

Daily Star, 14 August 2016

RTI regime needs a shot in the arm

The Information Commission can help



Shamsul Bari and Ruhi Naz

"I can't waste my time responding to RTI queries from riff-raffs and vagabonds," a public official was recently heard saying. Right to Information (RTI) workers throughout the country are familiar with such statements, which reflect the attitudes of many public servants, even seven years after Bangladesh's RTI Act 2009 came into force. Few are willing to open up public records for scrutiny by the public, which is the basic objective of the law.

A large number of civil servants, bureaucrats and other employees belonging to the three branches of the Government - the executive, judiciary and the legislative - semi-government authorities, entities that run on or enjoy public fund, like schools, colleges and universities, NGOs that receive foreign funding and other agencies covered by the RTI Act, are still unprepared to abide by the transparency requirements of the RTI Act.

As a result, when citizens ask them for such information, they fret and fume and threaten them with unpleasant consequences. Whether they serve at the union, upazila, district or national level, many public officials cannot believe that ordinary people who trembled before them in the past would now dare to ask them for disclosure of information which was out of bounds for them. They get particularly angry with RTI activists and NGO workers who help ordinary citizens to make RTI demands. Officials are unwilling to reconcile with the fact that the days of secretive governance are gone, with the advent of RTI.

A research project recently completed by an NGO on the challenges and prospects of RTI in Bangladesh gives voice to these attitudes. Quotes from officials include:

- "We have lots of work to do at office. If you people add to our burden by asking for unnecessary information, where shall we go? You better withdraw your application or be prepared for trouble."
- "Because of you I have now been summoned to appear before the Information Commission. How could you do that? Don't you know, we could put you in trouble? So please inform the Commission that you got the information now, so both you and I will not have to appear before it."

The research findings also revealed that ordinary citizens avoid exercising their right to information for fear of retaliatory measures by public authorities. Some of their comments include:

- "I am afraid to apply. I may be summoned to the office and threatened with dire consequences simply because I have asked for the information. This has happened to people I know. I would rather starve than make an RTI application."
- "Who will protect me if the authorities file a fake case against me or send the police to arrest me? I know of people who receive telephone calls from concerned officials threatening them to withdraw their RTI applications or face consequences."
- "People are afraid to confront public authorities. In my union, we know that we always get less than our entitlements under the government's safety-net programmes. But I dare not complain or ask, as I am afraid my name may be struck off the beneficiary list altogether."
- "People don't see public authorities as friends. They are afraid to ask them any question. They would rather avoid them. I don't see RTI gaining popularity with ordinary people."

Such opinions go some way towards explaining the slow progress of the RTI Act in the country. The public must have confidence in the efficacy of the law, and public officials a healthy fear of it, if we are to make full use of this right.

The three main players who can do something about this situation are the government, the Information Commission and the civil society. Civil society remains divided because many key NGOs who fall within the ambit of the law are reticent to promote it for fear that it may boomerang on them. Some smaller NGOs have played a sterling role to keep the RTI ball rolling among the marginalised sections of the country, although their efforts to engage the middle and upper classes have largely failed so far.

There are positive signs that the Government of Bangladesh is slowly moving towards greater engagement with the law, not unexpected for a government which adopted the law to fulfill its election pledge. However, the government appears not to have fully discovered yet the value of RTI as an instrument to improve governance and bring citizens closer to it. In fact, in most

developing countries, governments tend to see RTI/Freedom of Information laws as unnecessary encumbrances on their use (or abuse) of power. Normally, it is citizens who keep RTI alive.

The Information Commission (IC) has borne the bulk of the responsibility to take the RTI Act forward in the last seven years. For a new entity entrusted with an unknown task, it has made significant contributions to put the law on track. In previous columns, we have written about what more it can do.

Till the time the government comes out fully to play its role and the civil society is engaged to promote the law more vigorously, the IC must take the lead to provide the much needed shot in the arm for the sagging RTI regime. Some simple steps would achieve a great deal.

Together with awareness-building and other stipulated activities, the IC should consider: a) removing procedural difficulties faced by applicants in submitting RTI applications; b) encouraging greater use of the law through more positive interpretation of its provisions; and c) putting the punitive provisions of the law to greater use so that recalcitrant public officials realise that they must respect the law or face penalties.

Towards these objectives, the IC could consider the following:

1) Allow applications to unnamed Designated (Information) Officers: Among issues which bother RTI applicants, the requirement to address RTI applications to specifically-named Designated Officers is foremost. This is because, apart from the difficulty in obtaining the names, in many offices the DOs have not been appointed or been changed/transferred or incorrectly named on the website. The rejection of applications for such mistakes frustrates applicants, leading many to abandon RTI. A significant number of complaints are "discharged" by the IC for this reason. Simply allowing RTI applications to be addressed to unnamed DOs would improve the situation dramatically. Similarly, other reasons for "discharging" about 43 percent of all complaints over the years could also benefit from a more accommodating attitude of the IC.

2) Consider registered mail to be definitive proof of receipt: A significant number of RTI applications are lost because the authorities concerned deny having received them, even when dispatched by registered mail. The IC's leniency on the DOs impacts negatively on the applicants. Simply adopting a rule that applications sent by registered mail will be deemed to have been received can remove the problem.

3) Hold Designated Officers accountable: In another large number of complaints heard by the IC, the DOs concerned justified their failure to provide information by claiming ignorance about the law. About 78 percent of DOs agreed to provide information only at the prodding of the IC. While the law provides for punitive measures for such failures, the IC has consistently been reticent to impose them. In seven years, only six penalties were imposed on DOs, while hundreds went scot free. As a result, people's trust in the law suffered. Their fear of public officials will reduce significantly if punitive measures foreseen in the law are applied more stringently. However, the fact that DO's are often guided by the views of senior colleagues, against whom no penalty provisions exist, must also be addressed.

4) Follow-up of decisions: Applicants are also discouraged when they fail to obtain the information even after IC directives. A better follow-up mechanism can end their gripes.

5) Alternative venues for redress: The holding of complaint hearings by the IC at different locations in the country and/or through video conferencing will reduce cost for complainants and remove another impediment to the growth of RTI.

The IC has the ball in its court. If it plays it well, the entire nation will benefit.

The writers are Chairman, Research Initiatives, Bangladesh (RIB) and Project Coordinator (RTI section), RIB, respectively.

Email: rib@citech-bd.com.