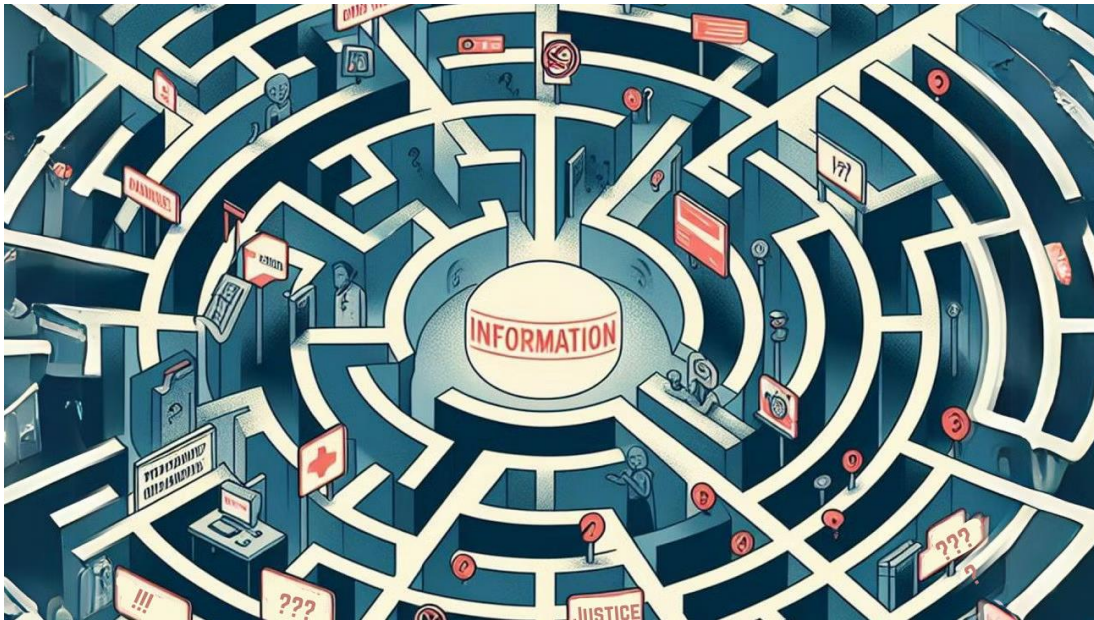


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## There is so much more to the RTI Act



REPRESENTATIONAL IMAGE GENERATED BY AI

Office-goers in Dhaka's Agargaon area were frustrated by a makeshift mini market that had sprung up on the sidewalks outside their buildings, and annoyed by the stench, trash, and blood from the slaughtering of chickens right in front. After several attempts to end the ordeal, an employee of the University Grants Commission (UGC), one of the offices in the neighbourhood, resorted to the [Right to Information \(RTI\) Act](#). He sent an information request to the Designated Officer (DO) of the Dhaka North City Corporation (DNCC) seeking a copy of the authorisation provided to run the market—and if none was obtained, to know what measures were taken for its eviction.

The next day, the market was gone. A very polite Designated Officer of DNCC called the applicant to reassure him that the closure was permanent. It would have been better, though, if the applicant had insisted on a written reply as that would most likely have led to in-depth discussions on the subject within the DNCC hierarchy, which perhaps doesn't happen very often. Nevertheless, this was a shining example of the power of RTI to make public authorities more attentive to their duties.

Such decisive actions are rare. We have witnessed some positive outcomes over the years, arising from the law's usage by a few committed adherents, but larger gains are still few and far between. Clearly, most citizens are unaware of the tremendous bounties the RTI Act has to offer, not only to deal with such mundane matters of life but also much larger issues of the state. The latter can happen only when more knowledgeable members of society engage in the law.

Two most recent examples from Sri Lanka may help to illustrate the point. Since the adoption of the RTI Act there in 2016, alert citizens and a supportive information commission, assisted by a helpful judiciary, have made strategic use of the law. So much so that it led the International Monetary Fund (IMF) to recommend promotion of greater use of the law by citizens to accelerate the country's recovery from the severe economic crisis it suffered recently.

In the first case, a February 2024 ruling by the Court of Appeal (CA) upheld a 2021 directive by the Right to Information Commission (RTIC) of Sri Lanka which ordered a state bank to release the marksheets of candidates who sat for the island-wide competitive recruitment examination. The directive was related to an appeal filed at the RTIC by an unsuccessful candidate wanting to know why she was not recruited despite passing the examination.

In upholding the commission's directive, the CA dismissed the bank's revision application. And Justice DN Samarakoon, who authored the judgment, further underlined that, though the marks obtained by other candidates could indeed qualify as "personal information," it was "in the interests of the public that public examinations on the basis of which citizens are recruited to occupations on merit, must be honest, upright and transparent." He emphasised that since the information concerned was related to a public activity or interest, a concerned citizen had the constitutional "right to know" it. There was, therefore, no unjustified invasion of privacy in releasing the merit list prepared on individual marks.

A more incisive observation by the judge was that the RTI Act brings the state to the "receiving end of asymmetrical surveillance." Citizens now have the power to question the state while "the State has to police itself for fear of adverse public opinion." This is the "opposite of the surveillance State ... the roles have been changed; the observer has now become the observed." A profound observation with deep implications for all concerned!

In the second case, the RTIC directed Litro Gas Lanka Ltd of Sri Lanka to release the salary and loan details of some top officials of the company to an appellant who

claimed that he was unfairly terminated by the company, which, despite its claim otherwise, was indeed a Public Authority as 99.7 percent of its shares were owned by the state. A key aspect of the CA judgment was that while information on salaries is indeed personal information, it is overridden where public funds are involved.

The court went on to add that grounds such as commercial interests, trade secrets, and competitive position of a third party are not relevant when salary information is sought, and that Litro Gas, in challenging the directive of the RTIC, had "failed to understand the true nature ... of the Sri Lankan RTI Act." The court further added that reputation, rights of others and privacy were overridden by public interest according to the Sri Lankan Constitution itself.

Unfortunately, RTI use in Bangladesh so far has given rise to very few cases involving such in-depth interpretation of key provisions of the law by the Information Commission. And even in the few cases where such possibilities exist, it is rare for our citizens to challenge them in the High Court. It's time our civil society leaders, social and political elites, and ardent change-makers discovered the tremendous scope and promise of the RTI Act.

## **Postscript**

While concluding, we learnt about the directive of the Indian Supreme Court asking the State Bank of India and the Election Commission of India to make public, by March 12, 2024, the list of all buyers of electoral bonds (EBs) and the political parties that redeemed them. The court also threatened penal action if the deadline was disregarded. It may be recalled that since the introduction of EBs six years ago, there has been a continuous public outcry about its negative impact on electoral politics and a constant demand for information on the buyers of EBs and the political parties benefiting from them. Investigative journalism and RTI played a key role. Such a decision ahead of the general elections of India is considered by most political observers to be extremely significant. Another good example of the importance of access to information by the people on key public issues.

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