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# A healthy right-to-information regime is in everyone's best interest



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Funds stolen by political leaders. School supplies siphoned off by a contractor. Ghost workers created to claim benefits. Evidence of government-sanctioned torture. Trees that were meant to be planted but never were... these are just some of the stories unearthed by using Right to Information (RTI) or Freedom of Information (FOI) laws in some 130 countries. These laws oblige governments to disclose information they normally would not. The range of issues that citizens can tackle using RTI laws may surprise many readers.

In our last column, we highlighted the efforts of a young man in Bangladesh who used the RTI Act 2009 to fight the filling-in of public ponds and water bodies owing to the massive urbanisation of Dhaka city.

In India's Jammu and Kashmir, an activist used the RTI act to visit a site where the state claimed trees were being planted to combat deforestation. It turned out that barely 10 percent of the trees were planted and the funds were being embezzled. The revelation led to public outcry and pressure from environmentalists for corrective measures.

In an era where governments claim advances in public health, nearly 17,000 children died from malnutrition in 2015-2016 in the Indian state of Maharashtra, the Bombay High Court was told based on data obtained through RTI queries. The court found the numbers "shocking and disturbing."

A journalist from an investigation team of Bloomberg News used the US FOI Act 1966 to obtain a report from the Federal Department of Agriculture, which revealed that a major Parmesan cheese brand contained no actual Parmesan cheese. The makers were mislabelling their products by filling them with a mixture of other cheeses and cellulose, a common anti-clumping agent made from wood. The president of the company faced a one-year prison term and a fine of USD 100,000.

Another area where RTI laws have been used as a tool to uncover corruption is financial manipulation. An RTI request by a journalist from the *Indian Express* revealed that a Maharashtra minister had purchased land well below market value, just before it was due for acquisition by the Maharashtra Industrial Development Corporation. The objective was to sell the land later at a higher price to the government.

In Malawi, public officials controlling a public works programme connived to create 20 ghost beneficiaries in the hope of sharing the proceeds. The chairperson of a local Community Rights Club submitted an RTI request for a list of the beneficiaries, thereby exposing the fraud.

In another Malawi case, requests for information about contracts to provide school supplies led to investigation that proved they were not delivered. Subsequently, the supplier was forced to reimburse all funds meant for the supplies.

The Access to Information law of Mexico was successfully used to learn that some municipal workers of a particular municipality had two jobs and that a politician's relatives benefitted from the construction of the municipal slaughterhouse and municipal sanitary sewer.

Even high-level shenanigans can be brought into the light using these laws, enabling citizens to witness what goes on behind closed doors. The secrecy surrounding the purchase of US Treasury bonds by Saudi Arabia was ended by a FOI request by Bloomberg News. The response revealed that as of March 2016, Saudi Arabia had stockpiled USD 116.8 billion of US Treasuries. The information had remained one of the biggest mysteries in global finance for four decades, unlike with most other major owners of US debt. This had to do with the sensitivity surrounding US-Saudi relationship. The response to the FOI request also revealed a number of other important information about US foreign debt.

Serious human rights transgressions are not immune to investigation under RTI laws. In response to a FOI Act request filed by the American Civil Liberties Union (ACLU), the US government was obliged to disclose new portions of transcripts from military hearings in 2007, in which “high-value” detainees described being tortured by the CIA at Guantanamo Bay. The importance of the information was described by an ACLU staff attorney as follows: “At a time when some politicians are proposing that the torture programme be resurrected, it’s crucial that the American public have access to these first-hand statements, and not only to the self-serving accounts offered by those who authorised the torture.”

Even royalty is not spared from the purview of RTI laws. The Supreme Court of England’s ruling that Prince Charles’ letters to ministers fell within the ambit of the FOI Act of the UK extended the arm of the law to the most sensitive area of the relationship between the Royal Family and the British government. The ruling implied that “advocacy correspondence” from Prince Charles to ministers should be made public. It also represented a fundamental challenge to the use of ministerial veto to block the release of material that the government particularly felt the need to keep secret, after either the information commissioner or the Tribunal has ruled it should be published.

The Court’s majority judgment stated that it is a fundamental principle that “a decision of a judicial body should be final and binding and should not be capable of being overturned by a member of the executive.” The ministers, therefore, cannot overrule a Tribunal decision that information should be released under FOI just because they disagree with it. Other factors need to be in play, such as the emergence of new considerations.

There are also less serious and more innocuous use of the law. The BBC used the UK FOI law to obtain transcripts of conversations between British Prime Minister John Major and US President

George HW Bush Sr. It showed that the two frequently commiserated with each other and had a close and bantering relationship.

These examples demonstrate the wide range of topics on which RTI/FOI requests have been made throughout the world. In Bangladesh, while NGO efforts and those of a few die-hard RTI activists have kept the RTI ball rolling, its use has been limited and not as creative as it could be. We hope to stimulate the more educated and socially conscious sections of our society to understand the tremendous value and reach of the law, appreciate its importance for society and put it to proper use.

As seen in the examples, not all RTI applications need to deal with corruption, malfeasance or misdeeds of public officials which many in Bangladesh believe to be the main objective of the law. In fact, the law has been used all over the world for obtaining information on larger issues of societal and national interest, which do not necessarily require pointing accusing fingers at anybody. Seeking such information should give no reason to public officials to be afraid of disclosure, which they are when faced with information requests of a sensitive or self-incriminatory nature.

In fact, it is a good strategy for citizens to start their acquaintance with the law by seeking information of a general nature, which would benefit the society at large and at the same time create the practice among public officials to respond to RTI requests more dutifully, which, unfortunately, is not the case today. Once such a relationship is developed, the use of the law could be upscaled to focus more seriously on issues of accountability and transparency.

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