# Law and Our Rights

"All citizens are equal before law and are entitled to equal protection of law"-Article 27 of the Constitution of the People's Republic of Bangladesh

ODAY, the rate of information generation has grown exponentially. Our capacity to absorb information, organise it and cope with it has not grown at the same rate. This has never happened before in human history. The issues of the information society emerging today are complex and do not revolve

only around economic value. It is just as important for Bangladeshis to have the foresight to utilise technology to strengthen democracy, increase social equality and strengthen their unique culture and language. This will not happen by itself. In Bangladesh, rural people who depend on their own labour for survival make up the bulk of the population. They are unorganised and reluctant to make claims for their minimum wages and other human rights. The concept of their human rights. if communicated and understood by them, could very well transform into an all-out agitation. Globalisation has had a strong impact on these dis-empowered communities, and they have no voice in the decisions made by policymakers. transnational corporations and big business about their livelihoods and how they will survive. Above all people must increase mechanisms for these people to act on their own behalf. The question then follows - within Bangladesh, who is going to put a Right to Information for the people into practice? And for what purpose? First, the present system of information storage and retrieval needs to be thoroughly understood and specific bottlenecks in getting information need to be identified. Then, specific processes for accessing information must be devised (do facts alone) illuminate the which either upgrade the existing systems of information-access or introduce new methods for it. Management of informa-

tion would then prove to be the

lenges before the Right to Information movement in Bangladesh. The first is to foster a deeper and more vibrant understanding amongst the citizens and activist groups on how basic, vital and essential this right is to all democratic and survival issues. The second is to fight for a legal entitlement, which would allow people to increase their democratic space by exercising this right. In the past, whenever these two elements have converged in South Asia, the Right to Information campaign has succeeded in energising a cross-section of people. A legislation of the Right to Information is very important to give an image in people's minds. But to give it practical effect, the question is, what are you going to do with it once you get it? Because the accountability mechanisms within the state are very backdated, and records are in a sorry state. How can inert information, either in state or in private hands, be transformed into social action? In working out the process and the internal dynamics lies real substance in the concept of Freedom of Expression. Within this process would be involved the human ingenuity of encoding, recording, reproducing, transferring, publishing, disseminating and broadcasting the information Storage and retrieval of data and transmission of facts are also a part of this process. As Justice Krishna lyer had said: "The Chemistry which converts sterile information into living wisdom requires intermediate processes and meaningful sequences .... facts don't speak nor

In India as well as in Sri Lanka, the Right to Information is now an established fun-

Steps shall be taken to en-

The rate of participation in

tions proposed that at least 30%

provides for 30 reserved seats

for women to establish the con-

cept of empowerment of women.

The reasons are that women

need more assistance and spe-

cial care for the entire develop-

ment of the country. It was ex-

pected that the thirty reserved

seats of the Parliament will

in their development pro-

gramme. It was also expected

that they will take special role

for social motivation for a bet-

liament, next after the expira-

beginning from the date of the

ment in existence at the time of

commencement of the Constitu-

tion (Tenth Amendment) Act.

women members, who shall be

elected according to law by the

members aforesaid (i.e. the

It should be kept in mind

elected Parliament members).

that the aforementioned provi-

sion will not prevent a women

from being elected to any of the

territorial constituency by di-

rect election. Term of reserved

thirty women members of the

Parliament will be extin-

guished on April 2001. So, if we

want to continue this process

an amendment of the Constitu-

tion relating to reserved seats is

essential. Various Women Or-

ganisations, Social Workers.

expressing their strong views in

this regard. Various seminars,

meetings are also being held.

Main theme of these meetings,

seminars and movement is

amendment of the constitution

regarding the reserved seats of

the Parliament. Feminist

Groups, Women Organisations

and Social Workers are ex-

pressing their opinion that the

number of reserved seats should

be increased. They are demand-

ing for 64 reserved seats in the

Parliament. But they do not

nothing but the further

Until the dissolution of Par-

all spheres of national life

provided that-

key to people's empowerment.
There are two primary chal-

Bangladesh should not blindly follow other countries in drafting information-access laws, rather lawmakers should learn from their experience and take what is good and reject what is bad. damental right and is perceived even by the courts as being a part of the right to Freedom of Speech and Expression and the Right to Personal Liberty. As of now. If a person is refused information-by the government. the only remedy for him or her would be to approach the Court by way of Writ petition. Now. legislation is needed not to create a right, but to create systems in which the right can become meaningful without recourse to constant litigation. Why can't citizens take their own initiatives? Why must people wait for information to be given to them by others? When the national campaign for a Right to Infor-

reaucrats all across India felt overwhelmingly that RTI was impossible from a management perspective. They felt that it would be as dangerous as opening some kind of 'Pandora's Box'. But many bureaucrats were nonetheless sickened and demoralised by the corruption they witnessed around them every day, and some believed that an RTI would provide some remedies. It therefore became important to show that it is practical to provide people with access to government-held information.

mation came out in India, bu-

ficial in the Indian Administrative Service, was interested to know what information, if given to the people, would empower them. He started by issuing a series of orders to release information to the public re-

Harsh Mander, a senior of-

lated with the Public Distribution System (PDS), and to show people what food-grain was available and whom it was going to. He found that with the mere possibility existing that the public might access the PDS records - corruption in that area fell by 50%. Then he extended this to worker's wages. contracts and receipts - the traditional areas of corruption. The Chief Minister was interested when he saw Mander's findings and he passed orders and gave entitlements for the citizens to have access to these documents. Three successive central governments have come and gone in India by now, but nothing has happened over drafting a Freedom to Information Act. It seems that there

tions in India have bureaucrats willing to implement information access rights to the public. After a long and hard struggle by activists, the chief minister of Rajasthan agreed to let the public have photocopies of government documents. However, senior members of the bureaucracy in Rajasthan had repeatedly disagreed with the chief minister and defended their positions that the Chief Minister's assurance to the people of providing photocopies of documents was impractical and

would therefore, not be imple-

won't be further progress until

there is pressure on the gov-

ernment from a people's move-

Not all state administra-

mented. According to them, it was impractical as photocopying machines were not available at every village level administrative cell, where the documents are stored. The bureaucrats then argued that in order to get photocopies made, the gram sevak would have to come up to the block or district headquarters, which would add to the cost for his/her travelling allowance. When they finally relented and gave access to photocopies of documents. the administration went on to burden itself further by not allowing citizens to have certified copies of documents. Had there been certified copies released to citizens then and there, the citizens could have made their complaints directly in court or at the police station with the documents supporting their

Information

How Do We Manage?

by Martin Saldamando

In mid-1997 the Chief Minister of another Indian state, Goa, announced that his government would soon introduce a right to information legislation. Goa's activists and press corps were caught off-guard.

complaints.

Then, in early 1998, Goa's citizens had an Act explicitly guaranteeing a Right to Information. Though organisations have been slow to respond, a wide array of individuals have sought to assert their newly confirmed right. After a year on the books, the Goa Right to Information Act (GRIA) has generated about 400 applications

for government documents. Many applications are related to inquiries about potentially illegal construction. Some applications involve clearances given to polluting industries.

whole of India,

It is very important for all

grassroots groups, NGOs and

mechanism for accessing in-

the state sector. However, this

itemised budgets is unheard of

the state. If information is not

forthcoming, you should ask an

relected representative to ask for

the state has to release infor-

law. If documents are bulky, it

may be useful to precede the in-

that one is aided in identifying

documents that may be relevant

for the subsequent audit. It

with intimate knowledge, both

of local specifics as well as

of a team that is deputed to in-

spect the documents, so that

identification of specific docu-

ments related to the problem in

question is possible. Legal enti-

tlements, backed by necessary

administrative instructions.

should ensure that certified

copies are supplied within the

prescribed time limits. A thor-

ough understanding would have

the content of the documents.

the kinds of malpractices that

promote citizens' awareness of

their rights, training for In-

formation Officers to help them

process oral requests and deal

with the poor in a sensitive and

helpful manner, and speedy and

effective appeals process un-

derstood by, and accessible to.

And many are inquiries into the diligence paid to licensing or taxation rules regarding the properties and businesses of certain individuals, presumably with a view to expose favouritism. Other requests relate to: building permits and subsidies for hotels which violate planning and environmental codes, toxic waste emitted by a zinc factory, and the role of an Indian Administration Service officer in a lottery scam. In addition, the "All Goa Citizens" Committee for Social Justice and Action" submitted applications for information involving cases of alleged patronage and nepotism in appointments. promotions and service conditions in higher and secondary education. Willingness to divulge this information has varied widely across the government. Some departments have not responded at all, violating the 30-day time limit Others have responded fully.

There is enormous variation in charges levied for this information. Some departments have not made any charge. while others have made seemingly arbitrary and sometimes significant charges — charges for 'processing fees', for instance, or for 'the cost of ar-

ordinary citizens. These legal ranging the inspection of docprovisions should be suppleuments'. One agency issued a mented by sustained pressure string of objections to requests, from NGOs, political and social including that the requester did activists, the press and legal not qualify as a 'citizen' under professionals to ensure that a the Act, the information re-Freedom of Information bill is quested was not clearly in the used to promote the interests of public interest, and that the inthe needy, particularly rural formation sought relates to Bangladeshis. commercial secrets protected by Some bureaucrats however, law. At one level, these variawill invariably say that a Right tions are just the 'teething to Information will cost too pains' of an administration much to manage, and adjusting to a new procedure.

Bangladesh cannot afford this. But they lend insight into what But compare the cost of managshould go into a Freedom on Ining this Right to the cost of corformation (FOI) Act for the ruption. The corruption and mismanagement within this country's system being reduced alone would make up the costs civil society activists to have a easily. In the United States, it is said that one of the unanticiformation on the finances of pated benefits of having the Freedom of Information Act information is never given has been that agencies now comprehensively, and releasing have to improve their filing and information management sysin South Asia. At the higher tems so that they are workable. levels of government they are. That is something Bangladesh quite simply, very secretive desperately needs. Presently, when it comes to the finances of there is not the slightest attempt at arry systematic recordkeeping in the government. For example, if you happen to eriter it in the state assembly, because a District Record Room, you'll invariably find it in a complete mation to them as bound by mess, with stacks of papers and files scattered all over the place and enveloped in dust, damp spection with a field study so and darkness from all around. The so-called Record Keeper generally knows nothing about the papers being "preserved" would also be useful for persons here. Senior officers simply cannot be bothered to inspect the record rooms. The academic technical details, to form part community, eager to use these materials for carrying out indepth research, is obviously unable to do so under the existing circumstances. There is also the petty bureaucratic tangle of obtaining "necessary permission" which inhibits the use of such materials by those who are willing to put up with the horrible state of record maintenance. However, it is quite posto be attained in advance, about sible for the Bangladesh government to collect and preserve its valuable records and documents almost free of cost, and in the process maintain the heritage of a people who rightly claim to be a new nation, but with a long past. What is required is a little "heritage consciousness" and "will power" on the part of those who matter in this regard. There is no need to hire a single new person, and if necessary the surplus staff of the government, who are now drawing salaries without doing any work, could be utilised in this exercise. If a legislated

> ologies by which to store, preserve and retrieve information. If the state is unable to run an uncorrupted, clean system. at least let it enable us, the citizens, to check its corruption by legislating on the Right to Information. Right to Information is a Fundamental Right and since we claim to be a democracy, we define our own

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rights and duties, or don't we?

### Status of Women

# Law, Constitution and Our Expectations

IT is undeniable that if we want the progress of a na-Ltion, then sustainable development or progress of women is must. The condition or status of women shows the future of a particular society or a nation. Status of women balances the total development of a nation because in a social structure they have to play a key role in institutions special representabuilding that particular nation. The issue of women's de- possible to ... women. [Art.9]. velopment and empowerment of women are at the local point.

It is evident that women are there are three reserved seats being discriminated in each for women. The reason of this and every corner of the world. provision is to realise the pro-Establishment of a good nation vision mentioned under article depends upon the promotion 28 (4) i.e., to develop the status and protection of women's of women and their active parrights. Dignity and status of ticipation in the rural areas of women should be ensured in Bangladesh. Active participa-

Legislative organ of a coun- ernment and grassroots level is try can ensure women's rights a prerequisite for an effective by enacting various laws, rules social structure. and regulations. The legislature can quench the thirst of time by the Government as peoples' repamending or reforming these resentatives is very poor in laws which are inoperative or Bangladesh. The United Nabackdated.

There are several provisions women representatives should in the Constitution of be elected in all stages of a coun-Bangladesh relating to status of try. In the National Parliament women under the constitu- of Bangladesh, there are only tional safeguard. Though the 9% female representatives. On Constitution of Bangladesh has the other hand there are only given women equal right along 2% female representatives in with men, albeit women are the Ministry. This trend must being underestimated almost in be changed and appropriate each and every sectors of life measures should be taken to rights they can't mine their fulfill the UN proposal.

Art. 65(3) of the Constitution

#### rights. The Constitution of Bangladesh and Women

The Constitution of Bangladesh reflects equal treatment for citizens irrespective of their religion, race. caste, sex or place of birth etc. According to Article 27 of bring a good result for women the Constitution-

All citizens are equal before law and are entitled to equal protection of law. Article 28 is one of the main ter social structure. Art. 65 (3)

features of the Constitution. It states ... reads as follows: (1) The State shall not discriminate against any citizen tion of the period of ten years,

on grounds only of - sex -(2) Women shall have equal first meeting of the Parliarights with men in all spheres ment, next after the Parliaof the state and of public life.

(3) No citizen shall, on grounds only of ..... sex .... be subject to any disability, liabil- 1990; there shall be reserved ity, restriction or condition thirty seats exclusively for with regard to access to any place of public entertainment or resort or admission to any

educational institution. So: the intention of the authors of the Constitution was clear that they had considered men and women equally in the enjoyment of their rights. But another provision of the same Article of the Constitution is much more important and deliberate. Authors of the Constitution considered the deplorable condition of women. They have considered that advancement of women is utmost required. So they included Article 28(4) in the Constitution. It

reads as follows: Nothing in this article prevent the State from making special provision in favour of women or children or for the advancement of any backward

section of citizens. Most of the women of our country still pass their days in a miserable condition. They are at the back stage, So, in order to bring them at the forefront womens' development has become an integral part of the national development pro-

Art 10 of the Constitution support the existing election

by Nazmul Huda Shamim

system of these members. From sure participation of women in our practical experience, we The Constitution also prohave seen that these members are not representing properly in the Parliament. They are The State shall encourage being treated as 30 pocket votes local Government institutions of the ruling party in the Parcomposed of representatives of hament. They are not direct the areas concerned and in such representatives in the Parliation shall be given as far as ment. So, almost all of the Women Organisations are look-In every local Government ing forward to direct election for reserved seats. They express structure (Union Parishad) their opinion that this will encourage women, about 50% of our total population, to a social movement. Women will feel interest in expressing their opinion to those elected women members who will be able to take important role in law tion of women in the local govmaking procedure for the bene-

fit of women. Family Laws and Women

Under the personal Laws of Bangladesh, women do not enjoy equal right. The leaders of the world community committed themselves to take effective measures through the enactment of laws and policies and their enforcement to eliminate all forms of discrimination. exploitation, abuse and violence against women. Bangladesh is a signatory of the Copenhagen declaration. The Declaration was adopted at the conclusion of the week-long UN summit on Social Development in 1995. As a signatory of that Declaration, Bangladesh is responsible for implementing its commitments and Programme of Action. One of the commitments was to achieve equality and equity between women and men. But we have failed to achieve equality and equity between women and men. The existing laws relating to women's rights should be amended and modified in the light of equality

and equity principles. Bangladesh is also a signatory of the Convention on the Elimination of All forms of Discrimination Against Women. The Convention seeks to do away with discrimination, defined as "any distinction, exclusion, or restriction made on the basis of sex." To condemn discrimination against women, the Stated Parties have undertaken the obligation to embody the principle of equality of men and women in their national Constitutions or other appropriate legislation and to adopt laws or measures including sanctions where appropriate, prohibiting all dis-

crimination against women. Though Bangladesh is a signatory of the CEDAW, she has not ratified all of the provisions of the Convention. As a result, it has become fruitless in one sense. Due to several reservation clauses - Art 2 and 16 (c). CEDAW have failed to give any fruitful result for women of Bangladesh. Women Organisations. Human Rights activists are strongly claiming for with-Feminist Groups and NGOs are - drawal of reservations. We need a lot of changes in our existing personal laws as there are a great deal of discrimination and inequality between women and men in said laws.

> Muslim Law of Inheritance a. son takes the double portion of a daughter. This is one kind of discrimination to women's dignity. Another discriminating provision is that woman enjoys unequal right as a witness. There is a contradiction between Muslim Law and the Evidence Act of 1972 regarding a witness. According to the Evi-

Under the provisions of

dence Act women have equal status as witnesses with men. There are also some other provisions in Family Laws regarding minimum age of marriage. polygamy, divorce, guardianship and custody, where women

have unequal rights. Women under Hindu law in Bangladesh are deprived from the right to property. According to the law of inheritance a Hindu daughter who is deaf or lame, cannot inherit from her father's property. On the other and a widow cannot inherit her husband's property. She can enjoy only life interest in her husband's property. She cannot transfer the property.

#### Cruelty to Women: Existing Law and Reality

Women are mostly the victims of cruel acts. They have to face violations of their rights like trafficking, rape, acid burn, fatwa etc. Our society is

not conscious enough to protect their rights though we have enacted the Cruelty to Women [Deterrent Punishment] Ordinance 1983 (now repealed), the oppression of women and children (Special Enactment) Act, 1995 etc. These laws do not give us tangible results in preventing oppression or cruelty to women. The reason is that we have failed to create social awareness about these laws and there is hardly any observance

and Children (Special Enactment) Act, 1995 was enacted for the protection of women from various forms of violence and social crimes. Section 8 (1) of the Act states -

Whoever imports or exports. or sells, lets to hire or otherwise disposes of any women with intent that such women shall be employed or used for the purpose of prostitution or illicit intercourse or for any unlawful or immoral purpose shall be punishable with imprisonment of life and shall also be liable to

Section 9 of the same Act states -Whoever kidnaps any woman —

a) with intent that such woman shall be employed or used for the purpose of prostitution or for any unlawful or immoral purpose or 1100 b) with intent that she will be compelled to marry against her will; or

c) in order that she will be forced or provoked or seduced to The Oppression of Women illicit intercourse shall be punishable with imprisonment for life or with rigorous imprisonment for ten years and shall not be less than seven years and shall also be liable to fine.

This Act provided capital punishment in cases of rape, dowry and grievous hurt. The law is firmly strict here. But there exists severe lackings in the system of its legal enforcement against criminals.

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can occur, and how these involve manipulation of the records. Based on this, a specific methodology could be developed in each instance, to collate and professionally scrutinise the documents, to detect specific prima facie instances of corruption and malfeasance. Bangladesh should not blindly follow other countries in drafting information-access laws, rather lawmakers should see their experience and take what is good and reject what is bad. Yes. illiteracy is an obsta-Right to Information were made cle to dissemination, but this retro-active to 3-5 years, then it obstacle can be overcome and is6 is not a huge task to get all the by no means a reason to stop. information together. The pub-To progress, we need a Freedom, lic demand is reasonable. Using of Information law that conthe local pool of Information tains elements for facilitating Technology technicians it its use by ordinary people, parshould be cost-effective and ticularly in the rural areas. sufficient to develop method-Those elements should include a provision requiring the state to broadcast information by the electronic media about government programmes and entitlements - and programmes about the FOI law itself - to give an image in people's minds.

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