

Using the Right To Information (RTI) Act: A Toolkit for Investigative Journalism

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Nepal



Preface

This toolkit is the result of a series of in-depth discussions over the course of a year in Nepal—with civil society activists, journalists, academics and citizens—about the need for a document that clearly indicates how Nepal's RTI Act can be used for journalistic purposes. As described further below, one of the most effective ways to combat poor governance is using information to hold the government accountable and move beyond the secrecy that is sometimes built into government systems. It is hoped that this document will in a small way contribute to this process.

The toolkit is only a starting point, however. In this form it is important- because it brings together the ideas and information gathered through discussions and synthesis of the literatures- but it will be more useful for journalists when condensed into more user-friendly forms. The Accountability Lab and the CCRI are now working with the relevant stakeholders to begin this process. New resources based on this toolkit will be distributed in Nepal and linked from the websites of these organizations in due course.

RTI Toolkit Acknowledgements:

The toolkit was written by the Accountability Lab (Blair Glencorse, Rakesh Karna and Ruhi Tewari) in conjunction with the Citizens' Campaign for Right to Information (Tanka Aryal), and reviewed by a number of leading journalists and experts on RTI issues in Nepal, including Suresh Acharya, Babita Basnet, Taranath Dahal, Shiva Gaule and Vanaya Kasajoo. The toolkit itself provides a basis of understanding, and is now being translated into shorter, more useable outputs that can be drawn upon by journalists on a daily basis for their work.

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Acronyms

- AIP - Access to Information Program
- CCRI - Citizens' Campaign for Right to Information
- FAQ - Frequently Asked Questions
- FOI - Freedom of Information
- FNJ - Federation of Nepalese Journalists
- GIS - Government Information Service
- IO - Information Officer
- MP - Member of Parliament
- NGO - Non-Governmental Organization
- NIC - National Information Commission
- RTI - Right to Information
- UN - United Nations

“Freedom of Information is a fundamental Human Right and is the touchstone of all the freedoms...”¹

Freedom to access information about the functioning of government and other crucial organs is vital for any robust democracy. One of the most effective ways to combat poor governance is using this information to hold the government accountable and move beyond the secrecy that is sometimes built into government systems. The public has a right to know, for example, how the government is spending taxes and where policies and programs are being implemented well or poorly. As such, freedom of information is a central component of a transparent, effective and equitable state, and an open, responsible society. The media- and journalists themselves- are a crucial part of this process, because when they make proper use of their Right to Information (RTI) to collect facts, they can disseminate this information to a wide audience, thereby providing a check on the traditional levers of power. With the power of outreach and the ability to influence policymakers, thought-leaders and the general public, journalists can highlight issues of national importance and public interest while holding the state accountable. It is critical, therefore, that journalists understand how to use RTI laws.

Unfortunately, journalists in many countries still do not use RTI laws. This toolkit is an effort to outline and explain the Right to Information (RTI) Act in Nepal and demonstrate the ways in which journalists can and should use it effectively. This will allow the media to more productively use RTI (and as such allow journalists to act as a bridge between citizens and government); increase awareness of citizen’s rights and entitlements; draw attention to institutional and governance failings; foster exchange of ideas and knowledge; generate debate; and create pressure for better, more accountable government in Nepal.

This Toolkit provides step by step instructions to submit requests for information under the RTI law in Nepal. Additionally, it identifies potential problem areas journalists may encounter while seeking information under the Act and provides tips to tackle these problems. Using international examples, it illustrates how the Right To Information, along with strong investigative journalism, has helped expose hidden details regarding corruption and the abuse of power by government officials around the world, and catalyzed government action in response. The toolkit also provides recommendations for internal changes to media organizations to accommodate such investigative journalism.

1 See: UN General Assembly Resolution 59(1), 1946

The Toolkit is divided into four sections. The **first section** outlines the RTI law in Nepal and the procedures for filing an RTI request and appeal. The **second section** discusses the usefulness of RTI as a journalistic tool, citing international examples to elaborate how the legislation can be used to uncover crucial issues. The **third section** lists potential problems that may arise while seeking information under the RTI Act and provides tips to deal with each potential issue. The **fourth section** examines journalistic complexities related to the use of the RTI law. The **fifth section** provides a list of frequently asked questions (FAQs) and answers on the use of the RTI Act for investigative journalism.

Box I: A Brief History of the Right to Information (RTI)

The first FOI law was enacted in Sweden in 1766, and was in large part motivated by the Parliament's interest in accessing information held by the King. Finland and the United States adopted laws in the 1950's and 1960's (along with Norway in 1970), but interest in RTI really started to take off in 1976, after the US passed a tough FOI law in response to the Watergate Scandal. This was followed by the adoption of similar laws in several western democracies, and by 1990, 14 countries had passed with RTI/FOI laws.

The collapse and break-up of the Soviet Union along with the rapid growth of civil society groups demanding access to information led to the next wave of FOI/RTI laws during the late 1990s and early 2000s. As of 2012, some 90 countries had national-level RTI laws or regulations in force – including major developing countries such as Brazil, China, India, Nigeria and Russia.

In Nepal, Article 16 of the Constitution of Kingdom of Nepal 1990 defined the Right to Information (RTI) as a fundamental right; Article 27 of the Interim Constitution of 2007 guaranteed this right; and the Right to Information Act of 2007 enshrined RTI in law. Subsequently, a National Information Commission (NIC) was established in Nepal in 2008 and RTI regulation was passed in 2009 to support implementation of the law. However, because the RTI movement in Nepal was driven largely by journalists (and the FNJ) with limited support from civil society, its operationalization has been slow.

Recently however, RTI has begun to be leveraged in positive and public ways to hold the government and donors accountable. In 2011, Freedom Forum organized the first national convention on RTI in Nepal; and more recently there have been a number of high-profile requests for information that have led to the exposure of corruption scandals and catalyzed government action in response. A Supreme Court judgment in May 2011 on students' right to see exam answer sheets added significantly to the RTI movement and debate in Nepal.

Source: [Accountability Lab](#)

Further resources: [Read about the case involving Tribhuvan University here](#)

SECTION 1: The RTI in Nepal

“With the passage of the Freedom of Information Act...those seeking information are no longer required to show a need for information. Instead, the ‘need to know’ standard has been replaced by a ‘right to know’ doctrine. The government now has to justify the need for secrecy.”²

The Act :

The Right to Information (RTI) Act of 2007, allows Nepali citizens to access information on the functioning of any ‘public body,’ in order to make governance and policymaking more transparent and accountable. The Act is in tune with similar pieces of legislation around the world that recognize Freedom of Information (FOI) as a fundamental right of citizens, with certain exceptions. An independent National Information Commission (NIC), comprised of a Chief Information Commissioner and two Information Commissioners, has been established for the promotion and implementation of RTI in Nepal.

Box II: A Successful RTI Appeal in Nepal

Ananta Raj Luitel, a journalist for the Himalayan Times, sought information from the Judicial Council– the sole body for the appointment and dismissal of judges – with regard to the inquiry committees constituted after 1990. In 2012, Luitel demanded information as per Article 27 of the Interim Constitution and Section 3 of the RTI Act of 2007. The Judicial Council refused to provide the information requested, so Luitel took his request to the National Information Commission (NIC). After a 6 month battle, the NIC fined the Judicial Council Secretary and the information requested was finally provided. This was the first time that the Judicial Council had provided information to the public, setting a precedent for Nepali journalists’ future requests of this sort.

Source: [CCRI Nepal](#)

Further resources: [More information about the case here](#)

² See: The Citizens Guide on Using the Freedom of Information Act (United States House Committee on Government Reform) September 2005

Domain and Exemptions :

In Nepal, the Act defines a 'public body' as any of the following:

- A body under the constitution;
- A body established by the Act;
- A body formed by the government of Nepal;
- Public service providing institution or foundation established by the law;
- Political Party or organization registered under the law;
- An organized institution fully or partially owned by the government or an organized body that receives grants from the government;
- An organized institution formed legally by the bodies established by the government;
- Non-Governmental Organization/Institutions (NGOs) which are funded directly or indirectly by the Nepal government, any foreign government or international organizations;
- Other bodies/institutions termed public bodies by the government through a gazette;

In Nepal, a citizen can seek information from all government bodies, semi-government bodies, non-governmental organizations and political parties registered under the RTI Act. The law, however, specifies that the information sought must be related to proceedings and decisions of the above mentioned public bodies which are of 'public importance.' It defines public importance ambiguously, as 'a subject related directly or indirectly with the interest of citizens', thus leaving room for interpretation. The Act grants exemption from disclosure to any information which:

- seriously jeopardizes the sovereignty, integrity, national security, public peace, stability and international relations of Nepal;
- directly affects the investigation, inquiry and prosecution of crimes;
- has serious impact on the protection of economic, trade or monetary interest or intellectual property/banking/trade privacy;
- disturbs communal/ethnic/social harmony;
- interferes with an individual's right to privacy or security of body, life, property or health;

However, while these areas are exempted under the RTI Act, information cannot be withheld without the government providing appropriate and adequate reasons concerning whether it falls under one of these categories. The final authority on such matters is the NIC, the body that classifies information.

Box III: The Exemption Debate – An Example

In India, political parties are not covered under the RTI Act per se. When a civil society body—The Association for Democratic Reforms—cited the legislation to demand that income tax returns of political parties be made public, most of the parties refused on grounds of the law’s domain. However, the Central Information Commission—to which the civil society group appealed—ruled that political parties would have to make their income tax returns public in 2008, bringing their funding sources under public scrutiny for the first time.

Source: Association For Democratic Reforms

Further Resources: The Indian Central Information Commission

Procedure: How to File an RTI Application :

Any Nepali citizen can submit a written RTI application to the Information Officer (IO) of the relevant public body. According to the Act every public body must have a designated IO to respond to such requests and disseminate the associated information. If the application satisfies the requirements of the law, the IO has to provide the information in the format requested by the applicant. If the information is not provided, the IO must explain why the information is exempt from the RTI Act within 15 days of the application being filed. While there is no fee for filing an application, the applicant does have to pay a fee for receiving the information, based on the actual cost of producing that information.

Box IV: RTI Filing Fees for Citizens

- No fee to be paid for filing RTI application;
- Information up to 5 pages is free;
- No fee for observing a construction site or studying documents held at a public office for up to 30 minutes. Beyond that, NPRs. 50 per hour per person to observe a public construction site or public documents;
- NPRs 5 per A4 size page and Rs 10 for any larger page of information;
- NPRs 50 for information on a CD, per CD.

Appeal/Complaint :

If the information officer refuses to provide information; gives the wrong or incomplete information; or provides an inadequate reason for not furnishing the requested information, the applicant can file a complaint with the chief of the public body within 7 days of being denied the information. If the applicant is dissatisfied with the decision of the chief, he/she can file an appeal with the National Information Commission (NIC) within 35 days of the decision, and the chief of the public body must respond within 7 days.

Box V: A Successful Appeal

In 2007, Rosen Bosev, a journalist with Capital weekly in Bulgaria requested information from the Director of the Government Information Service (GIS) about the conditions under which the former Minister of State had signed a contract with Microsoft for the purchase of software licenses, as well as a copy of the contract itself. The issue became a topic of widespread discussion after the press publicized the increase in the number of software licenses to 48,000, which meant that the overall price had gone beyond US\$28 million. Moreover, the Bulgarian government had signed the contracts with Microsoft without a public procurement process. In May 2007, the Director of the GIS denied public access to the requested information, on the grounds that the conditions for the signing of the contracts, and the contracts themselves, were trade secrets and that their disclosure would result in unfair competition.

With the legal assistance of the Access to Information Program (AIP), the journalist submitted a complaint to the Sofia City Court, which declared the refusal unlawful. Pursuant to Article 31 of the Access to Public Information Act, the GIS should have asked Microsoft if it could release the information, which the GIS failed to do. The Court also stated that even if Microsoft did not consent to the release of information, this did not mean that the GIS should automatically refuse to release the information. Instead, the GIS should weigh the various considerations, which included releasing at least some of the requested information.

Source: [Access to Information Program](#)

Further Resources: [More information about the case here](#)

Penalty/Compensation :

There is a provision for penalizing any information officer or chief of public body if he/she without reason holds back/denies/delays information by imposing a monetary fine. There is also a provision for compensating an applicant who may

have incurred losses and damages as a result of not receiving information or receiving wrong/partial information within three months of the date the erroneous information was received or the request was not fulfilled.

Sample RTI Application :

To assist in filing an RTI request, below is a sample application letter that can be adapted and sent to an Information Officer within a government body. This is one example of such a letter and can be changed according to the information required.

Box VI: A Sample RTI Application

8 Septmeber, 2012
The Information Officer
(Name of the Office and
Address)

Subject- Request for information regarding the distribution of fertilizer

Dear Sir/Madam,

I request that your office provide me with information about the distribution of fertilizer for a news investigation I am carrying out. I was informed that this office received several tons of fertilizer to sell to farmers at a subsidized rate on June 2, 2012, and that this fertilizer has since been distributed. The list of the requested information is mentioned below, which I am able to obtain according to the Right to Information Act, 2007, Section 3.

- The amount of fertilizer stocked by the government office when it was received three months ago.
- The exact quantity of fertilizer the farmers received in the last three months.
- The list of people to whom the fertilizer was sold in the last three months, along with the amount sold to each, the prices at which the fertilizer was sold, and contact details of the farmers.

I will pay the prescribed fee for receiving the information.

Applicant,

Name
Address
Telephone No.
E-mail:

RTI Act Complaint Letter :

There may be a number of problems with the RTI request, including a lack of response from the Information Officer; the provision of information in the wrong form; or issues with the fee for receiving the information. An applicant can complain if the Information Officer does not provide the requested information; denies the information; provides only partial information; provides incorrect information; or does not provide information on the grounds that the applicant is not stakeholder. In these cases, the applicant can file an appeal with the relevant Chief of the Public Body³. A sample letter is given below and can be adapted according to the given situation.

3 In the case of a dispute over fee payment for information, as per the RTI Act, the applicant should not appeal to the chief of the public body but rather to the NIC.

Box VII: An RTI Act Complaint Letter

8 Septmeber, 2012

**The Chief of the Office
(Name of the Office and
Address)**

**Subject- Complaint letter regarding my request for information regarding
the distribution of fertilizer**

Dear Sir/Madam,

This is a complaint under the RTI Act 2007. On September 8th 2012, I requested documents under the RTI Act to the Information Officer of this office. On (date), I received a response to my request in a letter signed by (name of official) indicating the denial of my request / I have not received any response from the information officer within the given time under the Act. I hereby complaint for this denial of my request and I enclose a copy of that deniel letter.

[Optional] The documents that were withheld must be disclosed under the RTI Act because (provide details you would want an agency head to consider when deciding your complaint.)

[Optional] I complaint the decision to deny my request for access to the documents I requested. I believe that I am entitled to the information contained in these documents. Disclosure of the documents I requested is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government.

[Optional] I complaint the decision to require me to pay search and/or review charges for this request. I am a representative of the news media seeking information as part of a news gathering process.

[Optional] I complaint the decision to require me to accept the information I seek in a paper or hardcopy format. I requested this information, which the agency maintains in an electronic form, in an electronic format, specifically on a personal computer disk [or a CD-ROM]. I will also not pay the fees required for printing these materials since I requested them in electronic format.

I am including a telephone number at which I can be contacted if necessary, to discuss any aspect of my complaint.

Thank you for your consideration of this complaint.

Sincerely,

**Name
Address
Telephone No.
E-mail:**

SECTION 2: RTI As A Tool For Journalists

“Nobody defended the basic right — the right to know, to have access to information. People cannot have their freedom, and realize all their other rights, without this right.”⁴

Experience from around the world demonstrates that freedom of information or the right to information can be used effectively by journalists to uncover critical details regarding the abuse and misuse of state power. This abuse can take place within local governments but can reach all the way to the top of the government system, including the Head of State. In a democratic country, defined by the rule of law, the RTI Act should be interpreted fairly and without political bias—so that even those in positions of significant power are subject to the provisions of the Act.

RTI-based journalism generally takes two forms. First, a journalist may already have a hypothesis or idea regarding a potential story and want to access information through the RTI Act for confirmation and validation of facts. For instance, the reporter may have knowledge about a scam in the allocation of tenders in a public sector enterprise through an insider, but may not have the data or documents to prove it. In such a case he/she can submit a request for information on the tenders, the internal discussion notes and the final circular in attempt to find evidence to uncover the scam.

In the second instance, the journalist may ask for information and documents that are of public interest and importance and, through further examination, may lead to an unexpected story. For example, a reporter may file an RTI request for the expenditures of all political parties and after analyzing them, find some illegal and objectionable transactions or a telling pattern of donations that can expose improper relationships or behind-the-scenes deal-making. In both cases, journalists must make sure to carry out research before making an RTI request, in order to ensure that he/she requests the appropriate information and the appropriate format for receiving it.

4 Ivan Y. Pavlov, Director of the Institute for Information Freedom Development in the New York Times, October 27, 2007

Box VIII: Using the Fol Law in the UK to Expose Misuse of Public Resources

In the UK perhaps the most famous use of the Freedom of Information Act by a journalist was the efforts made by Heather Brooke to reveal details of the expenses of Members of Parliament (MPs). After continual refusal by the government and individual MPs to adhere to the FOI requests, the High Court finally ruled that the information must be made public in 2009. In May 2009, The Daily Telegraph obtained unedited details of all MPs' expenses which indicated misuse of public resources—including abuse of the 'additional costs allowance' through which the politicians used government funds to maintain second homes. The disclosures led to the resignation of several MPs.

Source: [The UCL Constitution Unit](#)

Further resources: [More information about the case here](#)

In all cases, the reporter must be prepared for an eventuality where the information gathered through an RTI request does not contain the details he/she expected or does not lead to any significant results worth writing about. This does not mean that the process in itself was a waste of time; the fact that the government has had to provide information and adhere to the law will help ensure the efficiency and timeliness of subsequent RTI requests. Journalists should not force a story just for the sake of doing so once an RTI request has been filed; equally, improper use of the information obtained through the RTI can undermine the process.

In Nepal, stories are often reported using information that is not completely verifiable; hence, journalists can face legal consequences. If used correctly, the RTI Act can ensure that all the information obtained is authentic and verifiable with the documents obtained, thereby enabling the journalist to protect him/herself under the law.

Box IX: Broadcasting RTI Information in Fiji

In October 2007, Fiji's High Court cited Article 174 as partial basis for its ruling that Fiji TV Ltd. should be allowed to broadcast information about a financial audit of the Fiji National Provident Fund (FNPF), a statutory body which is Fiji's largest financial institution. Fiji TV aired excerpts of an audit by the accounting firm Ernest and Young in September by which time the FNPF obtained a temporary injunction. It then filed an application for a permanent injunction. In dismissing the application, Justice Coventry of the High Court concluded that the findings of the audit were a matter of clear public interest and that the FNPF had failed to prove that the report was confidential. Furthermore, he ordered the FNPF to pay FJD \$ 13,500 (US \$ 8,812) in costs to Fiji TV. Justice Coventry reasoned that the FNPF could not seek to prevent the public from knowing the contents of a report concerning the conduct of its affairs when it involved the investment of millions of dollars of their money.

Source: [Right2Know](#)

Further Resources: [A news report here](#)

Working with an RTI Law :

A variety of information can be sought using RTI laws. These laws have been used around the world for investigations that range from unearthing improper government spending; to revealing public sector salaries; to exposing collusion and corruption between government and businesses.

Box X: Potential Information to be Sought by Journalists using the RTI Act in Nepal

Areas that journalists might like to investigate using the RTI Act include the following (there may be restrictions on certain types of information—see **Domain and Exemptions** above):

- Government budget and public expenditure related issues (after public release);
- Funding and implementation of government public works programs and service delivery;
- Delivery of government aided/sponsored development work;
- Granting of government concessions and the relationship between government and business (foreign and domestic);
- Activities of the Legislature/Parliament/Government Ministries and Government Agencies;
- Issues related to public health, safety or the environment;

- Conduct of government officials and candidates for office;
- The functioning of political parties;
- The election process including campaign donations and spending;
- Constituency Development Funds of MPs;
- Budget and Development Activities of Local Governance Bodies (Village Development Committees, Municipalities, District Development Committees);

The use of the RTI Act in India has been transformative in terms of governance, transparency and accountability. Citizens and journalists have used the act repeatedly to expose corruption and mismanagement of public resources by the government directly and by the private sector through government contracting and procurement processes.

Box XI: Using the RTI in India to Expose Public-Private Corruption

In 2009, Indian journalist Saikat Datta exposed a Rs 2,500 crore rice export scam by using the RTI Act for a story in Outlook magazine. The Indian government had banned the export of non-basmati and 25% broken rice in 2007 to improve food security in India. Since India is a major rice exporter, rice prices in international markets skyrocketed as a result of the ban. The government soon decided that since the ban had caused a severe shortage in foreign markets, if requests for rice were made by poorer nations the grains would be released on humanitarian grounds at concessional rates. Private companies then worked with government officials to buy rice for public distribution in India at very low prices before selling it to poorer countries at exorbitant prices. In many cases it was also suspected that the grains did not actually reach the intended beneficiary countries. Through information obtained using the RTI Act, Datta exposed these mis-dealings and Parliament canceled a consignment of rice worth Rs. 2500 crores. The case was then referred to the CBI for investigation.

Source: <http://www.outlook.com>

Further resources: [Datta's story won him the Best RTI Journalist Award in 2010](#)

SECTION 3: Dealing with Problems in Obtaining Information

“When the officials or the government think RTI information can be of adverse impact they find ample reason to delay, if not deny, the information. Ideally, [all] information...should be in the public domain”.⁵

Process Map :

The following map provides a guide for dealing with some of the issues that may arise when making RTI requests to the government. It is unlikely that the process will be entirely problem-free and it is important that as a journalist you understand the potential hurdles and know the sequence of legal and procedural steps available to you so that problems can be addressed and the relevant information obtained.

Steps	Potential Challenges	Suggested Actions
Identify the exact information you need and be as specific as possible in your request.	Ambiguity in thought and difficulty in narrowing down the specific information needed	Be clear about what information you need, and be sure why you need it – know the area/ topic you are investigating and the journalistic interest behind it. For instance, if you want to write a story to see how well a particular program has been implemented in a district in order to gauge the effectiveness of government interventions, you need to ask for two basic types of information: the annual budgetary allocation for the program in that district for last few years along with the utilized amount; and the data before and after the implementation of the program that would demonstrate its effect.
Know whether the information you are asking for falls under ‘public information’, as defined by the Act and whether the agency to which you are submitting your request is considered a ‘public body.’	Lack of clarity on whether the information you want is exempted under the Act; and what might constitute a “public body”. The IO may also mislead you (intentionally or unintentionally) about the domain of the Act.	In cases where you are unsure about whether you are entitled to receive information, it is best to submit a written application requesting the information. If the information is exempted or if the institution is not a ‘public body’, the information officer must give you a written reply explaining why the information requested cannot be furnished. Always submit requests in writing as a written request requires a written response and therefore ensures more transparency and clarity. Additionally, a written request can be used in an appeal process if one is needed, whereas a verbal request cannot.

⁵ Appu Esthose Suresh, an Indian journalist. Suresh has made extensive use of the RTI to obtain information from the government.

Make sure that your request is relevant and is not already available through current information sources such as government websites. Additionally make sure that your request is neither an exercise in futility nor abusive in character – such as asking for immaterial or excessive material.



You could be wasting your time and resources as well as those of the government if you have not done your homework.



Make every effort to find out if the information you are seeking is already available through current resources or if it has already been requested and received by someone else. Also, make sure that you are specific regarding the documents you are requesting.

Box XII: Abusive RTI/FOI Requests

In May of 2007 the French Commission for Access to Administrative Documents (CADA) ruled that (1) a request cannot be considered abusive just because it concerns a high number of documents; (2) the petitioned agency may ignore requests for information available online; and (3) when documents are published or are communicated to an applicant, the law permits their re-use so long as the personal data is redacted by the administration.

This ruling developed out of a request made for the disclosure of administrative documents from the Mayor of the town of Vitry-sur-Orne regarding the budget and the organization of social and cultural events in the municipality. In response to the request for information, the Mayor of Vitry-sur-Orne asked the Commission to consider whether the requests could be perceived as “abusive” given that some of the documents were accessible on the Internet, and that the applicant might intend to redistribute the communicated documents.

The Commission reaffirmed the general definition of an abusive request as a request that deliberately aims to disrupt the administration’s functioning, and did not consider the request “abusive” despite the fact that it involved a high number of documents, because the request was specific enough in nature. It did however affirm that with such large requests that agencies, especially in small municipalities, are allowed to take time to produce the material, or to ask the applicant to consider reducing the number of copies requested or to determine those most useful. Additionally, the court ruled that online documents are considered published and therefore their production is not required. It also reaffirmed that when documents are published or communicated to an applicant, the law permits their re-use for public and non-public aims, as long as personal data is redacted by the administration.

Source: [Right2Info](#)

Further resources: [Opinion of the Commission](#)

Steps	Potential Challenges	Suggested Actions
Fill in the application asking for the required information.	<p>▶ Difficulty in filling the form correctly ▶</p>	Refer to the sample form given above; remember the essentials—clearly listing the information you need; mentioning why you need the information; agreeing to pay the necessary charges; and giving your full contact details.
Submit the request to the right government office/department/ public body.	<p>▶ Asking the wrong public department/ body for the information ▶</p>	Find out under which public department the information falls. Submit the application only to the designated Information Officer and in his absence, the chief of the public body. If you happen to submit it to the wrong department, the IO has to inform you of this issue. Regardless, it is good practice to ensure that you receive a registration number for your request (in case there are problems subsequently) and to follow up with the officer to enquire as to whether your application form has been submitted in the correct form.
Dealing with the Information Officer	<p>▶ The IO could be hostile or unwilling to help you. He/she may also be genuinely unaware of the RTI Act and the responsibility to furnish the requested information; or be unaware of the procedures for doing so. ▶</p>	<p>Be thorough in your knowledge of the Act so you can exercise your right to information with the IO effectively and explain your right if necessary. If he/she persists in being difficult, you have recourse to contact the chief of the public body.</p> <p>▶ If the IO is genuinely unaware and untrained—a possibility given the nascent stages of the Act's implementation—then inform the chief and ensure there is a follow up. You can also use your role as a journalist and use the anecdote to write about the larger issue of weak implementation.</p>
Waiting for information and the appeals process	<p>▶ Information may not be provided within the stipulated time frame ▶</p> <p>▶ Only partial or incomplete information may be provided ▶</p> <p>▶ Information may not be provided at all ▶</p> <p>▶ No response at all to RTI application ▶</p>	IO's are required to respond to your request for information within 15 days of your application, and must either furnish you with the documents you requested or provide you with valid reasons for why they were unable to do so. If you are denied access to the information request without cause or for an invalid reason, or if you do not receive any communication, you must immediately submit a Complaint appeal to the chief of that public body. The RTI Act indicates that you must submit your Complaint appeal within 7 days of the date of information denial – this is either the date that you receive an invalid denial of the information or 15 days from your original application. If your Complaint appeal to the chief of the public body is unsuccessful or is rejected, your next recourse is to appeal to the NIC. This appeal must take place within 35 days of receipt of the notice of information received. Remember in all cases that you have a constitutional right to the information or at the very least to a legitimate and valid reason for why the information cannot be disclosed.

Box XIII: A Further Successful RTI Appeal in Nepal

Following the publication of exam results, dissatisfied students from Tribhuvan University (TU) – a public body – requested access to copies of the graded final exams from the University through the RTI Act. The University refused the request and the students appealed to the National Information Commission (NIC) claiming that the University violated their right to information guaranteed by the RTI Act 2007 and the Interim Constitution 2007. On 14 September 2009, the NIC decided in favor of the students, ordering the university to provide the requested copies. The NIC ruled that this would contribute to transparency and that there was no need to conceal the exam papers if they were assessed fairly and accurately.

TU submitted a writ of petition to the Supreme Court against the decision of the NIC; however, the Supreme Court upheld the decision of the NIC, stating that the students have a right to access to their answer sheets based on Article 27 of the Interim Constitution and Section 3 (3) (E) of the RTI Act of 2007. It ruled that the University should provide the students their answer sheets with certain restrictions. The Court further ordered TU to develop the policy and procedure for providing answer sheets to the students within these restrictions in the future. The Citizens' Campaign for Right to Information (CCRI) provided all the necessary technical and legal support to the students through this process.

Source: [Right2Info](#)

Further resources: [Open Society Foundations](#)

Steps	Potential Challenges	Suggested Actions
Verify the authenticity of the information.	 Information could be doctored, selective or incomplete 	You must ensure that the IO provides you with photo-copied and attested versions of the original document and not the information/data merely written/typed on another sheet of paper. The government stamp will indicate authenticity. Double check the information you receive to ensure it covers all the details you asked for. The IO is required to provide you with ALL of the information you request or valid reasons why any part of your request has been denied.
Pay the fee if satisfied with information.	 You could be charged unfairly 	<p>There is no fee for filing an application, but you do have to pay any costs associated with the production of the information – such as photocopies – if the document is more than 5 pages. Do not pay any fees if you have not received the information you requested and/or if you plan to appeal further.</p> <p>You may also want to indicate in your application that would like to be notified if the processing fees will be above a certain amount. This will allow you to modify or withdraw your request if the cost will be too high.</p>

Box XIV: Setting Fees for RTI Documents in Peru.

In 2007, in response to a case brought by the Instituto Prensa y Sociedad (IPYS), the Constitutional Court of Peru ruled that the Ministry of Justice had violated the constitutional right of access and the FOI Law by charging costs for copying that exceeded the market rate. The Court, overturning a decision of the Supreme Court (of 5 July 2006), noted that the FOI Law (Art. 20) requires agencies to charge only the reproduction cost; the Court ruled that agencies must state a fee in their “Rules of Administrative Procedures (Texto Unico de Procedimientos Administrativos—TUPA)” that reflects actual reproduction costs that can in no case be higher than the market rate. As a result of the ruling, the Ministry was forced to reduce its charge per page from 56 to 7 soles.

Source: [Right2Info](#)

Further resources: [Freedom Info](#)

Steps	Potential Challenges	Suggested Actions
<p>Process the information</p>	<p>▶ Too much information/ information is in an inconvenient format</p>	<p>When you ask for information be specific about the documents you request and ensure that you ask for the document/raw data. Do not ask for opinions or clarifications in the request because that will make processing information that much more difficult. Ask only for relevant information – there is no point in getting greedy and asking for extra data that will only complicate your work.</p> <p>▶</p> <p>Once you have the data/document, spend a significant amount of time going through all of it (each page and section) to cross-check information between documents so that you can identify the relevant information. If dealing only with numbers, it may be best to cross-check all calculations.</p>
<p>Use the data effectively for your story</p>	<p>▶ You may find that the data does not support your original hypothesis.</p> <p>▶ The information may not provide sufficient evidence to support your story.</p> <p>▶ It may prove difficult to identify the necessary information or determine the “hook” for the story.</p>	<p>Keeping an open mind is of utmost importance. Do not look at the information/data with any preconceived notions, expecting a certain story. Study the information thoroughly and allow it to throw up or highlight any patterns or improprieties. Be open to the possibility that the information you hoped to find will not be there. You may have worked hard to file the RTI but that does not justify misusing the data and compromising your journalistic integrity for the sake of a story. A successful RTI request does not necessarily mean you will have a story; some questions may be easily explained and some information may be superfluous.</p>

Deal with any possible intimidation against using the information



If the data/information is sensitive and if its dissemination can hurt vested interests, you may be pressured to drop the story by your superiors or be subject to intimidation in your personal and professional life.



Inform your editor when you begin your investigation to ensure you have the backing of your superiors and your company. Also, inform the public department- from which you received the information- and the police if threats are serious. Caution may be necessary.

SECTION 4: Journalistic Complexities

“If an investigative reporter finds out that someone has been robbing the store, that may be “gotcha” journalism, but it’s also good journalism.”⁶

Many journalists’ codes of ethics refer to the principles of truthfulness, accuracy, objectivity, impartiality, fairness and public accountability. Policies that restrict legitimate access to information prevent them from adhering to these standards and doing their jobs effectively⁷. Therefore, it is important for journalists and media houses to realize the full potential of the RTI Act and use it as part of modern journalistic practice.

While it might be easier or quicker to obtain information through unofficial channels, such information may not be reliable, or might even be purposefully misleading. In other instances, journalists might have to rely on information provided by officials whose actions they would like to investigate. Using the RTI Act allows journalists to obtain facts as opposed to misleading or selective information and to investigate the obtained documents to identify issues of public concern. The use of official government documents obtained through the RTI process allows the journalist to defend their research on the basis of the use of public records.

In the dynamic field of journalism where there is constant pressure to report the news as it is happening, there seems to be a contradiction between covering the daily beat and long form stories or investigative journalism. The longer process of investigative journalism requires that journalists identify areas in which to file RTI requests; devote adequate attention to understanding the context and background behind a story; file the RTI requests themselves; and then study the documents to identify the relevant information to support the story.

It may be possible—even likely—that RTI requests will initially be denied, possibly for less than legitimate reasons. This, however, is why an appeals process exists. Vested interests may hope that journalists will abandon their requests for information based on an initial denial and that media outlets will be unwilling to follow an appeals process through to its end; however, this is your right and your responsibility as a journalist. Do not be discouraged by a rejection. Many times, uncovering the information you want may be difficult, but this is why it is not already in the public view. It is essential to follow the official steps and protocol

6 Ben Bradlee, Vice-President at-large of the Washington Post

7 Commonwealth Human Rights Initiative, “Our Rights, Our Information” (2007) p.26

in terms of the use of the RTI Act so that your efforts cannot be dismissed on procedural grounds. If, ultimately, you are denied information that you believe you have a right to, use your power as a journalist or media outlet to highlight how and why the RTI request was denied, and put the process and those parties involved in it in the public view.

Box XV: The Use of RTI Overcomes Vested Interests to Expose Misuse of Funds by Brazilian MPs

The Brazilian daily Folha de Sao Paulo submitted an RTI request to see the records related to MPs' use of monthly allowances (of approximately US\$ 7,000) in response to allegations of the misuse of these funds. The request was denied by the House of Representatives on the grounds that releasing such information would violate fiscal confidentiality. However after appealing the process, the Brazilian Supreme Court ruled that public officials must be accountable to the public, that the media has a duty to inform the public and that the documents should be disclosed. The judge held that it was unacceptable to deny access to documents which provide proof of public expenditures and which should be voluntarily published by the public bodies on their websites.

Source: [Right2Info](#)

Further resources: [Inter-American Press Association](#)

“Nothing could be more axiomatic for a democracy than the principle of exposing the process of government to relentless public criticism and scrutiny.”⁸

Box XVI: RTI FAQs

i. What information can I ask for under RTI?

You can ask for any information from any public authority, political party or government funded body, except that which is under certain exempted categories as mentioned above. Information requested can include any written document, material, or information related to the functions, proceedings or decision of public importance made by public bodies. Information can be in the form of written documents, budget and other financial documents or audio visual and other data material.

ii. Whom should I ask for information?

In order to request information, you must submit a formal request for information in writing to the Information Officer (IO) of the public agency from which you need information. In case of absence of the IO or if the IO has not been appointed, you can seek information from the chief of the same public agency.

iii. Is there a fee for filing an RTI application?

There is no fee for filing an RTI application. However if the document requested is more than 5 pages, you must pay any fees associated with its production. Up to five pages of information, and reading a public document or observing a construction site for up to 30 minutes are free. Beyond this fees may be applied.

iv. Will I be penalized if I ask for information that is invalid or exempted?

No. The public agency can simply refuse to provide the information on your request if it is invalid or exempted under the act; and if they do so, they must provide a valid reason for why they are unable to supply the information and why it may be exempted from the RTI Act.

8 Rourke, F. “Bureaucracy in Conflict: Administrators and Professionals” Ethics 70 (3):220-227(1960)

v. Can I request information orally?

It is best to avoid oral requests as an oral request is not valid and binding under the current RTI Act. You need to submit a written application seeking information. Having proof of a written submission will also help with any appeal process (should this be necessary).

vi. Is there a word limit or a limit to the number of questions in the application?

No, there is no word limit per application or a limit to the number of questions. However, it is best to be very specific about the information you are requesting. Submitting a request for an unnecessary or unjustifiable amount of information will make your investigation more difficult as you will need to examine all of these documents. In some cases your request may be considered abusive if carrying out the request would prevent the respective public body from fulfilling their normal duties and functions. It is best to be as clear and specific as possible in all requests.

vii. What should I mention in my application for information?

A sample application is provided above. Relevant information in all requests includes; the exact date of application filing; the name of the office from which you have sought information; a clear and detailed statement of the information you require; the reason the information is necessary; and your contact details. It is also best to note that you will pay for any fees associated with the preparation of the documents.

viii. Do I have to mention the reason behind requesting that particular information?

Yes, you must mention a broad reason.

ix. Do I have to go in person or can I simply post the application?

No, you do not need to be present when submitting an RTI application—an application can also be submitted via post. However, if the public agency wants to verify your identity, you may need to go to their office. Similarly, you may need to go in person to pay the fee and collect the information. Best practice is to submit the application in person and obtain a receipt or confirmation of the request you are submitting. This should include the date and time of your submission as well as the name, title and signature or official stamp of the person to whom it was submitted. This provides proof that your RTI requests were received and can be used in any appeal process if necessary.

x. As a journalist, do I need to seek my editor's permission to file an RTI?

That depends on the internal policies of the media outlet that you work for. It may be best to talk to your editor in confidence to know that you have their support and backing for your investigation.

xi. What if I get incomplete information from the authorities?

You may appeal to the chief of the public body within seven days of receiving

incomplete information. If this is unsuccessful you may appeal to the NIC within 35 days of the decision of the chief of the public body.

xii. What if I inadvertently apply for information to the wrong public authority?

In such a case the IO is required to notify you immediately.

xiii. What if the specific information I ask for is unavailable or if the records have been destroyed?

In all cases, the IO has to provide whatever information is available and give proper reasons for the unavailability of any information.

xiv. What is proactive disclosure?

Proactive disclosure, in simple terms, means government/public bodies making information public by their own initiative, without being asked for it. Most of the information that is sought by citizens and journalists would be available easily if the government departments follow the appropriate proactive disclosures. However, very few departments do this, and even if they do this they usually do not do it in the full spirit. Before making a request for information, you should consult with other information sources including any website or other source used by that agency to ensure that the information you are requesting is not already available.

xv. How do I know the information given to me is not doctored?

You should make it a point to ask for an attested photocopy of the original document which bears the official stamp/ sign or any other validity symbol. It should be a legitimate document filed with the government or the public body.

xvi. Should I disclose I am a journalist while seeking information?

That is entirely up to you. It may be a risk because some public bodies are more wary of giving out full information to journalists. However, in some cases it also helps speed up the process. Regardless, it is the responsibility of the agency to adhere to your request.

xvii. Is there any special privilege for journalists seeking information?

No, the law does not provide for any special treatment towards journalists.

xviii. What should I avoid in my application?

It is always best to avoid asking leading questions or asking for suggestions, opinions or clarifications from the public authority. You should always ask for raw data/information and then process it on your own.

xix. How can I seek remedy from the NIC if I am wronged?

If the IO does not provide the requested information, your appeal to the chief of that public body is unsuccessful, or if you have been aggrieved by the chief, you can file an appeal before the NIC within 35 days of the notice of information received.

Selected Bibliography

Right to Information Act, 2064 (2007) BS and Right to Information Rule, 2065 (2009) BS, Official translation by Bhola Nath Dhungana for National Information Commission, Nepal

RTI For Media Toolkit: A guide for journalists on using Right to Information in India
Data Journalism Handbook

Kevin, D. Report on Challenges faced by Journalists in Preserving their Editorial Independence in a Media Environment. (An initiative of the European Commission for Democracy through Law)

Right2Info: Right 2 Info

Additional Resources

Nepali organizations working on/related to RTI issues include:

- National Information Commission, the government body tasked with overseeing implementation of the RTI Act.
- Citizens' Campaign for Right to Information is an organization dedicated for the promotion, protection and implementation of Right to Information laws in Nepal, which has recently setup an RTI Center as a resource for citizens interested in using the RTI law.
- Freedom Forum is an organization, working for institutionalization of democracy, protection and promotion of human rights, press freedom, freedom of expression and right to information in Nepal.

Other organizations/initiatives related to RTI, freedom of information and transparency:

- Article 19. A global campaign for freedom of expression promotes the right to freedom of expression and freedom of information.
- Carter Center. A US-based organization seeking to prevent and resolve conflicts, enhance freedom and democracy, and improve health. The Access to Public Information Project assists access to information initiatives throughout the world with particular emphasis on the Americas region and in the core countries of Jamaica, Bolivia, Nicaragua, and Mali.
- Centre for Law and Democracy. The Center works to promote, protect and develop those human rights which serve as the foundation for or underpin democracy, including the rights to freedom of expression, to vote and participate in governance, to access information and to freedom of assembly and association.
- Commonwealth Human Rights Initiative. An international non-governmental organization, working to ensure the practical realization of human rights in the countries of the

Commonwealth. It educates the public about the value of right to information and advocates at policy level for guaranteed access to information.

- FreedomInfo.org. An online network of freedom of information advocates. The board includes some of the most prominent names in the field of research in US, Europe and Asia.
- Freedom of Information Advocates Network. A global network of campaigners in favor of more transparency and the right to freedom of information.
- Global Network for Public Interest Law. A global network to activate, empower and connect those who use legal tools to work in the public interest (previously PILI).
- Global Transparency Initiative. A network of civil society organizations that promote openness in the International Financial Institutions, such as the World Bank, the IMF, the European Investment Bank and Regional Development Banks.
- Global Witness. An organization that exposes the corrupt exploitation of natural resources and international trade systems, to drive campaigns that end impunity, resource-linked conflict, and human rights and environmental abuses.
- International Budget Partnership. Formed to nurture the growth of civil society capacity to analyze and influence government budget processes, institutions and outcomes. The website includes several useful resources and publications for monitoring government expenditure.
- Office of the Special Rapporteur on Freedom of Expression, Inter-American Commission on Human Rights works to raise awareness of the importance of the full observance of freedom of expression and information in the Americas. Website includes a report on access to information.
- Privacy International. A London-based human rights group formed in 1990 as a watchdog on surveillance and privacy invasions by governments and corporations. World Survey of FOI Laws.
- Publish What You Fund. PWYF campaigns for aid transparency urging donors to disclose their aid information regularly and promptly, and in a standardized format that will be comparable with other countries and accessible to all.
- Revenue Watch Institute. Promotes the responsible management of oil, gas and mineral resources for the public good. Revenue Watch promotes transparent, accountable and effective management of natural resource wealth to help countries avoid the “resource curse”.
- Right2info.org provides relevant materials concerning the current state of the public’s right to information (RTI) held by public bodies (including in all branches and at all levels of government, and bodies that are independent of the executive) and entities that perform public functions or operate with public funds.
- [The Access Initiative \(TAI\)](http://The Access Initiative (TAI)) is the world’s largest network of civil society organizations working to ensure that people have the right and ability to influence decisions about the natural resources that sustain their communities.
- Transparency International is a global civil society organization leading the fight against corruption. TI’s network includes more than 90 locally established bodies.
- World Resources Institute is a global environmental think tank that goes beyond research to put ideas into action. The Institute works with governments, companies, and civil society to build solutions to urgent environmental challenges.



The Citizens' Campaign for Right to Information (CCRI) is a Nepali non-profit, non-partisan organization. CCRI was developed as a loose network of different NGOs working on RTI issues in 2005 and has since developed into an organization working exclusively on good governance through improving access to and implementation of the RTI law in Nepal. CCRI is based in Kathmandu but is working across Nepal through relevant networks of journalists and non-profit organizations.

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The Accountability Lab is an independent, non-profit organization that seeks to make power-holders responsible. The Lab acts as a sounding board, listening to, analyzing and reflecting upon accountability concerns; as an independent interface, engaging relevant actors across contexts and issues; and as an operational hub, catalyzing innovative, collaborative and sustainable accountability practices. Through this approach, the Lab bolsters efforts to address the causes rather than the symptoms of poverty, exclusion and insecurity.

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