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RTI IN BANGLADESH

# We need an independent and neutral Information Commission



Photo: Collected

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From its onset in early 2020, the Covid-19 pandemic has damaged trust in governments. As governments fumbled with different approaches, citizens' distrust of them increased in tandem. Allegations of misinformation, disinformation and lack of information polluted the atmosphere.

The chaos, however, gave hope to transparency enthusiasts that the experience would help governments realise the extraordinary importance of proper information sharing in democratic governance and hence the need for them to pay greater attention to proper implementation of the Right to Information (RTI) Act. Sadly, there was no indication of this in Bangladesh during the observance on September 28 of the International Day for Universal Access to Information. The statements and utterances made at various gatherings and seminars organised for the occasion provided no indication that the three key stakeholders of the RTI regime in the country—citizen

groups, the government, and the Information Commission—had drawn lessons from the Covid-19 experience. An important opportunity was lost.

Citizens' groups could have drawn focus on glaring examples of lack of transparency on many aspects of the government's handling of the crisis. Instead, a handful of NGOs involved in promoting RTI stuck to their usual concern about obstacles that citizens regularly encounter in using the law. In their submission at the meeting organised by the Information Commission, where top government officials were present, NGOs demanded remedial measures but lacked vigour and direction. With a law more than a decade old, such deference to public authorities, including the Information Commission, must come to an end. It's high time citizens considered collective measures, however politely, to seek removal of the impediments they have endured for a long time.

Reports on other activities NGOs organised for the occasion revealed they are still largely focused on awareness-building. However, the law is yet to make an impact on peoples' minds and the little practice that has emerged is limited to a small number. This is evident from the fewer than 8,500 RTI requests recorded annually in the country. As a result, except for a handful of persons who have used the law and, therefore, are aware of the obstacles they must encounter, there are not many who would agitate for remedial measures. In neighbouring India, on the other hand, the RTI law has gained so much traction among the population that when the government simply flagged an intent to amend the law last year, hundreds of agitated citizens took to the streets to thwart the process.

The more polite voicing of concern by the Bangladeshi NGOs was, however, offset by a hard-hitting article which appeared in this newspaper a few days later (October 4, 2020). In that piece, entitled "RTI requests and the reality on the ground", two RTI activists shared their frustrations about the RTI process and their sad experiences with concerned authorities. They cited examples of unfriendly, even negative, gestures by the Information Commission towards complainants who see it to be their last bastion of hope in obtaining information from recalcitrant public officials. There is a general consensus among RTI watchers in the country that the implementation of the law would be greatly helped if the commission could take appropriate measures to deal with citizens' concerns voiced over the years. Establishing a regular dialogue with NGO representatives and RTI enthusiasts and activists will facilitate the process.

The Information Commission, like public authorities generally, tend to see activists as nuisance and brush them off as troublemakers. It is important to remember, however, that activists play a

particularly important role in the success of RTI law in many countries. In some, they serve as paid agents to obtain relevant information from public authorities on behalf of their clients. Nothing in the law, including that of Bangladesh, proscribes them from doing so. In the US, the majority of information requests are submitted by paid agents. In Bangladesh too, a significant portion of RTI requests are submitted by activists and by individuals who are helped by NGOs. Just as politicians seek to represent people's concern on governance issues, RTI activists promote the watchdog role of citizens as envisioned in the law.

The importance of activists for the promotion of RTI globally is evident from the existence of activist groups in most countries and of international forums where they exchange views and strategies. In fact, *The Daily Star* article mentioned before was posted on an important website and read by activists from all over the world. Activist groups collect information from such sources to draw their opinion on the implementation of the law in specific countries. These are then reflected in the data that UNESCO has been tasked to gather to measure the implementation of Sustainable Development Goal 16.10—which seeks to assess the efficacy of RTI law in national contexts. The Bangladesh data is expected to be submitted next year.

The government and the people must realise that the RTI Act is not aimed at unearthing corruption but to stop it from happening at all through systemic change. It is clear that such a realisation has not sunk properly in the minds of many.

To make that happen, it is the Information Commission that will have to play the key role. It must undertake serious efforts to remove obstacles identified by citizens so that they feel comfortable to use the law. This should not be difficult if, to begin with, the commission is able to shed its image of being a government body, which it is not. The law clearly states the importance of its impartial role in resolving disputes between citizens demanding information and public authorities refusing to supply them. But an image of impartiality cannot be created if the commission displays greater deference, as many allege, towards government officials in their handling of complaint cases. It cannot be created if the commission continues to send text messages to citizens as Govt. Info. Nor can it be helped by putting advertisements in newspapers where government officials and Information Commissioners share messages with the people side by side on the same page, with no representation of citizen groups. Neutrality should not only be practiced but also seen to be practiced. The RTI Act is a citizen-friendly law which clearly calls for a citizen-friendly Information Commission.

On its part, the government would do well to make its commitment to the law clear to the people, and more particularly to public authorities, on a regular basis. It can do so, inter alia, through a proper selection process of impartial Information Commissioners, as provided in the law. Installing a reward system for officials who discharge their responsibilities under the law properly would help the process. Assuring the commission of full freedom to apply the law, including penalising disobedient public officials, would be of added value. In addition, selecting at least one Commissioner with legal background would help greatly since the application of the law, particularly drafting decisions on complaint cases, which are of a quasi-judicial nature, requires legal acumen.

There can be no better way for the government to instigate beneficial changes in governance through non-revolutionary means than by helping citizens to do so through a seamless use of the RTI Act. It's time the law received the attention it richly deserves from all concerned.

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