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"Right to know", not "need to know"



Illustration: Nahela Nowshin

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How often do we make use of our networks to get the information we need? Whether the transformer in the neighbourhood is out of order or a relative needs a new passport, we instinctively reach for our networks: old school friends, colleagues, extended family and contacts. Networks are as old as humanity. But what about when we want to hold our government accountable, when it is not just about my need for information but my right? That is when we reach for the law.

The overwhelming majority of Right to Information (RTI) laws around the world were enacted in the last quarter of a century, following the end of the Cold War. They became one of the fastest growing legislations in the contemporary world. States are ranked today on the strength of their RTI/Freedom of Information laws to ensure the transparency and accountability of their governments to citizens. In South Asia, the Indian RTI Act is ranked 4th in the world, Sri Lanka 9th, Maldives 12th, Bangladesh 23rd and Pakistan 89th. With a clear global trend towards recognition of this important right, its inclusion as target 16.10 in the recently adopted Sustainable Development Goals (SDG) was logical.

Good legislation alone, however, cannot be the sole measure of efficacy of the law. That depends largely on how it is implemented. The global debate on RTI/FOI laws is, therefore, increasingly focused on assessing whether it is contributing to unveiling the traditional culture of official secrecy and making governance more open to people.

The key questions raised include: are public officials becoming more respectful of the law and responding positively to people's demand for government-held information? Are the provisions of the law being interpreted correctly? Is the law helping to change the age-old bureaucratic mindset of public officials and contributing to systemic change in governance?

Very little, if any, substantive discussion on the above questions is taking place in Bangladesh. Such discussion would include the use of RTI by citizens to contribute, individually and collectively, to making the government more transparent and accountable; to fight corruption in public offices; to assess if systemic changes are taking place; to devise strategies for effective collaboration between citizen-groups and public authorities for progressive improvement in the implementation of the law; and more.

When the journey began seven years ago, our focus as a nation was understandably on proper dissemination of the law and establishing the required mechanism for its implementation, including creating demand and generating applications for information.

The law was premised on a very new concept, which challenged our historical experience in citizen-state relationship - acquired since colonial times - and which opened up revolutionary possibilities for a fundamental change in that relationship. Instinctively, we chose the easiest path, which was to use the law primarily to redress personal grievances. In this way, marginalised communities and poverty groups in the country were able to use the law to obtain their due benefits from the government's safety-net programmes.

However, since we have now gained some experience and have been enriched by knowledge gathered through growing interaction with RTI/Freedom of Information networks throughout the world, the time has come for us to recognise that there is more to the law than simply using it for benefits to individuals or small groups.

The RTI Act evolved globally as an instrument to empower citizens to oversee the work of the government, to monitor its activities, to help fight corruption and make public officials more citizen-friendly and law-abiding. This explains why the progress of RTI has been made a target in the SDG. RTI captures the essence of democracy in which power belongs to the people, who rule through their representatives, who serve the people on basis of the laws of the land and where citizens collaborate with the government to strengthen good governance.

Citizens can ask for any information, except for those specifically exempted under the law, from the concerned public authority. The latter is not entitled to ask why the information is “needed”. The basic assumption is that citizens seek information under the Act to exercise their right and to fulfill their role in strengthening transparency and accountability in the work of public authorities. The “need” for information does not figure in the law.

Focusing on the “rights” aspect will encourage the middle and educated classes to use the law, which has not been the case so far. Most members of the middle class currently claim that they avoid asking for information from public authorities for fear of possible reprisals; and in any case, they can obtain any information they may “need” through their networks.

However, the “need to know” may vary from person to person; the “right to know” belongs to all citizens. If the focus is firmly placed on “rights” – and the power of the law to compel public officials to respect that right is properly propagated – it is likely that citizens of the country who are well-known for their social/political activism and always maintain a critical watch on the government would be more likely to make use of the law. If influential social and political activists use the law, they set a trend for its broader fulfillment. Irrespective of what an activist's agenda may be, as observers and advocates for RTI, our role is not to judge but to encourage the use of the law.

In this context, we can ask if those agitating against the Rampal coal-based power project near the Sundarbans are fully aware of the RTI Act and its potential to advance their cause. RTI is effectively used by environmentalists in many countries.

Upholding the “rights” aspect of RTI and firmly rejecting the often wrongly-imposed “need to know” requirement in its application can be a useful strategy to advance the use of RTI by all sections of the society, particularly the socially/politically aware population. A “right” requires a commitment from an authority to respect. RTI imposes that commitment on the government. Our government has assumed that commitment by adopting the RTI Act. It is for citizens to effectively utilise that right.

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