

Right to information in Bangladesh: Challenges and opportunities

SHAHEEN ANAM

RIGHT to Information (RTI), is now considered in many countries as a central development theme and is emerging as one of the most challenging issue in Bangladesh. This challenge becomes more explicit when access to available information related to people's lives is denied. Usually access to information is considered as a development tool, however, many believe that it should be recognized as a 'right' since it is related to almost all aspect of people's lives and well being.

In Bangladesh, the poor become more poor and disadvantaged because of their lack of access to information. Experience shows that lack of required information results in their living with poverty which is perpetuated through several generations. Women are doubly disadvantaged because their option to access information is further constrained due to their social and political exclusion and lack of mobility.

Bangladesh Constitution

Article 39 (2) of the Constitution states that subject to any reasonable restrictions imposed by law in the interest of the security of the state, friendly relations with foreign state, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence, a) the right of every citizen to freedom of speech and expression and b) freedom of the press are guaranteed. The interpretation of this Article is intended to include discussion and dissemination.

Although the Constitution does not specifically mentions the right to information in Commonwealth countries such as India and Sri Lanka, courts have read this right into the Constitutionally recognized right to freedom of speech and expression or freedom of thought.

Official Secrets Act, 1923

Official Secrets Act is operative in almost every country of South Asia, which were under British colonial rules. These Laws were brought into force to suit their agenda of preserving an oppressive regime. These have been adopted by independent nations for promoting vested political interest.

In this Act sub-section 8 of section 2 has defined prohibited area in a very wide range limiting the areas for collecting information.

Section 3 deals with disclosing

information against the state's interest. The penalty provision under this section does not provide any scope for defending.

Section 4 states that only for presumption of giving information to foreign agents, offense will be considered.

According to Section 5 any person can be convicted only for the disclosure of information possessed by him. In this presumption is enough to prove disclosure which can affect the sovereignty, integrity, security and the interest of the state, assist the enemy of the state, degrade the friendly relation with the other states.

In most of the cases Government interpret the terms 'enemy', 'foreign agent', 'security or interest' in its own way and restricts the flow of necessary information. Secrecy Act instead of being used in the time of war or emergency and for defense are being used in a way that it strikes at the core of the democratic right of the people. In Bangladesh, this Act has been used as an instrument to limit the growth of independent and impartial journalism.

Government Servants (Conduct) Rules

Rule 19 of the Government Servant (Conduct) Rules, 1979 says any sitting government official can not disclose any information "to other Ministries, Divisions or Departments, or to non-official persons or Press"

Evidence Act 1872

Restricting Articles of the Act are 123 and 124. Section 123 has put the matter of getting unpublished official records on the permission of the head of department.

"No one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State except with the permission of the officer at the head of the department concerned, who shall give or withhold such permission as he thinks fit." Head of the department of the concerned officer can permit in providing information but nothing to do on his denial. Even the Court is bound to accept the decision of the public officer.

Under Section 124, no public officer shall be compelled to disclose communications made to him in official confidence when he considers that public interest would suffer by the disclosure. There is no clear definition of public interest, suffering. If a disclosure is against public interest it is to be decided by the con-

28 September is being celebrated as International Right To Know Day, as declared by the International Freedom of Information Advocates Network (FOIA Network). 2003 saw the celebration of the inaugural Right to Know Day. Right to Know Day marks the fact that people have a right to access information about the activities and decisions that affect their lives. Governments need to be open to their citizens. It is an opportunity for civil society organisations to gear up to a public awareness campaign reflecting on the importance of the simple, but empowering, right to information.

cerned official and does not fall within the court's jurisdiction.

According to Article 125, a civil servant is exempted from court orders for production of documents or questioning with regard to information but why privileges are claimed, have to be explained to the court.

Rules of Business 1996

The Rules of Business, 1996 Schedule I has described the allocation of responsibilities of respective ministries and departments/divisions. According to the Rules of Business, Ministry of Information is directed to take initiatives for publicity of internal and external policy. Moreover it is Information Ministry's responsibility to build "coordination of publicity

publication. Right to information includes both rights to know and right to make know.

Proposed Right to Information Act 2002

Bangladesh Law Commission has drafted the Right to Information Act in 2002. However, it is not ready to be considered as a Bill to be tabled in Parliament. The most recent information is that it is lying with the Ministry of Information for further review.

Features of the proposed Act

I) Government and Semi-government offices are bound to publish their documents to the public. The publication should contain useful and accurate informa-

But in reality the proposed Act has been made applicable subject to certain provisions of the Official Secrecy Act.

II) In the proposed Act, some rules are added where the public authority is not bound to give information by showing the excuse of safety and state security.

III) The structure and power of the information tribunal has been mentioned but without any specific time limit. As a result one can easily be harassed without decision for a long period of time.

VI) In Section 8, the aggrieved person who is denied access to information is entitled to get Tk 5000/ as compensation, which should be rationalized.

by interpreting it as public interest.

The Constitution of Nepal under Article 16 recognizes the right to information as a fundamental right of the citizens and in Article 13, freedom of press and publication has also been guaranteed as a fundamental right. Common code of Nepal enables any concerned party to demand the duplicate copy from case method of the court. The procedure, payment of fees and time limit is also prescribed for this purpose.

In Sri Lanka, Article 14 (1) (a) of the Constitution does not expressly recognize the right to information. It simply guarantees every citizen the freedom of speech and expression including publication. But Sri Lanka's Court has brought the right to information within the domain of

convicted for the disclosure of information possessed by him.

The present rules and regulations prohibits government officials to disclose any information. There is also no other provision that obligates government official to specify their act and actions even it is said to be directed towards the interest of citizens.

It is also seen that lack of coordination between different line ministries causes problems in availing information and meeting deadlines. Sometimes secrecy is maintained in such a restrictive manner that duty bearer themselves remain in the dark regarding the information they are supposed to know.

Similar statements are equally applicable in non-government sector. One can see the reflection of Government secrecy culture in non-government's attitude and actions. It would not be exaggerated to define non-government attitude as the mirror of government attitude.

Judiciary

Judiciary can play a significant role to establish access to information as a "right". Recently upon a writ petition Court has directed the EC (Election Commission) to provide eight kind of information regarding property, criminal charges and educational background of election candidates. By giving this judgment court has proven that people have the right to know as a voter the profile of an election candidate. This judgment is a step forward in people's right to know and moving towards a more transparent election process. Judiciary is in a favorable position to create precedence by giving clear direction to the concerned authority of the state, which may bring a positive change in accessing information.

Legislative

In Bangladesh, though a parliamentary form of government exists, lawmakers rarely play their due role. Lawmakers are supposed to develop laws in accordance to public opinion, interest, and will of the people. Lawmakers are not sufficiently aware that people have a right to know and do not recognize this as a right. Their debate in the parliament or comment out side the parliament rarely reflects this issue. This statement is more relevant in case of preparing the national budget. The allocation of budget does not often reflect the expectation and demand of the community.

The media can play a pivotal role

The demand for Right to Information law will have to come from the people. The people must understand the need for such a law, they must know how and why this law will improve their lives. The demand should be such that the government will see the merit of recognising it as the need of the hour and take steps for its enactment.

activities of the different Ministries/Divisions and Bangladesh Missions abroad" (Schedule 1 of the rules of Business 1975). The ministry of Information has the major role for "Preservation and Interpretation of the policies and activities of the Government of Bangladesh through the medium of press" But this is not in practice.

II) The definition of information has been given in section 2(a); III) In this Act, it is ensured that public authority must be bound to supply information to the people and they will enjoy this statutory right; IV) In this Act, the process of access to information has been discussed in detail;

V) In the proposed Act, the offences committed have been divided into different categories and have different penalties (compensation, fine, and imprisonment etc); VI) The formation of Information Tribunal and Appellate Information Tribunal has been recommended. All the disputes are to be settled as early as possible.

Code of Criminal Procedure, 1898

With the help of section 99 A, the government by official gazette can forfeit any book, publication under Press and Publication Act. This is a threat to the freedom of press and

tion on important matters. Side by side, in this Act the private authority comes under the same process;

II) The definition of information has been given in section 2(a); III) In this Act, it is ensured that public authority must be bound to supply

information to the people and they will enjoy this statutory right; IV) In this Act, the process of access to information has been discussed in detail;

V) In the proposed Act, the offences committed have been divided into different categories and have different penalties (compensation, fine, and imprisonment etc); VI) The formation of Information Tribunal and Appellate Information Tribunal has been recommended. All the disputes are to be settled as early as possible.

Loopholes of the Proposed Right to Information Act

I) It was expected that this Act would prevail over the Official Secrecy Act.

Status of Right to Information in some neighboring and C'wealth countries

Many Commonwealth countries have that make it an offence to destroy, conceal, erase, alter or falsify records and contain penalty provisions for these actions. Most access laws cover information contained in a variety of media using technological innovations for creating and storing information.

India has passed the Right to Information Bill in June 2004. Their legislation is being treated as radical measures containing clear rights for those requesting information and strong enforcement mechanism. Under the Indian Act information concerning the life, liberty of a person, is required to be provided within 48 hours, and other information is to be provided within 30 days. Implementation mechanism has not been mentioned clearly in the Act. Public interest has been defined broadly, so there is scope to conceal information

Constitution.

In Pakistan, Article 19 the Constitution says that every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defense of Pakistan or any part thereof, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, commission of offence or incitement to an offence. Pakistan Court has taken the same approach as Sri Lanka bringing the right to information within the purview of Freedom of Expression.

Access to Information: A synopsis of Bangladesh Case Executive

Government officers deny providing information showing the reason of the Official Secrets Act even to a person directly related to the concerned information. According to this Act (section 5) any person can be

Rethinking rural development

DR. DURGA P. PAUDYAL

THE rural economy, including agriculture, has remained the mainstay in the countries of Asia-Pacific region, in terms of both contribution to the national GDP and labour absorption. However, despite being a priority agenda of the national governments as well as the main destination of international aid donors over the past few decades, the achievements of rural development and poverty alleviation programmes have yet to make a meaningful headway in several countries, including Bangladesh. It is indeed a matter of concern that despite consistent high growth in several countries in Asia and the Pacific region, it still holds over 825 million people below poverty line.

In the 1970s, the concept of Integrated Rural Development (IRD) earned tremendous prominence due to the bitter experience of the failure of single sectoral approach in the 1960s. Several Asian countries initiated rural development programmes of various kinds and adopted various approaches in planning and implementation. It was realised that promotion and success of such IRD programmes can best be facilitated, at the regional level, by exchanging experiences and knowledge among the countries in the Asia-Pacific region. Accordingly, CIRDAP was established in 1979 as a regional, inter-governmental and autonomous institution at the initiative of the Food and Agriculture Organization (FAO) of the United Nations. The main objectives were set as to (i) assist national action and promote regional cooperation in the field of IRD, (ii) act as a servicing institution, (iii) encourage joint and collaborative activities for its member countries; and (iv) promote poverty alleviation measures in CIRDAP Member Countries (CMCs) through people's participation in the development process.

The IRD concept could not gain the expected momentum, mainly due to the poor performance by the national governments and IRD institutions. Hence, several new players such as I/NGOs, micro-finance institutions, civil societies and private consulting firms emerged in rural development (RD) and poverty alleviation (PA) during the successive decades. Sizable donor resources were channelled through the newcomers, into the RD and PA efforts and activities. Indeed, they have done a good job to generate economic opportunities at the micro level and bring out several socio-economic issues of common concern to the forefront. In Bangladesh for example, the progress made by Grameen Bank, BRAC, ASA etc. in generating self-employment opportunities to poor families, mainly women, is simply a marvellous achievement. However, their efforts are not always sequenced along with the respective government agencies

With the emergence of competent knowledge development and training institutions in the private sector and their increasing use by the donors, the competence of the government supported policy monitoring and knowledge development institutions have further weakened. But the private sector has limitations to monitor public policies, understand institutional problems and exert influence on policy development. So, time has come to consider again, how the state institutions could be strengthened to become more professional, transparent and socially responsive.

to play a complementary role, nor a coordinating mechanism has been developed at local, national and donors' level to synergise the achievements. Similarly, the core issue of strengthening and energising the government institutions largely remained unattended to. As a result, the capacity of the state to address the important issues of broad based economic growth and sustainable development has further been weakened. Similarly, the inter-governmental organisations like CIRDAP also have to struggle to find its niche of intervention and compete with market-led institutions for resources and opportunities.

In fact, the coverage of the programme for agrarian reform, income generation and poverty alleviation are in the rural areas, covering landless, small and marginal farmers and vulnerable groups; it is usually taken for granted that the issues of rural development are already addressed. On the contrary, to make these efforts participatory and sustainable, we need rural development, which may include devolution of power, development of inclusive democratic institutions, capacity building of the poor, social and economic infrastructure development, productivity development and market linkages. Let us mention some of the emerging issues of rural development.

Mainstreaming rural development issue: Over the last several decades, rural development and poverty alleviation have continued to remain the main policy agenda, and therefore the main recipient of the annual budget as well as the main destination of international support, in almost all countries of Asia-Pacific region. In spite of the sizable budget allocations, from governments as well as donors, no significant achievements have appeared in reducing poverty, or enhancing self-reliant capacity of the countries to reduce poverty on their own. The failure seems to be on the articulation of the rural development policies in the changing context as well as developing and building capacity of local governance to regulate, coordinate and sustain the development process at the local level. Increasingly, rural development (RD) is interpreted and understood as poverty alleviation (PA) programmes and the existing insti-



tutional and policy framework of RD is weakened by I/NGOs and donors through their PA activities.

Widening gap: The present state of development in the countries of Asia-Pacific region reflects the uneven socio-economic impact across countries as well as between the rural and urban areas. Impressive gains have been achieved in many countries, but these have not been shared equitably by different socio-economic groups or by geographic regions. Such diversity in the development experience, both among and within countries, reflects that the poor and the vulnerable groups particularly in the rural areas have been receiving disproportionately smaller shares of the benefits of development while often bearing the major burden of the associated costs. This is evident in higher incidence of poverty in the rural areas and the growing rate of rural-urban migration to seek economic opportunities.

Socio-cultural concern: There are increasing evidences across the countries that ethnic and indigenous communities and tribal groups are marginalised in the development process. The Human Development Report 2004 of UNDP has emphasised on this issue with hard facts and glaring examples. Similarly, the issues and concerns of women, children and elderly citizens are well documented but not adequately addressed. Hence, there is a need to go beyond the economic perspective, to take explicit account of the socio-cultural concerns and focus more on poverty at the grassroots level. It is seen in a number of countries that unequal distribution of resources, opportunities and participation

has implemented 289 projects, of which 80 are research, 38 are pilot projects, 134 are training and 37 are ICD projects. These projects cover several areas such as poverty alleviation, gender, institutional and infrastructural development, agrarian development, participatory approaches, GO-NGO collaboration, local resource mobilisation, micro-credit, GIS, M&E mechanism, environment and natural resource development and food security.

CIRDAP is an inter-governmental organisation having three policy level bodies represented by the top officials and policy makers of rural development in CMCs. The Technical Committee (TC), which is a professional body of CIRDAP is represented by the heads of CIRDAP Link Institutions, which are the national level rural development institutions or departments. The Executive Committee (EC), which provides policy guidelines, is represented by the Secretaries of the Ministries related to RD, and the Governing Council (GC), represented by the Ministers in charge of rural development in CMCs, to provide the political leadership in voicing the agenda of rural development and poverty alleviation at national and regional level. The organisation is aiming at expanding the role of these policy bodies to be an important regional forum for experience exchange, policy dialogue and regional cooperation in RD and PA initiatives.

As the RD and PA policies and programmes are multi-sectoral and cross-cutting in nature, lack of holistic understanding of achievements and issues for policy development has been a matter of concern. Hence, the organisation is proposing to develop a comprehensive mechanism for knowledge generation, policy coordination and political support at national and regional level. Accordingly, it is proposing its Link Institutions to be designated as the focal institution for knowledge development of the progress and issues of RD and PA policies and the achievements of MDGs at the national level. This knowledge will be reviewed by the National Coordination Committee (NCC) to be chaired by the Secretary of Ministry relating to RD and will be represented by all relevant agencies.

The next Executive Committee and Governing Council meetings of CIRDAP are going to be held in Dhaka from 29 September to 3 October 2005. These meetings will be participated by the secretaries and ministers of CMCs, who are in charge of rural development, and a number of observers from international donor agencies. It is expected that during the meetings, a number of far-reaching policy proposals will be discussed and endorsed to make the organisation a dynamic servicing centre for RD and PA at the regional level.

Dr. Paudyal is the Director General of CIRDAP, Dhaka. Email: dgp@cirddp.org

Economy and religious fanaticism

ANAM A CHOUDHURY

ARE there no leaders in our country who can unite the divided sections of people and courageously counter the mounting assaults on our hard earned democracy? In spite of so many unanswered questions and unresolved contradictions, none is greater than the people's self-evident longing for democracy. A nation founded on principles of democracy and secularism faces a challenge by religious fanatics. Most people are living in fear that terrorists have been actively preparing to play another deadly game with the lives of the innocent. Countrywide bombing on 17th August really traumatised and stupefied all men, women and children of the country. May be it was just a trial run and some deadly attacks are in the pipeline. Terrorism is rising because it can. Terrorists are now-a-days getting deadly explosives easily, travel and communicate more easily and transmit their messages out very quickly than ever before.

Most political analysts reckon that these extremists are capitalising on the deep rooted antagonism between our two major political parties. Hatred between the main opposition Awami League and the BNP continues to fester. When London underground was bombed and more than fifty innocent people lost their lives, main opposition leaders of both Conservative and Liberal Democratic Party dashed to the 10 Downing Street and pledged their all-out help and cooperation to the Prime Minister Tony Blair to face this tragedy with courage and fortitude. Strangely enough, in Bangladesh when 63 districts were bombed almost simultaneously, leaders of the Awami League called for a nationwide hartal in protest. Perhaps Sheikh Hasina could not conceal the deep resentment she felt at the way she had been treated by this government when she herself narrowly escaped death and many of the Awami League's prominent leaders were brutally murdered by similar bombs and grenade attacks. People might think I'm a bit naive to compare British political culture with that of Bangladesh, but I think political parties must maintain some sort of decency when nation's security and integrity is at stake. Leaders of our country need not look beyond Afghanistan to comprehend what happened when narrow minded leaders engaged in such politics of terrorism.

In Turkey, the army intervened in civilian politics three times in the past 30 years -- in 1960, 1971, and 1980 -- to restore order and the democratic process when they seemed to be threatened by

extremists. These militants must come to terms with the truth that those who use religious fanaticism as a self-proclaimed argument for stability leave a legacy far more volatile than the condition they seek to cure. Civilian institutions that could lay the foundations of genuine grassroots democracy can never be fully developed by perusing the politics of parochialism.

Unfortunately politics of our country is increasingly resembling a game of football without any rules or referee. In Bangladesh democracy means election and winning the election by majority only. Most parties are controlled by powerful political leaders who are less concerned to develop practical policies than to win the election and, so the policies that

Most prominent political analysts think there may be great many pitfalls of our intelligence agencies. Otherwise, how they could have remained so blind on that terrible morning? Now they must act with unified sense of urgency and launch preemptive strikes on the terrorists' hide-outs if necessary. Government should explicitly adopt a zero tolerance strategy to deal with this new reality.

are put before the electorate are polarised. With a view to winning election, political parties engineer different tactics to secure electoral support. Policies geared to short-term electoral consideration involves a disturbing political business cycle that inhibits the development of the sound long-term economic policies. Paradoxically, newly elected government always try to reverse the policies of a previous government. This prevents the long term policy stability that is vital for economic growth while also contributing to the kind of public disillusionment with the politicians that leads to ungovernability.

In the countries of the South East Asia, it is the middle classes that are most often the wellsprings of national development and, indeed of a nation's moral and political fibre. Ironically, in Bangladesh, despite the emergence of

in influencing and promoting transparency in the way three organs of state operate. It can bring to public attention the hundreds of examples of misuse of power; lack of transparency and bad governance that affect peoples lives everyday.

Here it should be mentioned that media's attention should not only be directed at public offices. It is the duty of the media to highlight such problems in the private sector that includes business, NGOs etc. The recent campaign against food adulteration is a good example where the government is taking positive steps to prevent food adulteration and the media is giving it wide coverage.

Although Right to Information is not yet recognized as a Fundamental Right, there is enough evidence to believe that it has implication on every aspect of people's lives and well being. It is all the more important in Bangladesh where violations occur easily and common people become vulnerable to the failings of the state and forces of vested interest groups.

The demand for Right to Information law will have to come from the people. The people must understand the need for such a law, they must know how and why this law will improve their lives. The demand should be such that the government will see the merit of recognising it as the need of the hour and take steps for its enactment. Examples of other countries show that a strong peoples movement was the primary force behind the final enactment of the law.

The gender aspect of Right to Information should not be ignored. Women face added constraint to access information due to their exclusion in decision making both in private and public sphere. A special attempt should be made to ensure that women are represented in the drafting of such a law and also in its implementation and monitoring.

It is equally important that Right to Information law should not be restricted to public and government institutions. Private organizations, NGOs, business etc. should be held accountable and abide by the same standards of disclosure.

Lastly, a law is only useful to the extent that it is used and implemented. It is critical that some mechanism is developed that will enable proper implementation and monitoring of the law once it is enacted.

The author is the Team leader of Manusher Jono, an NGO supporting Human Rights and Good Governance.

an educated middle class and development of a sizeable industrial base, its politics still revolve around religious issues, especially at the time of electioneering. Politicians seem unable or unwilling to accept that their callous manipulations are setting the stage for what could be the nation's worst conflagration. We cannot afford the luxury of permitting the display of pernicious ideology of extremism and intolerance in our society. The so called fundamentalism is undermining the country. It is depriving us of our dignity. If such practice of bombing rampage continues international community may isolate Bangladesh and put this country in virtual economic quarantine.

Bangladesh largely depends on foreign aid and investment. In pursuit of economic policies designed to attract foreign aid and investment, first the government must try to sharpen up efficiency, increase productivity and raise profitability of the existing industries and all these efforts can only succeed if accompanied by strict measures to contain the religious extremism and consequential social unrest. There is a real concern about national security.

Most prominent political analysts think there may be great many pitfalls of our intelligence agencies. Otherwise, how they could have remained so blind on that terrible morning? Now they must act with unified sense of urgency and launch preemptive strikes on the terrorists' hide-outs if necessary. Government should explicitly adopt a zero tolerance strategy to deal with this new reality. If, however, antisocial behaviour goes undetected or unpunished and if people around us flouting the rules and getting away with it, then others will learn that the rules and customs are not to be taken seriously, in which case people almost certainly go on disregarding them. Indeed in a society where law breakers routinely go undetected or unpunished, the law-abiding may eventually feel that their ideas of right and wrong are being undermined. Government should send clear message to the terrorists that they can run but can't hide, they will be hunted down and punished severely. Government should get tough on crime and the causes of crime. The Prime Minister in a speech on 8th September in Parliament assured the countrymen that the government would identify the perpetrators of the blasts and bring them to book by deploying all its might and resources. We will be blissfully happy if she lives up to her promise.

Anam A Choudhury is a former investment banker.