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Success of the RTI Act relies on an effective Information Commission

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The Right to Information (RTI) Act, 2009 is made of interlocking parts. We usually focus on two of its main protagonists: citizens, for whose empowerment the law was enacted in the first place, and public authorities, who are required by the law to respond to legitimate information requests. Today, we will focus on another key element of the system—the Information Commission of Bangladesh.

The role of the Information Commission in implementing the RTI Act takes up more than half of the entire written text. And this is for good reason, because the law has entrusted the commission with a wide range of activities to carry out the purposes of the law. The "purposes" are facilitating citizens' participation in the affairs of the state so that "transparency and accountability of all public (offices) shall increase, corruption... shall decrease and good governance... shall be established."

There can be no bigger objective than this in a democracy. The goal is to move away from an age-old culture of official secrecy that has kept citizens in the dark about the work of their government, and usher in an era of open and accountable governance, where citizens are at the centre. They are given the key role to play for the success of the law. But for that to happen, only an enlightened commission, with the necessary independence, authority, resolve and impartiality, can pave the way. Moving away from darkness to the light can be a long and arduous process.

The Information Commission is tasked with framing the rules and regulations for RTI implementation so that citizens are able to submit their information requests without much difficulty, and public authorities who are required to deal with them do so with due diligence and in accordance with the law. Among other things, the commission has been tasked to make sure that the authorities respect the timeline specified for their response. It verifies that any denial of request is based on the law and reviewed by a senior official on appeal, and that citizens' complaints against final denial or incomplete disclosure are duly considered by the commission. It is mandated to ensure that both the complainant and the respondent are duly heard, and all those decisions by the Information Commission are based on law, duly explained and properly justified, and that any recalcitrant or defaulting official is duly chastised. Whenever necessary, the Information Commission undertakes on site investigations to establish the truth.

Reading between the lines of the law reveals yet another role: to promote positive application of the law so that its objectives to advance public good are achieved, and not frustrated by a narrow interpretation of its provisions. In fact, most observers find a clear bias of the law towards

disclosure of the requested information, unless, of course, it is clearly exempted under the law or the request is fraudulent. In many countries, the RTI law provides for a "public interest override clause" in the text itself to favour disclosure, though no such specific provision exists in the Bangladeshi law.

The RTI Act also provides for a monitoring role of the Information Commission to ensure that all public offices preserve any information they possess or create through an appropriate information management system, so that they can be easily accessed; each office is required to proactively disclose all relevant information of interest to citizens through their annual reports, websites or by other means. Officials tasked with meeting the information demands of citizens are expected to be duly appointed and properly trained, and their names and particulars displayed prominently on office notice boards and official websites.

To ensure that the Information Commission undertakes its tasks in an objective and professional manner, specific provisions have been inscribed in the law for the selection process of the three members of the commission, including its chief. They include the necessary safeguard requirements of impartiality, integrity, expertise, experience, and necessary knowledge of the field. This is clearly one of the most important provisions of the law. The goal of the law can be thwarted if inappropriate or unqualified persons are selected.

As the Information Commission's role is clearly geared towards facilitating the use of the law by citizens to promote its purposes, the latter bear the ultimate responsibility of overseeing that they are duly performed. Towards that objective, citizens must keep a constant watch on the activities of the commission, on its decisions and how it conducts the complaint hearings, on the balance it seeks to establish between genuine information requests from the citizens and the legitimate concerns of public officials to safeguard basic public interest, whether it is reading and interpreting the law correctly, and, most importantly, whether its activities hinder progress. Any negative public perception about the commission's work can be extremely detrimental to its image, and therefore to the success of the RTI Act. As such, there is no alternative to frank and constructive dialogue between the Information Commission and the citizen groups monitoring the application of the law.

Most of the introspective reviews of the RTI Act's operation in the country over the last one decade have been focused on the role of citizens and public authorities in the implementation of the law, and very little on the work of the commission, which steers the ship of RTI. This was perhaps justified in the initial phase of implementation of the law when all, including the Information Commission, were busy finding their way through this new and very onerous process. With the passing of time and the benefit of significant knowledge and experience about the process, we must now turn our attention to a proper flourishing of the Information Commission's role.

As strong believers in the efficacy of the RTI Act for constructive citizen-government interaction to advance the cause of democracy in the country, and as ardent supporters of the very important work of the Information Commission in this regard, we also believe that there is a need for special efforts to develop a closer interaction between citizen groups committed to advancing the

objectives of the RTI law as well as the Information Commission, so that we can review our respective roles together and identify ways to cooperate for mutual benefits.

We suggest that an in-depth assessment of the work of the Information Commission, which is objective, impartial, and constructive, be undertaken on a regular basis by citizen groups, individual researchers or any other third party, in close collaboration with the commission. We hope that in all future commemorations of International Right to Know Day and other such important occasions, assessments of this nature will receive greater focus. The commission is the key to the success of the RTI Act. It needs constant attention and support from all concerned.

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