

Dialogue Report on



Challenges of implementing Right to Information Act, 2009 in Bangladesh

February 26, 2012

Institute of Informatics and Development (IID)

is an independent policy think-tank that aims to bridge the gap between public policy and technological advancement. D.Net is facilitating the building of this institute. IID promotes informed policy discourse among the makers and shakers of public policy. It also promotes evidence-based and participatory policy making process and aims to bridge the gap between the haves and have-nots of access to development discourse through various ICT-aided programmes including m-participation and information visualization. (www.iid.org.bd)

As part of IID's publication activities, dialogue reports are brought out in order to widely disseminate the summary of the discussion organized by the institute. The present report contains the highlights of the dialogue organized by IID, D.Net which was held at BRAC Centre, Dhaka on February 26, 2012 on the **Challenges of implementing Right to Information Act, 2009 in Bangladesh.**

The Dialogue

Institute of Informatics and Development (IID) organized a dialogue on February 26, 2012 titled **Challenges of implementing Right to Information Act, 2009 in Bangladesh** at the BRAC Centre Inn Auditorium, Dhaka. The dialogue was organized as part of IID's bi-monthly publication Protifolon's 5th issue which exclusively focused on the progression of Right to Information Act in South Asian countries.

The keynote speech was presented by Mr. Syeed Ahamed, CEO, IID. Dr. Shamsul Bari, Chairman, Research Initiatives Bangladesh, chaired the session while Professor Dr. Sadeka Halim, Information Commissioner, was present as a Special Guest. The Dialogue was attended by a cross-section of people including academics, researchers, representatives from NGOs and development practitioners (list of participants is attached in Annex 1).

Welcome address by the Chair, Dr. Shamsul Bari, Chairman, Research Initiatives Bangladesh (RIB)

Dr. Shamsul Bari, Chairman, Research Initiatives Bangladesh (RIB), initiated the dialogue by welcoming all the distinguished guests, keynote presenters and participants. He was appreciative of all the participants, looking forward to their constructive inputs. On this note, he invited Mr. Syeed Ahamed to debrief the audience about IID and scopes of discussion in the dialogue session.

Keynote speech by Mr. Syeed Ahamed

Mr. Syeed Ahamed, CEO, IID, started off the discussion on a positive note, applauding the RTI Act for being a milestone in South Asian campaign for people's right to information, despite the fact that the initial experience of implementing the Act depicts a mixed scenario. He acknowledged that RTI Act (RTIA) has certainly provided a legal framework and helped build awareness on RTI in the region; however, based on the experience of the first few years of RTIA implementation, he urged that the time has come to review the texts of the Acts. Mr Ahamed also emphasized that RTIA makes information a right for the people and a responsibility for the institutions, and hence the institutions, particularly the civil society organizations who are the leaders of the campaign for RTIA, need to be more committed to ensure this right.

Explaining the importance of RTIA, Mr. Ahamed noted that the introduction of RTIA not only makes the information providing officials accountable but also identifies the impediments for establishing RTI and largely increases the responsibility of the citizens, mass media and development workers for creating the demand for information among the public. Unless people are aware of the connection between right and access to information and their impact on livelihood, demand for information will remain subdued, he added.

Mr. Ahamed pointed out that although many government institutions have established automated information delivery system, processing of the delivered information has remained manual which may not be sustainable in the long run. He also added that lack of human resources in information archiving and management has been a major challenge for government and non-government institutions. Besides increasing investment in information management, public and private institutions need to offer post-employment training programmes on ICT-led information archiving and management.

Having sketched the framework of the dialogue, Mr. Ahamed looked forward to an interactive and fruitful open floor discussion. He was positive that the session's discourse would provide informative and meaningful insights for the policymakers and relevant stakeholders on the issues of RTI.

Remarks by the Chair

Dr. Bari appreciated the government for opening information centers in different parts of the country. However, he expressed his concern that despite the hype and enthusiasm, government officials are still unaware of the RTI Act. He mentioned that this is the right time to recognize the change that has been taking place regarding information management and both the government and NGOs have to work in unison for RTI in an efficient manner.

Dr. Bari explained that RTI is perhaps the most revolutionary law that can be adopted in any country of the world. RTI means the government is opening up its files to the public, he added. He mentioned that people are not making use of it due to their lack of awareness. In this connection, he highlighted the 200 years of colonial rule due to which people became used to being in a subservient situation. On the other hand, the government officials who were used to being the masters, have suddenly become the servants of people, and are now bound to provide information. Thus, suggested Dr. Bari, there remains a strong need to change the mindset of the people. To further explain the reason for establishing the RTI Act as Transparency/ Disclosure law, he highlighted the fact that the government is generally unwilling to disclose their information and the information available on government websites does not disclose any information relating to misdeeds of government officials. He also argued that the emphasis of RTI is particularly on the information that requires disclosure. Hence, he recommended that building awareness could be the only possible solution.

Dr. Bari appreciated the initiatives of the Information Commission to open up information to the public, thus lowering the number of applications made to the government. He mentioned that according to the Information Commission's Annual Report last year, most of the 20 thousand applications received had nothing to do with RTI, whereas about half a million RTI applications were made in India last year of which about 70% received positive responses. Indians are also using RTI for having legislative discussions with the government, he observed. He also explained that in the 6th RTI convention the Indian prime minister expressed his concern about the huge number of applications sent to the government as it is claiming much time of the government

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officials in replying to them. Compared to India's situation, Bangladesh has a long way to go though good examples of RTI have been established in case of managing safety net programmes. Nevertheless, Dr. Bari found the Bangladeshi government officials demotivated to work on RTI without any remuneration received for it.

Dr. Bari pointed out that compared to the large number of 27,000 complaints received in a year in India, only a handful of 100 complaints were received by the Information Commission of Bangladesh among which only 44 were solved. He also mentioned that RTI was enacted in Pakistan in 2002; however, due to political turmoil RTI could not get strong grounding there. He observed that Nepal also enacted the RTI law in 2007 though people are still not confident about it due to the political situation. Dr. Bari stated that unless there is a democratic setup, RTI cannot be established. He stressed that RTI could be the one arsenal, the one most important and influential Act which can contribute to the democracy and openness of a country. He noted this to be a matter of serious concern, exclaiming whether public or even the media has any interest at all regarding RTI. He considered the human nature of avoiding exposure and traditional way of information collection as a reason for less publicity of RTI in the media. Few NGOs are known to work to promote RTI. He also mentioned that only one-third of the NGOs and one-third of the government offices have so far provided the names of their designated officers which reflect their reluctance in implementing RTI. He urged that the Information Commission alone cannot enforce RTI - the NGOs and civil society have to play their designated roles also. In this connection, he finished off with the hope that NGOs, members of the civil society and the Information Commission would seek out ways of partnership to promote RTI.

Key Recommendations

- Terms defining 'Information' in the RTI Act should be made content specific and understandable to the marginalized people to ensure practice of RTI among the public.
- The ambiguity of clause 7 of RTI Act should be amended and exemption provisions should be minimized.
- The Information Commission can either open regional offices or can make the designated officer in the collector's office work for the Information Commission and convey messages on RTI.
- Public Records Act in line with the RTI Act should be imposed to ensure the preservation of information.
- Contradictions between privacy law and RTI Act should be clarified so that the designated officers or public figures at fault are not left with the option to escape with the help of privacy law.
- Sessions on RTI should be held by the Information Commission all around the country to raise awareness on RTI and the Information Commission should also conduct a teleconference and publicize it in mass media to convey the seriousness of the commission to the public.
- Mode of payment for information should be made more people friendly. It is not in the RTI Act that payment has to be made by judicial stamp which is in practice now.
- The complaint hearing of the Information Commission should be made open for all. The Information Commission should invite everyone and make their seriousness about RTI implementation apparent to the public. Their only hindrance might be space constraint but otherwise the RTI law does not allow them to stop people from attending the complaint hearings. They should regard the public as friends and partners.
- As part of the awareness initiatives of RTI, the designated officers along with their appellate authorities should be trained on the provisions of RTI and also to counter some of the challenges they face, thus making the appellate authority considerate about their concerned Designated Officers.
- Development of RTI activists have to be taken care of by the NGOs.
- The information commissioners should first alter their mindset regarding information sharing and then help other authorities to come out of the practice of secrecy.
- The designated officers of the government should be relieved from some of their job responsibilities so that they can take on the responsibility of RTI seriously and are not preoccupied with other things.
- Format of the RTI applications should be changed as the current structure of the application restricts people to apply for information.
- The Information Commission should take the responsibility of ensuring compliance of the newly imposed laws of the government with RTI Act.

Open Discussion

Concept of Information

Mr. Ahmed Swapan Mahmud, Executive Director, VOICE raised the issue of exploiting clause 7 of the RTI Act which states the exemption of private information from RTI. He emphasized on communicating with society to raise awareness and regarding importance of disclosure of information by RTI and also stated that the definition of information should be clarified. On that note, Dr. Shamsul Bari drew the attention of the Information Commission to taking the responsibility of going through all the new laws imposed by the government and checking whether they are compliant with RTI.

According to Mr. Florus Geraedts, Archivist, Historian, Advisor of Netherlands Archives of Bangladesh (NAB) and BARM Society, majority of the population of Bangladesh lives with preconceptions which are 3 to 4 centuries behind the world. The prevalence of the Mughal system resists the change required to facilitate RTI implementation. He felt that in a country like Bangladesh, having a Citizen Charter mentioning the charge for services could be mentioned as a revolution itself. He suggested finding ways to get the rural people interested in information and how they can be integrated with information in their daily life. According to his observations, the challenge of RTI is to explore the real demand from the majority of the citizens. He pointed out that the reason behind receiving very low amount of applications could be due to the lack of trust towards the government. He also suggested establishing a proper record room in Bangladesh.

Scopes of RTI

Ms. Sharmeen Murshid, CEO, Brotee pointed out two issues - first, the situation at the grassroot levels, and second, how RTI can be used by the people. She stressed on the significance of RTI in the context of human rights and poverty. Drawing the example of poor people asking for information regarding VGD cards, she explained that it is RTI that had shown them the way to ask for the list from the Union Parishad, which was then reviewed by the community to check whether the enlisted people were actually poor. According to her, all the issues that affect their quality of life and state of poverty

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can be considered under the issue of RTI. She argued upon the issue of Indian Leader Sonia Gandhi's denial to disclose her income tax detail. She explained that the privacy law can protect her in this case; however, RTI gives public the right to ask for information about electoral bodies. She added that for any law, the government's attitude and spirit to implement the law can make a huge difference. As an example of impact of the government's attitude on law enforcement, she spoke about US citizens who have the legal right to ask their government about their policy to attack Iraq. She concluded with the argument that although RTI may give enormous power, it hardly has any practical usage other than at the micro level. Mr. Shamsul Bari also reiterated the issue and highlighted the scopes and limitations regarding RTI.

NGO's Role in implementing RTI

Mr. Asif Saleh, Head of Communications, BRAC and Board member of IID briefly explained BRAC's initiative titled "Rural Community Empowerment Mobilization Program" which uses RTI as one of its tools. Since impact assessment of the programme was yet to be conducted, it was not possible to point out how many RTI applications have been submitted as a result of their program, stated Mr. Saleh. He also asked for a guideline from the Information Commission to generate number of RTI applications and to develop RTI activists. Discussing BRAC's initiatives on RTI, he mentioned that BRAC has designated information officers in all the district offices. Nevertheless, he expressed his despair over the fact that last year they hardly received any RTI applications in the prescribed format. To improve this situation he recommended introducing a 3-month long training for BRAC's mid-level managers at the Information Commission and asked for ways in which BRAC can assist the Information Commission in implementing RTI.

Responses of the Information Commissioner

Professor Dr. Sadeka Halim, Information Commissioner, explained the ground reality and infrastructure of Bangladesh which have been hampering the implementation of the RTI Act. However, she strongly opposed the doubts about the seriousness of the government in implementing RTIA. She also mentioned that she would like to see more applications coming not only to the government offices but also to the Non-Government Organizations. During the preparation of the 2nd annual report, she discovered that the number of applications sent to the government offices is much higher than that of the NGOs. She also mentioned that NGOs were also reluctant in designating an information officer as per the RTI Act. In this regard, she mentioned the four parties involved in RTI: the information seekers, designated officers, appellate authority and the Information Commissioner. Regarding the misconception about designated officers she clarified that they are not another set of public service cadres but are the existing government officials in different government offices. So these officers are already preoccupied with their existing job responsibility and are demotivated for not receiving any extra remuneration for this job. Thus policy without sufficient manpower, logistics and infrastructure has the possibility to fail. She mentioned that the prime minister has permitted to pay for the land line phone bills of the information officer's office; however, mobile bill were not included though these officers have to stay out of their respective work stations most of the time. According to her, NGOs have higher capacity than the government organizations as they provide foreign trainings and better incentives, and they should be using their capacity to implement RTI.

The Information Commissioner raised the issue of relationship between the appellate authority and the designated officers and observed that in many cases the appellate authority pressurizes the designated officers to dismiss RTI complaints. The designated officers feel threatened by them as they do the appraisal of these officers. On the other hand, the designated officers are penalized instead of the appellate authority for not providing information.

Drawing attention to the contradiction between other laws and RTI, she said Article 3 of the RTI Act has the provision to supersede all other laws. She also highlighted that the Information Commission has discussed with the Law Minister of Bangladesh to repeal some of the rules and some acts which are contradictory to RTI. The Information Commissioner also reiterated the fact that change of mindset is one of the biggest challenges for RTI implementation. Regardless of the educational background or social status, people are equally reluctant to share and disseminate information and put RTI in practice. In response to the issue raised by one of the discussants, the Information Commissioner said it is legal to file a civil case against the Information Commissioner or the Information Commission if they do not follow the procedure. The detail in this regard is available in section 31 and 29.

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Opposing the comment of the Information Commission regarding the NGOs role in RTI, Dr. S. Bari argued that in Nepal, putting the NGOs and the government in the same bracket have scared off the NGOs from RTI. According to him, the government has a far bigger role to play than the NGOs. Ms. Sharmeen Murshid also highlighted the contradiction that the Information Commission is relying on the civil society organizations and the NGOs for implementing RTI. She stated that NGOs have to be a part of the governance and transparency movement in the country by believing in RTI and by owning it. She felt that Bangladesh is not very good in institutional development. Therefore it is very pertinent to distinguish between willingness to be open and the willingness to be good managers because the problem lies in being poor managers rather than being corrupt. She also agreed with Dr. Bari that the government should be the focal point and suggested that the government should act to ensure accountability and transparency of the NGOs along with the government itself.

Public awareness about RTI

Ms. Tahmina Rahman, Regional Director for South Asia, Article 19, was assigned the responsibility of training the designated officers of the government in collaboration with the Information Commission. She found that awareness about RTI law among the designated officers very poor. In a recent training, she mentioned, there were about 80 designated officers and when asked if any of them had gone through the contents of the RTI Act, only 3 participants raised their hands. In view of this, she expressed that one of the challenges would be to motivate the designated information officers and the appellate authorities along with providing in-depth knowledge about the contents of the RTI Act. Dr. Bari agreed with Ms. Rahman and emphasized that it is very important to ensure that designated officers are dealing with applications properly and in accordance with the law.

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Preservation of Information

Mr. Muhammad Lutful Haq, Executive Director, Campaign to Right to Information, emphasized on preparing a ground for RTI implementation which he linked up to the enactment of Public Records Act in Bangladesh. He opined that providing information within the given period is not difficult if the information is preserved and managed properly. He also stated that the practice of not maintaining any proper records is the consequence of not having an Act regarding public information preservation. The provisions of the 'Probidhan' in the RTI Act are insufficient as per his observation and there is a need to have provision of taking legal action if any organization fails to follow the probidhan. He stressed that the Bangladesh government should follow the models of Public Records Act of its neighbouring countries.

Remarks of the Special Guest, Information Commissioner

Professor Dr. Sadeka Halim, Information Commissioner, expressed her gratitude towards the organizers and the participants, and shared her perspective on the RTI situation and clarified the Information Commission's position regarding many of the issues raised during the open discussion.

In mentioning the upcoming annual report of the Information Commission, she expressed keen interest in engaging with the civil society members and NGOs to exchange views, share experiences and focus on constructive criticism. She referred to the Annual Report of the Commission published in the previous year which reported about 27,000 RTI applications including all kinds of verbal queries made to the front desk officers (e.g., timing of ferry-boats, buses etc., and land-related queries). Annual report for the current year was prepared keeping in mind the difference between verbal queries and RTI applications. She reported that according to this annual report, the number of applications is about 10,000 and number of complaints received is 106. 44 cases had been dealt with while the rest would be gradually addressed. Despite the acute manpower shortage, the commission had started calling the applicants and assisting them to apply using proper application procedures, she added. Beyond this scenario, she stressed that an indirect impact of RTI can be seen and she felt that people are becoming conscious along with growing the habit of seeking information from the government.

In response to the query of a participant who inquired how one could get to the Prime Minister's office to collect information, she admitted that she herself would have to obtain a pass to enter the Prime Minister's office. She expressed her despair regarding the high possibility of complaint letters sent through regular or register mails never to reach the ministries. She therefore recommended physically visiting the offices, submitting RTI applications and obtaining a received copy by the designated officer so that the applicant has proof of delivery.

Regarding preservation of information she disagreed with Mr. Muhammad Lutful Haq, Executive Director, Campaign to Right to Information, and explained that the Information Commission has provided a 'Probidhanmala' (Guideline/ Manual) to the information providers. She stated that according to the RTI act Section 13, 25 and 26, the Information Commission was empowered to enquire the authority about proper preservation of information. The Information Commission also has to monitor the information preservation system of organizations when any complaint against any particular organization is raised, she added. Regarding unattended applications, she explained that the Commission intends to solve each complain within 2 to 3 working days in spite of certain limitations.

Professor Halim emphasized on the nature of information and observed that the terminology that were commonly used relevant to RTI Act such as audio, video etc. were not familiar to the marginalized people. She shared her experience and stated that the perceptions of the common people regarding information or RTI revolve around very specific issues such as VGF cards, children stipend, secondary stipend, agricultural subsidy, widow stipend etc. To create awareness about RTI among these people, she suggested that the NGOs can conduct consultation/ meetings with families or communities, campaign in public places such as the 'Haat' and make audio and video-based documentaries to communicate with the people. She drew the example of the initiatives of the NGO named Article 19 who prepared and transmitted RTI related songs in Bangladesh Betar (Radio) with the approval of the Ministry of Information. These can be powerful tools in reaching the public where literacy level is very low, she claimed.

Professor Halim expressed her concerns regarding the Whistle Blower Act. Although it is not mentioned in the RTI, the government has passed this Act recently that states that the person who is going to blow the whistle will receive protection from the government. She stated that Bangladesh is yet to develop such RTI Activists. She also explained that while the Information Commission can be held responsible for various issues, developing RTI Activists is not one of its duties. RTI applications were sometimes found to be suspicious demanding answers to irrelevant or unrealistic enquiries. She agreed upon the issue that the cumbersome format of the RTI application could deter people from seeking information. An applicant has to provide his/her parents' names along with so many other details that it becomes a fear factor for the RTI applicants.

“ While the Information Commission can be held responsible for various issues, developing RTI Activists is not one of its duties. ”

Responses from the Chair

Dr. Shamsul Bari expressed dissatisfaction with the extended time taken by the Information Commission, which is usually beyond their allocated time frame. Citing an example of a lady from Syedpur who could not manage to come to Dhaka for her complaint hearing due to the costs involved, Dr. Bari explained that such problems need to be addressed by the law. The RTI law does not restrict the Information Commission to open offices in different parts of the country. His suggestion to the Commissioner was to hold RTI sessions all around the country and conduct a teleconference and publicize it in mass media to convey the seriousness of the Commission to the public. Demonstrating the seriousness of the law is very important for the government as well as the people and the Information Commissioner, he added.

Dr. Bari also expressed his concern about the fact that if one cannot reach the prime minister's office and hand over the applications, and at the same time if the postal system is ineffective, then there is no way to submit applications. He asked the Commissioner why a slip that stated "postage with acknowledgement due" is not enough for the Commission to take legal action against the government for not receiving any documents. In addition, he also pointed out that the mode of payment for the information should be made easier. The RTI Act does not enforce making payments by judicial stamp. Hence he suggested that the Information Commissioner should make the payment process more people-friendly.

Finally, he urged that the complaint hearing should be open. Referring to the Information Commission's practice of asking people who are not involved in a particular complaint to leave, he asserted that the law is all about openness and sharing. If there is no space constraint, Dr. Bari recommended that the Information Commission should welcome everyone and make their seriousness about RTI implementation clear to the public.

Statement of Mr. Jasson Collodi, IDS, University of Sussex

Mr. Collodi shared his experience of interviewing an RTI Activist in Kashmir where there was a very strong network of activists which seems to have a big impact in India. He felt that RTI has been the key tool for social change in the region from the perspective of human rights and social justice.

Concluding Remarks

Information Commissioner, Professor Dr. Sadeka Halim

Professor Halim, in her concluding remarks, grieved that bureaucracy posed as a major problem of the Information Commission. She also acknowledged that the Information Commission suffered from inefficient management reflected in their failure to utilize their full budget. This would result in a decrease in their upcoming budget, she feared. Logistics and manpower shortage were also barriers to their workflow. She requested the journalists to place due attention and focus on the issue.

Professor Halim agreed that the Information Commission is allowed to open regional offices according to the RTI Act. She expressed her interest in establishing regional offices for the Information Commission in various districts much like the DUDOK which has regional offices in 22 districts or the Election Commission which has offices at the Union level. She also spoke of the possibility of making the designated officer in the collector's office work for the Information Commission and convey messages.

Regarding the usage of judicial stamps she mentioned that the money received from RTI application processing goes to the revenue budget. She also disclosed that the Information Commission is not independent as mentioned in the RTI Act and that the Commission is actually dependent on the Ministry of Information for secretarial support, the Ministry of finance for financial support and on the Ministry of Establishment for other kinds of support. Although there has been some progress in the independence process of the Information Commission, she grieved that the Commission was yet to receive constitutional recognition.

On the issue of RTI practice in Nepal, Professor Halim refuted Dr. Bari's notion, explaining that a number of complaints were received in 75 districts of Bangladesh. She also drew example of the sensational complaint that they had received from a student of Tribhuban University which was taken to the High Court. She mentioned that Nepal has been working on RTI as hard as possible despite the fact that they are still drafting their constitution. Even in Pakistan, she mentioned, civil society is very vibrant and academicians, lawyers, activists and even government officials are very active regarding RTI. In response to Mr. Collodi's comment, she acceded that India has a very strong network of RTI activists and that such RTI activists are yet to emerge in Bangladesh. The Commissioner concluded her speech hoping that with more communication with students, RTI activists will emerge. She expressed her profound gratitude to IID and D.Net for inviting and for providing the opportunity to engage in discussion with such resourceful individuals.

Mr. Syeed Ahamed, CEO, IID

Following the vote of thanks by the Chair of the session, Mr. Syeed Ahamed, CEO, IID concluded the Roundtable discussion by thanking all the participants and conveying sincere appreciation towards the Information Commission.

Annex I:

List of Participants

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Mr Noor Hassan
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