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How RTI can help elect the best candidates



Shamsul Bari and Ruhi Naz

Political tension mount in most countries during election year. In Bangladesh, tension has already gripped the people and is likely to intensify before the general elections scheduled for December 2018.

A key factor amidst the excitement is the disagreement between the two main political parties on whether elections should be held under the sitting government or some form of neutral government.

This tension distracts us from the more substantive issues of election such as ensuring that the most qualified candidates are elected to parliament. On that important question, the Right to Information Act (RTI) 2009 can help.

The RTI Act entitles citizens to monitor the work of all public bodies operating under the three branches of government—executive, legislative and judiciary. Citizens can do this by seeking relevant information on them from the concerned public authorities. Our focus today will be on the legislative branch, i.e. the parliament. We must first understand the diverse roles that MPs play and then go about electing the right person for the job.

According to a study, the task of parliamentarians “can be captured conceptually within four roles. The legislative role includes establishing rules for the ordering of social, political and economic activity and empowering the government to enforce these rules. Financial control includes empowering the executive to collect tax and other revenues, to spend those revenues for specific purposes and to record and report on actual expenditures and achievements. The oversight function includes those parliamentary activities to help make the actions of government transparent to the electorate and holding the executive publicly accountable. Finally, representation includes the less concrete functions of ensuring that citizens' concerns with government are addressed...”

While it is not easy to visualise the above roles of the MPs, voters can certainly relate to them, if they are properly explained. Unfortunately, voter-counselling on selection of candidates is not fully ingrained in our election culture. The RTI Act, however, makes it easier to do so. Civil society and citizen's groups have a golden opportunity to play an effective role here.

In India, an NGO named Satark Nagrik Sangathan (SNS), or Alert Citizens Group, has developed report cards on elected representatives to help people assess their performance in different fora. Using the RTI Act, activists access information from relevant public authorities on how elected representatives have performed in their respective positions. Based on the information received, a report card is established on each of them.

The report card contains objective information on the performance of individual elected representatives. These include the representative's performance in the legislature and its subsidiary committees. Did they attend, what questions and issues did they raise? Did they participate in debates relating to the functioning of the executive branch of government? How did they deliberate on laws under consideration? Did they scrutinise public expenditure? How did they spend the local development fund? What is their educational background; do they have a criminal record?

In Bangladesh, we could develop similar report cards on our MPs. They would provide voters with the required knowledge on candidates seeking their support. RTI could be the basis for obtaining information based on the above criteria on candidates who are seeking re-election and on whom records are available at the Secretariat of the Jatiyo Sangsad. Additionally, it could be used to find out how they spent the Tk 20 crore development fund at their disposal.

For new candidates, where such records are not available, background checks can be made through RTI requests to public authorities who may hold relevant information on them which are disclosable, such as the police and tax authorities as well as local government bodies or other public offices they had served.

The Election Commission (EC) too holds information on candidates under the Representation of the People Order (RPO) 1972. Citizens could check the law to find out what information on the candidates are held by the EC which could be sought through RTI requests. In a related case, in 2016, the High Court had ordered the EC to provide RTI applicants with information they held on political parties under the RPO.

Political parties could themselves be a source of information for the candidates that they nominate. While there is some controversy on whether they fall within the purview of the RTI Act, this could be tested out through RTI requests to them. In India, in a 2013 decision, the Central Information Commission held that political parties are indeed covered by the RTI Act, which they jointly rejected. The matter has remained unresolved since then.

The experience of the United Kingdom, where the Freedom of Information Act (FOI) has been put to effective use for the purposes here, can also provide guidance.

In 2005, a civil society campaigner together with some journalists made FOI requests for details on claims made by MPs for the reimbursement of their travel and accommodation expenses during parliamentary sessions. This was initially denied but on appeal, the Information Commissioner ordered for its disclosure.

Subsequently, the commissioner also ruled in favour of the public's right to know broad details of MP's spending on second homes in London. This resulted in the release of detailed breakdown of expense claims made by several MP's, including the then Prime Minister Gordon Brown and his predecessor, Tony Blair.

At one stage, the House of Commons had appealed the Information Commissioner's pro-disclosure decision to the High Court, but the latter ruled against it. When several fraudulent claims and misappropriations were revealed, a series of high-profile resignations followed.

Public apologies were tendered by Prime Minister Gordon Brown and Conservative Party leader MP David Cameron. The Prime Minister announced the formation of new rules on reimbursements to MPs, including a pledge for external audits to oversee pay and allowances. Soon thereafter, the government passed the Parliamentary Standards Bill, which removed the right of MPs to set their own allowances and established a new Independent Parliamentary Standards Authority to administer the pay and expenses of MPs and investigate alleged breach of the newly formulated rules on parliamentary expense claims and allowances.

The above is a fine testimony of the intrinsic power of the RTI Act, not only to fight corruption, but also to contribute to systemic change in governance. The Bangladesh government and our MPs had the foresight and wisdom to adopt this amazing legislation nine years ago to empower citizens to promote transparency and accountability in the workings of public authorities, including many NGOs. We must put this law to effective use.

It is time that all concerned citizens, who rightly agitate for free and fair elections, learn from the experiences of other countries to use the RTI/FOI Act to ensure election of lawmakers who are qualified for the job and are themselves law abiding.

Shamsul Bari and Ruhi Naz are Chairman and Project Coordinator (RTI section) respectively of Research Initiatives, Bangladesh (RIB).

Email: rib@citech-bd.com

