

The Daily Star, July 15, 2021

Only 'We, the People' can unleash the full potential of RTI law

[Shamsul Bari, Ruhi Naz](#)

Bangladesh has long been known for the political activism of its citizens, ready to fight for their rights and defend their freedom. The creation of the country in 1971 is a testimony to that. Now—in an age when institutions of representative governance are in fast decline both globally and locally—is the time for us to seize what the Right to Information (RTI) Act 2009 offers as an alternative to continue that tradition.

Our first job is to convince the upper echelons of our society, who have largely ignored the law so far, that without their participation its full potential will remain untapped. Since its adoption 12 years ago, the law has been kept alive mainly by ordinary citizens. With the help of RTI enthusiasts and some committed NGOs, they have demonstrated, however sparsely, the power of the law to initiate positive change in governance. To go beyond and make higher gains, we need the participation and leadership of people who are more knowledgeable about the inner workings of the government and better equipped to understand the intricacies of the law and its use.

RTI law is globally acknowledged as the most effective instrument to promote participatory democracy, where people feel that they are no longer the "ruled" but the "rulers". While it takes time to dismantle a deep-rooted culture of secretive and opaque governance, experience of other countries shows that it can be done. Hurdles faced in implementing the law can be ironed out over time.

To speed our progress, "We, the people" must rally together and spread the message about the power and promise of RTI law more vigorously. Here is how.

First, remember that the RTI Act is fundamentally different from all other laws because only citizens can initiate its use, not the government. While the government is the executor of other laws—which citizens must abide by—in case of the RTI law, citizens are the executor and the government the responder. The roles have reversed. This point cannot be over-emphasised.

Next: RTI law is aimed at empowering citizens vis-à-vis public authorities. Its primary objective is to promote participatory democracy. People participate in the governance of the country by seeking relevant information from public authorities, thereby reminding them that their work is being monitored. Their requests help to

instil in the minds of public servants that people are the real owners of state power. The law is well-titled as a right to know, not a need to know. Citizens do not have to justify their requests to public authorities. There should be no fear, therefore, for the people to use the law. The RTI Act not only recognises their right but also underscores a concurrent responsibility.

The RTI Act states clearly that people's right to information contributes to better governance by promoting transparency and accountability in the work of public authorities, increasing their efficiency, mitigating corruption and advancing good governance. People do so by obtaining relevant information on the work of public authorities which provide a basis to assess their work. They can then use the information to seek corrective measures from the government, if necessary. Through RTI requests, citizens also help to improve the capacity of public officials to deal with their requests, to change their bureaucratic mindset and attitudes, and bring them closer to the people.

As to what kind of information people can seek from the authorities: any information available with public authorities in any form, including records, documents, memos, e-mails, opinions, advice, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form, etc. They are also entitled to ask for inspection of work, documents, records and take certified copies.

A great deal of confusion exists on the definition of public authorities. As a general rule of thumb, the law permits citizens to seek information from all government and other public offices, including NGOs and private entities who benefit from public funds. Even those entities who use no public fund but have a reporting responsibility to the government under any regulatory law are covered indirectly. Private companies are, however, normally outside the purview of the law; but if we ensure strong use of the Act as it is now, there could be a basis for us to seek increase of its scope.

Another important area which deserves particular care from RTI users is the exemption clause of the RTI Act, which blocks citizens' access to certain types of information. These include information which may prejudicially affect the sovereignty, integrity, security, strategic, scientific or economic interests of the state, its relationship with foreign countries, or incite offence. Some other types of information, including personal information of citizens, are also exempted from disclosure. As many RTI requests are rejected on these grounds, citizens must comprehend the scope of different sub-sections of Section 7 of the RTI Act and be ready to challenge their misuse.

The law requires RTI requests to be submitted in forms specifically designed for this purpose and available from the website of the Information Commission. Requests have to be addressed to the Designated Officer (DO) of the authority concerned, whose particulars should be available directly from the authority or its

website. To avoid rejections, citizens must address their request to the right person and describe their requests precisely. Requests are often rejected on procedural grounds. Citizens must remain alert to any abuses and lobby for their mitigation.

RTI requests often go unanswered. The law requires applicants to appeal within 15 days after the expiry of a maximum of 30 working days within which the request should have been answered. If the appeal process is not complied with properly, the request simply "dies". The public servant who did not reply to the original request is let off the hook. So, it is up to citizens to ensure that they follow the requirements of the law diligently.

The Information Commission plays the most critical role in the implementation of RTI in the country, inter alia, by resolving disputes between information-seeking citizens and information-providing public officials. The commission's decisions can either encourage or discourage users. Its decisions on whether or not to penalise derelict public officials for not abiding by the law can have a lasting impact on people's faith in it. Its decisions create precedence with long-lasting effects. Many users are dissatisfied with the commission's decisions but cannot afford to have their legality checked by the High Court through writ petitions. It is imperative for citizens' groups to bear these facts in mind if they want to see an effective RTI regime in the country.

The government too can reap important benefits from the RTI law. It is in the government's interest, therefore, to facilitate its operation. Among other things, it can reassure the Information Commission about its neutral and independent role, ensure impartial selection process of the Commissioners, and equally importantly, encourage public officials to abide by the provisions of the law without fear.

However, even if the government maintains a positive attitude towards the law, it is the people who must be its main custodian. They must remember that no government in the world likes to be controlled by their citizens. It is rare for them to go out of the way to boost RTI. Only people can do that.

Shamsul Bari and Ruhi Naz are Chairman and RTI Coordinator respectively of Research Initiatives, Bangladesh (RIB). Email: rib@citech-bd.com