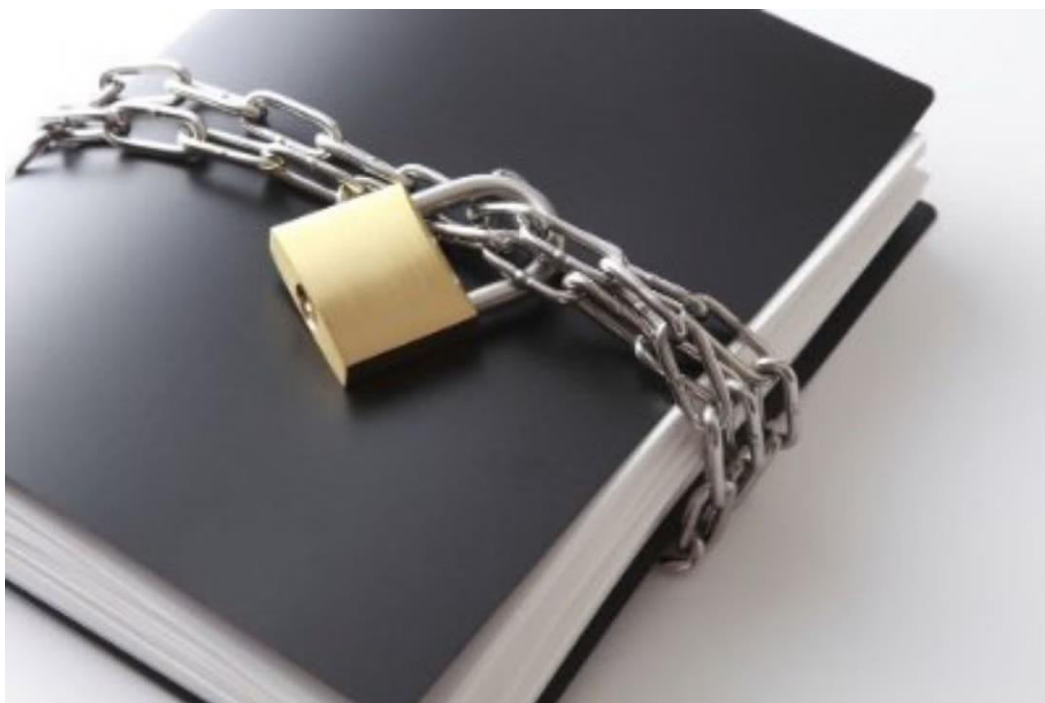


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RTI for transparency in parliamentary democracy

The Sri Lankan example can spur us to greater and more transformative use of the RTI Act in our country

[Shamsul Bari and Ruhi Naz](#)



In recent years, our neighbour Sri Lanka has weathered difficult times – economically, politically, and socially – but its right to information (RTI) regime survived and even thrived. We have cited critical RTI decisions from the country in these columns in the past. We are pleased to now update this with a story of exemplary value. This case shows the vast potential of RTI law to promote transparency in an important branch of democracy – the parliament.

RTI requests that are initially denied by the authorities concerned usually get resolved through the intervention of the Information Commission or a similar dispute-resolving body. However, if a party feels aggrieved by a decision of the Information Commission,

it may appeal to a higher court for a ruling on the contested issues. In our story, a decision of the Right to Information Commission of Sri Lanka was challenged at the Court of Appeal, which delivered its judgment just a few weeks ago on February 28.

Chamara Sampath, a young Sri Lankan journalist, submitted an RTI request on June 21, 2018 to the designated officer of the Secretariat of the Parliament of Sri Lanka. Sampath sought the list of MPs who had submitted their asset declarations, from 2010 onwards, under the provisions of the Declaration of the Assets and Liabilities Act No 1 of 1975 (amended by Act No 74 of 1988). The designated officer refused the request, stating that parliamentary privilege protects the "confidentiality" of the list and that declarations were submitted to the Speaker's Office, which holds the information. The applicant then made the same request to the designated officer of the Speaker's Office, who also refused disclosure on similar grounds.

Aggrieved by the denials, Sampath next applied to the Information Commission to resolve the dispute. He cited Section 31 of the law which, similar to other countries, allows for the RTI Act to override other laws of the land. After a long hiatus, in February 2021, the commission decided in favour of releasing the requested information. The commission determined that the public authority in terms of the RTI Act was the Parliament of Sri Lanka, and not the Secretariat or the Speaker's Office. Hence, it was the duty of the secretary-general of the parliament to provide the desired information to the applicant. The secretary-general then challenged the decision of the Information Commission at the Court of Appeal, claiming among other things that the commission had "erred in fact and law."

On February 28, 2023, the Court of Appeal dismissed the appeal, upheld the decision of the Information Commission, and ordered the release of information pertaining to the Sri Lankan MPs who had submitted their declarations of assets to the parliament. The court concurred with the commission on all its conclusions, including that the RTI Act supersedes the Declaration of Assets and Liabilities Law, enacted before the RTI law.

RTI has thrived in Sri Lanka due largely to the efforts of many diehard activists from the civil society and a committed educated class. In addition, a few dedicated members of the Information Commission have been promoting the efficacy of the law.

Our readers will find the observations of the court on the matter to be very educational. In the 17-page judgment delivered by Justice Sampath B Abeykoon (with Justice P Kumararatnam agreeing), the court held that the intention of the RTI legislation was "fostering a culture of transparency and accountability in public authorities and

institutions by giving effect to the right of access to information in combating corruption and promoting accountability and good governance."

He concluded that "any person who comes under the provisions of the (Declaration of Assets and Liabilities) law (and) fails to provide the relevant declaration of assets and liabilities as required, would be committing an offence punishable with a fine or imprisonment of either description or both such fine and imprisonment. It is therefore important for the public to know whether the relevant authorities have acted as required by law or not."

He had no hesitation, therefore, to concur with the decision for disclosure by the Information Commission, adding that "providing the list of names of the Members of Parliament who have tendered their declaration of assets and liabilities as required by law is not disclosing the information they have provided in the declarations. I find that the argument advanced on that basis had also been an attempt to frustrate the purposes of the RTI Act." This is strong language indeed!

The judgment went on to underline that the MPs are "persons who are elected by the people and maintained by the people. They are expected to abide by the laws of the country at all times and provide examples for others to follow."

No wonder that the judgment received wide coverage in the Sri Lankan media. Many saw in it a glimmer of hope for transparency and accountability in the country, providing for a more solid basis for transparent and accountable governance, which may help avoid recurrence of the type of crisis the nation has faced in recent years. There was a sense of rejuvenation in the air.

From all indications, RTI has thrived in Sri Lanka due largely to the efforts of many diehard activists from the civil society and a committed educated class. In addition, a few dedicated members of the Information Commission have been promoting the efficacy of the law. The ranks of such promoters in Bangladesh are still very thin. We hope that the Sri Lankan example will spur us to greater and more transformative use of the RTI Act in our country. We often hear of the government abusing some laws against the citizens, forgetting that as citizens we, too, are "abusing" a law of such great potential for public good through our indifference and neglect.

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