and it acknowledges that transparency presumption should only give where there is provisional harm that will be caused by disclosure. The Act for the place date that exemptions would not be asserted to avoid disclosure of information relating to the allegations of corruption, the violation of human rights or information that cannot be refused to Parliament or the state legislation. The statutory architecture was an institutional design that was aimed at making it as user friendly as possible without undermining the valid information interest in keeping information in secret. Section 8⁹ or eight of the Act listed certain exemptions, such as information that is related to sovereignty, security, foreign relations, cabinet deliberation, intellectual property, commercial confidence, parliamentary privilege, investigation process and individual privacy. These exemptions were however designed with slightness and an interest override by the public and it acknowledges that transparency assumption should only yield where there is provisional harm that will be caused by disclosure.

IV. INFORMATION COMMISSION AUTONOMY EROSION

The most significant event that has hindered the effectiveness of RTI is the gradual loss of information condemnation's independence by introduction of legislative changes that strengthen the powers of executive over these so-called

⁷ FREEDOM OF INFORMATION ACT, 2002 (INDIA)

⁸ RIGHT TO INFORMATION ACT, 2005 SECTION 4 <https://indiankanoon.org/doc/13503/>

⁹ RIGHT TO INFORMATION ACT, 2005, SECTION 8 <https://indiankanoon.org/doc/758550/>



independent agencies. The Right to Information Act of 2005 had an amendment (Right to Information Act, 2019)¹⁰ which essentially changed the tenure, salary, and service terms of the Central and State Information Commissioners, which provided the five years of terms and equivalent treatment to the members of Election Commission with terms that provided the Central government with the unilateral ability to set these terms by rule. This legislative change was a direct opposite to the original design philosophy of the Act that was underlined in it and the importance of institution independence, that is layout of successful enforcement in case of non-compliance with the government. These implications of the amendment go beyond administrative adaptations to essentially undermine the structural independence required to have strong enforcement of transparency practices. Where executive authorities have discretionary authority to decide in the term and remuneration of Information Commissioners, the executive officers will face strong incentives not to make orders against the governmental interest, especially when they want to be reappointed or receive better terms of services. This institutional weakness has the effect of systematic bias in executive preferences, turning theoretically autonomous educatory institutions into the objects of political pressure and executive influence.

The amendment is therefore a conscious unwinding of the enforcement procedures. Executive opposition to dogged Transparency Control 2019¹¹ amendment was unanimously criticized by the civil society organizations transparency activist, and ex- information commissioners as an attempt to weaken the basic structure of the ACT. The issues are still not settled by the Constitution, but the practical impact of the amendment has already been felt in the form of laxity in enforcing it, aversion to imposing penalties, enhanced credence to executive claims that the exemption is applicable. The amendment created a lot of litigation to prove its unconstitutionality, with the petitions claiming that executive authority over Information Commission's tenure and conditions was a breach of any principle of institutional autonomy, common necessary to the ultimate protection of rights. Critics pointed out that the independence of institutions is the key to successful governance of transparency and that. Such a compromise inevitably lowers the level of enforcement and weakens the act. These issues are still not settled by the Constitution, but the practical impact of the amendment has already been felt in the form of laxity in enforcing it, aversion to imposing penalties, enhanced credence to executive claims that the exemption is applicable. The public interest override provision that in theory grants information commissions the power to direct disclosure, despite the existence of exemptions in the event that the public interest requires transparency, has been underused and has been applied inconsistently. The commissions often show too much difference to executive claims as to the applicability of exemptions, especially in matters of national security, international relations and the investigation process. This aversion to strictly examine exemption claim all to perform a strong balancing of the public interest indicates the institution capacity limitation and structural incentives produced by the reduction of independence that occurred after the amendments of 2019.

Comparative analysis of effective transparency regimes finds that all effective transparency design focus on institutional independence characterized by secure tenure, service terms and multi stakeholder appointment procedures that are not dominated by the executive. The intentional erosion of these protections in the Indian system is an adverse trend that goes against international best practices and results in the fallacy of the logic of transparency governance. The first step in ensuring the renewed effectiveness of RTI is the legislative reversal of the 2019 amendments to give Information Commission's autonomy again. This tendency is a demonstration of bureaucratic opposition to transparency requirements where officials fail as on denial as opposed to disclosure of information, viewing information request as a liability to the prevented and not an obligation of democracy to be respected. This national security exemption is especially prone to abuse and the authorities can use security considerations to reject information request that have only peripheral connection with actual security issues. Empirical research studies on the patterns of information disavowal indicate that high authorities often use the exclusions in regard to commercial confidence.

¹⁰ RIGHT TO INFORMATION ACT 2019 (INDIA)

¹¹ TRANSPARENCY REPORT 2019 (INDIA)



Cabinet ponderings investigate diff processes as well as the privacy of 3rd parties without properly supporting claims or taking the issues of the public interest into serious consideration.

V. POLITICAL PARTIES SAFEGUARD

Despite their heavy funding and being the main actors of the democracy, Section 2(h)¹² of the Act has been broadly defined as incorporating a public authority by incorporating public parties that are heavily financed by state funds, as well as having extensive electoral funding (via electoral bonds, tax exemptions and direct funding systems). The element that political parties are not required to disclose their activity puts a basic accountability gap and Indian democratic design and protests protects the largest agencies of political representation and election practices. This act of lawmaking, which was achieved by retrospective amendments, essentially overturned the decision of the Commission, is an extreme case of self interest in politics above the principle of transparency. The parties in the whole variety of the ideological divide came together to fight against the transparency requirements, and the Representation of the People Act¹³ was subsequently amended to clearly exclude political parties, as covered by the RTI.

Political party exemption to scrutiny in the RTI is a form of categorical protection that the political parties have an effect, an exemption to the accountability processes that the rest of the government agencies are subject to, and his protection has created a space of secrecy that breeds corruption and compromise of elections. The political party exemption presupposes the increased relevance in the light of the increasing concerns of opaque political financing and reported foreign contributions, electoral bond arrangements that disguise the identity of a donor, and claims of quid pro quo arrangements between corporate donors and the ruling parties these issues. The blatant exemption of political parties by RTI system in India is an exceptionally odd deviation of this worldwide pattern and a major difference of the Act transparency for progressions. Codes that have tried judicial intervention to impose revelation requirements have failed. Highlight the need to be transparent on the sources of political funding, spending trends, the way of choosing of candidates and the internal governance system. To overcome political counteractions showing or reflecting the constraints of the legislative solutions in the face of political elites with both incentive and law-making capability to ensure secrecy. The solution to this lack of accountability is A long term mobilization of the civil society and the incentives of the election that are able to break political traditions of resisting to transparency and also regarding the civil pressure.

5.1 Weak Penalty Fines

The penalty system in the RTI is Act which aims at preventing lack of compliance and providing timely disclosure of information on the same has not been effectively executed and practiced through inconsistent application, little penalty and lack of sufficient monitoring and enforcement mechanisms. Section 20¹⁴ further gives the power of Information commissions to impose penalties to public information officers who refuse to furnish information, request maliciously, or do not respond within the stability time limits, or furnished information which they know to be false. The penalty provisions were developed as key controls of accountability, changing the disclosure-based principle to enforce mains with significant outcomes in case of non-compliance.

As experience of implementation shows, however, there are considerable discrepancies between on paper strategy design and practical effectiveness. Information commissions show great leniency in enforcing fines, even where it is blatantly non-compliance. There are too much indulged by bureaucratic excuses and procedural reasons why delay happens. When fines are levied, they are usually small. Nominal amounts may be in a few thousands that cannot serve

¹² RIGHT TO INFORMATION ACT 2005 SEC 2(h) (INDIA) https://cic.gov.in/sites/default/files/RTI-Act_English.pdf

¹³ REPRESENTATION OF PEOPLE'S ACT, 1950

¹⁴ RIGHT TO INFORMATION ACT, 2005 SEC. 20 (INDIA) https://www.indiacode.nic.in/show-data?actid=AC_CEN_26_36_00004_200522_1517807322955§ionId=10892§ionno=20&orderno=20



as any real deterrent against non-conformity. Lack of cumulative penalty clauses of the increasing punishment against the repeat offenses also reduce detent impact because administrators know that the occasional small fines are considerable tradeoffs to avoid disclosure liabilities.

There is still insufficient systematic data collection on the imposition of penalties, but the available evidence indicates that the penalties are applied in less than five percent of cases of apparent noncompliance. Such enforcement deficiency is an indication of various factors, such as information commissions to resource limitation that hinders the ability to fully research complaints, backlog of cases that hinders adjudication, and the institutional unwillingness to aggressively enforce their own against fellow public service, as well as the reduced autonomy of the office that came up with 2019 amendments. The net impact is a system of punishment which is only on paper, but does not form a significant enforcement vehicle in reality.

Moreover, the penal provisions do not provide any way of compensating applicants who have suffered due to refusal of information or delays, but instead on. Imposing penalty to those officials who do not comply and this is the weakness of the design because effectiveness, imposition of penalty does not directly yield any benefit to the applicants who have been affected, so this may decrease their willingness to exercise complaints through lengthy appellate procedures. Comparative analysis of international transparency design indicates that there are several strategies such as compensatory damages, presumptive penalties that provide more effective enforcement incentive than the present system in India that is. Basically, an attorney fee. To develop the effectiveness of penalties. Several interventions such as making penalties mandatory in instances of proven non-compliance, progressive schemes of penalty that increase the penalty when violated. Once again simplified process of imposing penalties as to lower administrative cost, systematic data gathering and disclosure information on penalty trends and even coming up with the compensatory measures saving and offering direct reparation to injured information seekers will be useful in this. The absence of substances. Repercussions or non-compliance makes the disclosure obligation just a fantasy guideline, but not legally binding.

VI. RESISTANCE IN BUREAUCRACIES AND THE LACK OF EXECUTION

Probably the most widespread obstacle to the application of RTA is the prolonged bureaucratic opposition in the form of vacancies among personal commerce, slowing down of processes, poor record keeping and cultural resistance to transparency standards. Even twenty years after the adoption of the Act, large parts of the Indian bureaucracy still perceive any attempt to request information as a huge burden, instead of a democratic right, and this is symptomatic of a long-term standing cultural pattern of administrative secrecy and hierarchy in the control of information. This resistance can be conducted in 2 ways. Active obstruction, which includes the intentional delay, technical rejection and invoking strategic exemptions with passive noncompliance with the duty to designate public information officers, poor training and failure to keep accurate records.

A systematically under-funded RTI structure is the type of resistance that is particularly insidious, in which the authorities formally meet the requirements of the statute but make sure that the capacity to effectively implement it is not sufficient. Vacancies and Information Commission are also high and continue to stay high as many stay commissions have been functioning may weaker than acceptable strength over a period of time. The post of Public Information officer is often left vacant or designated as secondly as secondary duties to employees who have already significant responsibility that they mind their attention and so RTI compliance is given very little priority. The training programs continue to be substandard, and most of the officials are not conversant with disclosure requirements, exemption provisions and procedures.

The lack of record management Is another implementation barrier as efficient information disclosure based on properly organized and easily available records that may be accessed and deliver according to the statutory timelines. Nonetheless, the large Indian bureaucracy still runs on old-fashioned paper-based system, disorganized, improper documentation and lack of proper archive infrastructure. As information request relates to order records or involve the need to pull data together in a number of files, officials often state that they are not able to deliver information on the requested timelines. As such because of limitations in managing records. These visitations, though in some cases 2 are



usually attempts to avoid keeping of records which enable denial of information by citing their inaccessibility. The other mechanism of obstruction is the procedural complexity brought about by overly technical demands where authorities demand documentation, calculation of fees, and jurisdictional decisions which go beyond the statutory requirements and act as a barrier to applicants, especially those with a lower education degree or are marginalized. In certain jurisdictions, notarized applications are required, too much. Identity documentation is required in excess of what the statutes provide or fees are charged before a person can apply, which effectively puts barriers to entry that helps to discourage an application. Such procedural obstacles have been squealed towards poorer groups and RTI is no longer a democratic right of everyone but the prerogative of educated and forceful applicants who can work through bureaucracies.

To overcome bureaucratic resistance, complex interventions which go beyond the laws reforms have to include cultural change, capacity building, technological modernization and accountability systems. And some of these interventions are compulsory transparency education as part of civil service education, performance incentives to recognize compliance with disclosure, regular monitoring and reporting of compliance levels, investing in digital record management systems, streamlining the application process and leadership adherence to transparency standards. Legal frameworks cannot produce any significant change in transparency without intensive efforts on the cultural, commercial and infrastructure aspects of bureaucratic resistance.

VII. ACTIVE DISCLOSURE FAILURES

The RTI act in Section 4¹⁵ imposes a wide-ranging proactive disclosure requirement that are meant to democratize access to information by allowing an organization to allow daily organizational information to the public without the need to make an application. Advanced applicants, and over button on the applicants and the government. Section 4 will hypothetically decrease the volume of applicants and increase the access to information by a wide population due to its mandatory or publication of routine information. These stipulations impose on public bodies to post description of the organization, list of officers, decision making processes, rules and regulations, budgetary allocations, subsidies schemes, beneficiaries of concessions, and other types of information that would often be demanded by the citizen. The shortcomings in proactive disclosure please suppose increased importance in the face of the discriminatory scope of disadvantaged groups that have greater obstacles to filing individual applications. The economically disadvantaged, common less educated citizens, linguistic minorities, large populations, and less educated citizens face significant barriers to maneuvering through formal application process procedures and are consequently highly receptive to proactive disclosure as means of obtaining information the organized. Ignorance of proactive disclosure. Requirements thereby continue to reinforce informational asymmetries by making sure that RK benefits are available to only those populations from educated urban, resource endured and capable of making individual applications.

When the information is issued, it is often obsolete, unfinished, unavailable or in formats that are frustrating to practical use. Most authorities have websites that contain little information from are usually being restricted to descriptions of the organizations and contact information, and no substantive disclosures is done on budgets, beneficial lists, decisions and other information useful to the citizens. The systematic failure to obey with proactive disclosure necessities is indicative of various reasons, such as lack of technical skills to develop and maintain websites, unwillingness to comply with the norms of transparency, lack of representations in case of failure, and lack of control by the Information Commissions. Nevertheless, the adherence to the proactive disclosure requirements is still appealing in most of the public authorities, 20 years after the issue of the Act. Regular assessments showed the significant majorities of government departments, local authorities and government sector enterprises which do not publish even simple information which was required by Section 4 that does not specify any particular penalties where a proactive disclosure failure have occurred, and no particular effort has been made to collectively monitor or not to monitor these

¹⁵RIGHT TO INFORMATION ACT, 2005 SEC. 4 (INDIA) <https://indiankanoon.org/doc/13503/>



requirements by Information Commissions. Such. Enforcement shortcoming implies that law enforcement agencies. No substantial penalty in the event days raised regard active disclosure loss, thus making such restrictions mayor suggestions and not legal requirements imposed by law.

The technological improvements provide a strong revenue to improve the proactive disclosure via the. Platform open data portals, machine readable formats and user-friendly interfaces to enable the discovery and use of information. Some progressive states have created portals that combine information amongst agencies and allow advanced search functionality for stop. Nevertheless, these solutions are still extraordinary and not systematic, and the majority of authorities still have a low level of digital appearance. To understand the potential of proactive disclosure, it is critical to invest specifically in digital infrastructure. Standard data format, significant fines or non-compliance, systematic attention to compliance and political determination to make transparency a priority of governments and not a bureaucratic burden.

7.1 Lack of Whistleblower Protection

The close linkage of the information rights with the rights of the whistleblower is based on the acknowledgement of the fact that the transparency depends. Not only in the formal disclosure tools, but also on the knowledgeable individuals who are ready to unveil the corruption, Mal, administration, and other evils. The advocates of the RBI, transparency, and citizens who exercise their rights to information to reveal the failures in the government are often retaliated with suppression., violence and in some extreme cases even murder happens and the list of killed RTI activist indicates the danger that face people who oppose the interest of a certain set of people by unveiling secrets of the system, showing at the same time the fundamental holes in the system of protection of those who defend the principles of transparency do not want to be punished to their actions.

Whistleblower Protection Act of 2014¹⁶, which was introduced in India to specifically tackle these issues, has serious flaws such as limited coverage, overly bureaucratic processes, too many exceptions and the lack of effective enforcement. The Act also only covers the whistleblowers who are revealing information on corruption or willful abuse of power, but it does not cover many other types of maladministration or policy failures that can be fairly revealed by citizens. The safety control stipple that complainants are obliged to declare their identity to qualified authorities, which eradicates the right to be anonymous whistleblowers to offer the necessary security risky situations. The Act also has sweeping exceptions of information about sovereignty, security. And strategic interests which may leave large groups of malpractices outside of cover.

In a more fundamental sense, the Whistleblower Protection Act has been enforced in a minimal way with. Few places of developing the institutional structure to be in place to accept complaints, investigate retaliation claims and offer protection. Lack of focused implementation mechanisms coupled with poor education or the potential whistleblowers about the protection provisions available implied that the law is more of a symbolic one and does not give any substantive protection to the Champions of transparency. The persistence of violation in the case of RTI activist that has seen many issuances or instances of murders, salts and intimidations are testament to the complete failure of the current protective systems. The total absence of any significant protection of transparency proponents has a chilling impact that self-sensors. The use of information and compromises the democratic purpose of the act. When people understand that the exercise of the rights with respect to information is associated with significant personal risk and there are no relevant protective measures that would help to reduce them, the rational self-interest will be to not face mightily interests. This numbering effect silence oppressed communities in disproportionate numbers as they are more at risk of retaliation and have fewer resources to use to protect themselves. The outcome is an orderly lack of harnessing of information rights by the individuals who suffered most because of failures and corruption within the government exactly the people that the act was meant to empower.

¹⁶ WHISTLEBLOWER PROTECTION ACT ,2014



To correct the shortcomings and whistleblower protection, it is necessary to implement wide ranging reforms such as expanding the protection coverage to include not only corruption but also Mal administration in its entirety and create safe, confidential ways of reporting, creation of special institutional mechanisms to investigate retaliation and offer protection, imposing effective sanctions or those who perpetrate the vice of retaliation, and providing prompt and effectiveness and risk effective responses to the threats of whistleblowers. In the absence of strong safety nets, right to information are mere empty balances that their implementation imposes unacceptable stakes, especially upon the vulnerable groups that are exposed to will of influential people and would be harmful for them.

VIII. COMPARATIVE LESSONS FROM NEPAL'S RTI FRAMEWORK

The Right to Information Act of 2007¹⁷ enacted in Nepal soon after. India has some informative comparative information on the design of institutions, how this is enforced and the challenges in its implementation. The RTI framework Nepal bears specific features in. In various areas that can be subjected to analysis in order to draw possible learning opportunities so that could be applied to enhance a transparency framework in India and could be loaned. Nepal faces developing challenges similar to those of India such as low state capacity, bureaucracy, resource limitation. Political instability, which makes transparency execution challenging. The Act also requires such information to be updated every quarterly and provides more definite sanctions against non-compliance with disclosure requirements and provider disclosure then in the case. In India, where no specific signs are provided to violate section four, this design characteristic has assumed advantage in terms of higher motivators to active compliance, but the success of its implementation is limited by capacity, privations and shortages of enforcement associated with the Indian cases. The legislation in Nepal sets up a severe slightly stricter proactive disclosure requirement that is more expensively detailed with the information types which must be published.

The appointment system of information commissions in Nepal involves multi stakeholder recommendation committee such as civil society. Increases the independence because of diversified selection processes. The simplified form of organization has the possible benefit of uniformity and coordination, but also has the effect of concentrating a lot of power and making difficult to access in geographically dispersed common mountainous terrain. The Nepal Institutional Architecture puts the appellate monitoring in the National Information Commission which is one level institution versus the two-tier system of Central and State commissions in India.

The formulation provides a imaginary growth in the standard of exemption invocation, but in its practice, both practical application in Nepal and India have shown that bureaucratic practice often invokes exemptions without an analysis of the harm. Nonetheless, the Act of Nepal contains a little more detailed forces on harm tests and balancing of public interest, which explicitly stipulates the authorities must prove that diverging such information will result in significant damage on the insurance safeguarded by them in order to raise exemptions. The exemption regime in Nepal has certain similarities and differences with that of India. The area of exemptions is widely similar and includes national security, foreign affairs, investigations and business confidence. Nevertheless, former like in case of India, imposition of penalties in actual sense is uncommon and this is indicative of the unwillingness of the educatory bodies to exercising. They in position with force, the lack of resources to enforce it, and the political pressures to avoid taking such strong measures towards accountability. The Act in Nepal has set slightly advanced maximum penalties than the framework in India and has also provided the institutional penalties in case of non-compliance agencies. The enduring his juncture between the laws and the reality of implementation is a common problem throughout the South Asian transparency regimes.

The Nepalese civil society has had a long-standing interest in the implementation of RTI, engaged in the systematic monitoring, issued compliance text, offered legal support to information seekers and promoted reforms. Common rules seem that the legal framework design in itself is insufficient to breakthrough the impulses of struggle to change in the bureaucratic cultures and political economy of India. This legacy of civil society has come in handy in ensuring

¹⁷ NEPAL'S RIGHT TO INFORMATION ACT, 2007



political pressures. Former recording with the implementation has gone awry and helping the individual applicant to get through bureaucratic hurdles. The ecosystem of transparency activism in Nepal is also very vibrant, and this implies that the legal systems need social mobilization to have any significant realization. These common problems indicate that some of the barriers to implementation are indicative of more general structural features of the developing state bureaucracies, commerce such as hierarchical culture, norms of obscurity, weak state capacity patronage and not just design failures that can be addressed by reforms in the law. Nonetheless, the implementation of RTA in Nepal, also reflects the issues that affect Indians, such as systematic bureaucratic oppositions, political interference and appointments, inadequate resources to operate the information commissions, transparency, activate violence, and systematic lack of obedience with proactive disclosures. Among the aspects of experiences of Nepal, one area is the mobilization of a civil society and advocacy of transparency.

Sufficient level of resourcing, permanent engagement of sizzle society and effective enforcement provisions are mostly a dream. Recognizing the democratic potential of transparency needs multidimensional solutions that are aimed at curbing these challenges instead of perfecting the statutory facets. The comparative case study conclusively indicates the characteristics of the institutional designer are important and some of the provision in the Nepali structure are worth consideration and reform experiences in India but even the way forward in transforming transparency governance is to allocated with structural, political and cultural impedance that move beyond legal designs as the experience of both countries has sold advanced legislation even in the absence of political commitment, cultural transformation in the bureaucracy

IX. RESEARCH FINDINGS

The field of comparative institutional studies is still in its infancy and the majority of the scholarship is based on the implementation in individual countries instead of systematic comparison across transparency regimes. Strict compared to studies of variations in institutional designs, enforcement strategies, exam status, penalty schemes, and outcomes of implementation at one or more jurisdiction would help clarify best practices, some contextual factors that mediate between implementation institutional design and offer evidence based institutional reform advice. Such a specific comparisons with successful transparency regimes in context of developing countries facing the same capacity restrictions and the governance issues would be of particular value. Although there has been much academic focus on RTI act in India since its passing, it still has major gaps in resource that limit in-depth knowledge of the implementation dynamics, common distributional effects, and areas of possible reform. Such gaps would go a long way in improving academic knowledge as well as policy making on transparency governance. This kind of research would shed light on how transparency governance or strengthen the status quo.

Econometric studies that have conducted the use of RTI with governance performance such as corruption levels, commercial delivery levels, efficiency and public spending and development factors are quite scarce and methodology flawed. There is a lack of technological aspects of transparency focusing on the rapid digitalization of the process of governance. A study analyzing digital closure systems, open data projects, mobile access to information, social network integration and artificial intelligence systems in transparency governance would not only shed some light on the potential opportunity to innovate technology but also see upon digital device that could downgraded groups of people. The data privacy implications, the risk of surveillance, and the equilibrium between the right of transparency and the right to privacy of individuals in the digital environment are issues that need to be analyzed and more thoroughly addressed by a scholar. Developing casual links between transparency related interventions and governments benefits are empirically challenged by issues of confusing factors, measurement, and duration between information disclosure and subsequent effects and even more advanced longitudinal designs which make use of quasi experimental designs, difference in differences and instrumental variable designs may drive the casual conclusion or development effects of transparency stronger.

The systematic sectoral resource would be able to inform specific interventions that are targeted to meet the domain specific challenges relatively than presuming that all governmental functions should implement the same approach.



Various industries have particular information culture, stakeholder structure, and political economics which define disclosure relationships. Sectoral analysis of the difference in RTA implementation across various domains in the government such as educational, health, social welfare, infrastructure, environmental regulation, enforcement of the law would show the challenges and best practice that were subdivision specific.

This type of research was shared later by transparency regimes often show signs of early success and then decay overtime, under what conditions, meaning full enforcement is feasible despite opposition, what political strategies can be used by the actors of civil society and reformist officials to push the transparency agenda despite existing resistance and lastly the study of the political economy of transparency reforms such as mechanisms of elite opposition, coalition politics, international factors, and the surroundings according to which periodic episodes of reform opportunity could be opened up would contribute to the comprehension of implementation patterns and also reform prospects.

X. CONCLUSION

The Right to Information Act of 2005 is historic law in India that reflects a cutting-edge legislative success that has integrated advanced law-making engineering to bring democratic principles of transparency to practice. The study uncovers seven serious operating pathologies that systematically limit the efficiency of RTI; the erosion of the autonomous role of the Information Commission by the 2019¹⁸ amendments that raise executive powers over remuneration; the strategic use of exemption clauses are ways of obscurity despite the narrow formulation of the statutes; the categorical exemption of political parties funded by the state budgets concerning the disclosure of their personal information; the ineffectiveness of the penalty provisions as their inconsistently and intermittently apply to and lead to minimal.

These pathologies denote more profound structural, political and cultural impedance facing transparency, governance in developing democracies. Bureaucratic cultures which focus on hierarchy, confidentiality, common description of the authority, opposed requirements of transparency which question the past patterns of authority and control of information. Across partition lines, former political allegiance come together and fight against any disclosure laws that will jeopardize the Petroni networks, former financing secrecy and their privilege to discretionary decisions. The available resources are resources, constraints to institutions, capacity to enforcement, monitoring and support infrastructure that are necessary, meaningful implementation. Lack of power asymmetry ensures that access to transparency is going towards population with education, resource endowments, who can access formal application procedures and marginal groups continue to encounter continuing access barriers.

Based on a comparative experience of RTI in Nepal, it has been found that some features of institutional designs can be applied to be considered commerce, such as vigorous proactive disclosure requirements, more stringent harm, tests on exemptions, common greater civil society involvement and governance, however, the experience of resistance observable in all South Asian transparency regimes is shared that lead to architecture is insufficient to address resistance, inheritance in bureaucratic cultures and political economy dynamics. The experiences of both countries prove that it is complex sucks to implement transformative transparency, governance, which involves multidimensional barriers that should be tackled using a multifaceted strategy that include legal reform, commencement reinforcement, cultural change, technological change, and the act of mobilization of civil society.

To see the democratic promise of RTI Act, it is crucial to put into the limelight several reform avenues. Land investment in digital record management systems, open data systems, and access disclosure that should be easy would improve the accessibility but will lower administration cost of the introduction to transparency is a required part of civil service training would help to change the culture to accept openness norms. No protection against the whistleblower retaliation by expanding their coverage of allowing their anonymous reporting of complaints, former responding promptly would eliminate the fear of retribution that makes people fear to use information. . Enhancing the penalty systems with compulsory penalty consideration credentials, penalties and compulsory true systems would provide

¹⁸ RIGHT TO INFORMATION ACT, 2019.



significant repercussions to non-compliance. Removing political party exemption will serve in solving basic deficits on accountability in the electoral governance. To see the democratic capacity of RTI Act, it is crucial to put into the limelight several reform avenues. The enactment of laws to revert changes in the Information Commission made in 2019 to reestablish its independence is a crucial precondition in the successful enforcement. Enhancing the penalty systems with compulsory penalty consideration credentials, penalties and compulsory true systems would provide significant repercussions to non-compliance.

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