

## Even if dormant, the RTI Act's promise remains powerful

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As the Right to Information (RTI) Act, 2009 remains effectively dormant in Bangladesh, RTI advocates must now rely on the new government's resolve to operationalise it. The law has been inoperative due to the absence of information commissioners since the interim government assumed power in August 2024 following a mass uprising—a situation that appears to reflect deliberate inaction intended to shield its activities from public scrutiny. While prioritising pressing issues in its early days, the current government has chosen to postpone consideration of the slapdash RTI (Amendment) Ordinance, along with a few others, left behind by the interim administration. While that matter must now wait, what cannot be delayed any further is the urgent need to fill the vacant posts of information commissioners and restore the law to full functionality.

This is important not only in its own right but also because the law's effective use can help the government fulfil its commitments—commitments in which citizens themselves have an important role to play through the proper use of the RTI Act.

However, as we await its revival, citizens would do well to acquaint themselves with the law's broader possibilities beyond the routine uses observed since its adoption. For this, we need not look far: experiences of our neighbouring countries that embarked on the RTI journey around the same time offer valuable lessons. We highlight a few recent cases from India and Sri Lanka for their relevance to Bangladesh.

Indeed, RTI enthusiasts in Bangladesh—and the new team of information commissioners, once appointed—would do well to consult, among other sources, the decisions of the Right to Information Commission of Sri Lanka and the Court of Appeal's role in strengthening RTI jurisprudence. These experiences underscore the critical importance of an independent and neutral dispute resolution mechanism in advancing the effective use of the RTI law.

We begin with the story of former Sri Lankan President Gotabaya Rajapaksa, who fled the country in 2022 at the height of a popular uprising—a situation not entirely unfamiliar in our own context. A citizen sought information on whether he had left aboard a naval vessel and what public resources were used. The authorities refused, citing national security.

Sri Lanka's RTI Commission, and ultimately the Court of Appeal, rejected this blanket refusal. While allowing limited withholding of sensitive operational details, they held that financial information regarding the use of public resources must be disclosed. The court affirmed that “national security” cannot serve as a blanket excuse for withholding information when public money and executive accountability are at stake, underscoring the primacy of transparency even in moments of crisis.

By contrast, public engagement with such sensitive uses of the law in our own context remains limited. Unless civil society, equipped with knowledge and a sense of responsibility, actively utilises the RTI framework, its full potential will remain unrealised.

Another Sri Lankan case, *M.J.K. Dissanayake v. Asia Broadcasting Corporation (Pvt) Ltd*, further illustrates the law's reach. The Court of Appeal upheld a ruling by the Information Commission that a private television broadcaster, Hiru TV, could be treated as a “public authority” under the RTI Act. The case arose from an RTI request seeking information on the editorial verification of a disputed news report. Rejecting the claim that the broadcaster was purely private, the Information Commission and the Court of Appeal underlined that entities performing public functions under a state licence, such as the use of public frequencies, are subject to RTI obligations, while allowing for the protection of journalistic sources.

This decision is significant for extending RTI's reach beyond the state to private actors exercising public influence. In Bangladesh, we often lament that the law does not extend to private entities while doing little to explore its existing possibilities, including recourse to the High Court.

An instructive example from India concerns the disclosure of a committee report. In *Sajimon Parayil v. State of Kerala and Others*, a citizen sought access to the Justice Hema Committee Report on gender discrimination in the Malayalam film industry. Although it was submitted in 2019, the government withheld it, citing sensitivity.

The Kerala State Information Commission ordered disclosure with redactions, and the Kerala High Court upheld the decision on August 13, 2024. It affirmed that the RTI Act does not permit blanket refusal merely because parts of a document are sensitive; rather, it permits partial disclosure, with protected information removed. The court emphasised that privacy concerns can be addressed through redaction and that matters of public interest warrant disclosure. In Bangladesh, many such committee reports remain out of public reach, largely because citizens seldom seek them under the RTI Act.

The lesson is clear. Even in its current state, the RTI Act retains immense, largely untapped potential. Realising its full promise will depend not only on the government's political will but also on an informed and engaged citizenry ready to use it. The responsibility, therefore, lies with them—to understand the law, test its limits, and begin reclaiming it as an instrument of accountability, even before the information commissioners are appointed, and more so once they are.

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