

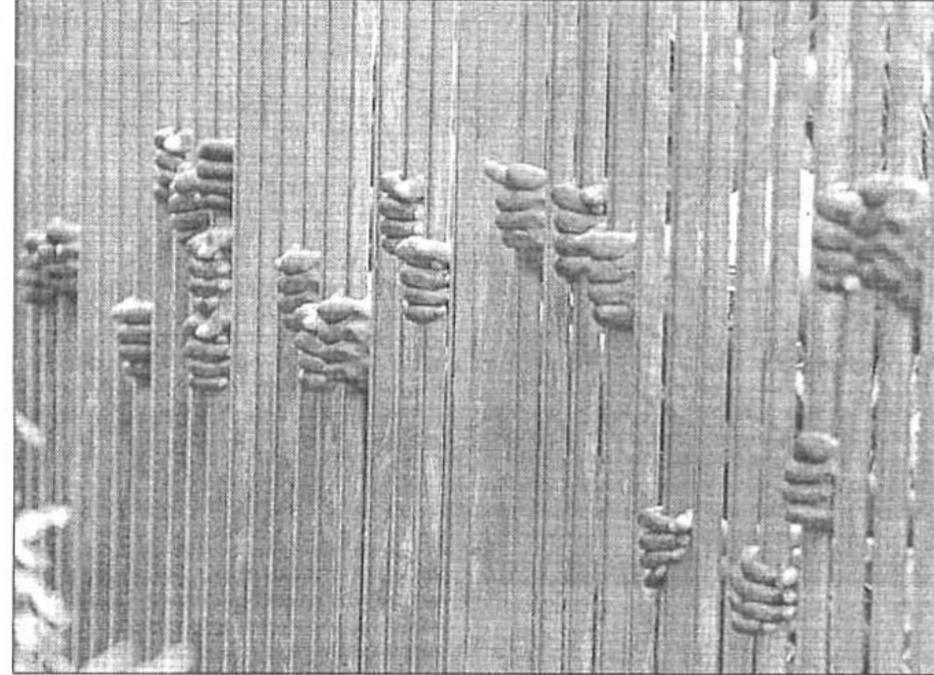
## Right to information: Bangladesh perspective

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**I**NFORMATION is power, and the spirit of democracy and the right to information is considered as a fundamental human right everywhere in the world. But like many other fundamental human rights, such as right to food, shelter, clothes, medicare and education, the right to information is also faced with an identical fate of non-realisation in Bangladesh. An effective access to information has the potential to empower people to engage themselves more meaningfully in the democratic process with a view to increasing transparency and accountability in the mechanism of governance and also reducing corruption.

In its Practice Note on Access to Information, UNDP recognises that the more readily understandable official information is made available to the people, the more a governance system can be declared as democratic and open. The Practice Note promotes the establishment of legal mechanisms that ensure that people, especially the poor, have access to information which enhances their ability to exercise their rights. It also supports enhancing awareness of citizens' rights to official information, particularly that impacts directly on poor people's lives. This Practical Guidance Note focuses on one very critical aspect, ie the need for legislation on the "right to information (RTI)". The right to information is not only fundamental for an open and democratic society but is a key weapon in the fight against poverty and corruption. The terms right to information and freedom of information are often used interchangeably and have long been regarded as a fundamental human right. In its very first session in 1946, the UN General Assembly adopted Resolution 59(I), stating: Freedom of information is a fundamental human right and... the touch-stone of all the freedoms to which the United Nations is consecrated. Abid Hussain, the UN Special Rapporteur on Freedom of Opinion and Expression, elaborated on this in his 1995 Report to the UN Commission on Human Rights, stating: Freedom will be bereft of all effectiveness if the people have no access to information. Access to information is basic to the democratic way of life. The tendency to withhold information from the people at large is therefore to be strongly checked. This quotation highlights the importance of right to information at a number of different levels: in itself, for the fulfilment of all other rights and as an underpinning of democracy. In 1948, the United Nations adopted the Universal Declaration of Human Rights, where it made direct reference of the right to information.

Article 19 of the Declaration provides that, "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinion without interference and to seek, receive and impart information and ideas through any media regardless of frontiers."



The freedom of information found some good connotations under the term "freedom of expression" in the International Covenant on Civil and Political Rights, 1966. Article 19(2) of the Covenant reads as follows: "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, orally, in writing, or in print in the form of art, or through any other media of his choice."

The above international instruments have set a standard for countries to be followed in their domestic domain, and ask the state parties to ensure freedom of information for openness in government activities. Over the years, the United Nations Human Rights Committee and UNESCO have been very dynamic in their efforts to expand the meaning of freedom of information to include access to official records, access to personal information and accessibility of media.

### The importance of RTI

The right to information is important for many reasons. Chief among these is the contribution it makes towards:

- 1) Creating a more open and democratic society
- 2) Reducing poverty (achieving the Millennium Development Goals [MDGs])
- 3) Challenging corruption and enhancing transparency

### Creating a more democratic and open society

There can be no democratic participation in

decision-making without transparency and sharing information. Secretive government is nearly always inefficient in that the free flow of information is essential if problems are to be identified and resolved. Furthermore, a secretive governing culture fosters suspicion and encourages rumours and conspiracy theories. In such a culture, the public is likely to treat all government information with scepticism, including public education campaigns for example, those dealing with important health issues like HIV/AIDS or those, which may be particularly sensitive. People are more likely to be politically malleable, sceptical of government and its intentions, and resistant to change unless sanctioned by informal opinion leaders.

### Reducing poverty and achieving the MDGs

Right to information legislation is fundamental in furthering the development of society and in eradicating poverty. Effective anti-poverty programmes require accurate information on problems hindering development to be in the public domain. Meaningful debates also need to take place around the policies designed to tackle the problems of poverty. Information can empower poor communities to battle the circumstances in which they find themselves and help balance the unequal power dynamic that exists between people marginalised through poverty and their governments. This transparent approach to working also helps poor communities to be visible on the political map so that their interests can be advanced. The right to information

is therefore central to the achievement of the MDGs.

### Challenging corruption

Right to information laws are critical tools in the fight against corruption, which allows inefficiency to thrive and distorts the potential for growth. Although corruption exists in all societies, it has a particularly pernicious effect on less developed countries. Corruption discourages foreign investment and eats away at the budgets allocated to public procurements, which enable basic infrastructure such as roads, schools and hospitals to be built. It also debilitates political institutions by reducing public confidence in their operation. If unbridled corruption continues to infect a society or political system, it may eventually lead to social unrest due to the division it creates between those who have easy access to goods and services and those who remain excluded. It is the poor who always bear the greatest burden of a corrupt society. If the public administration must publish regular accounts, including the particulars of specific deals that have been negotiated; if companies are forced to set out their side of the arrangement, and business is agreed with the expectation that the details will one day come to light, the margin for corrupt activity is dramatically reduced. The result is that with more information in the hands of the citizens, even where corruption persists, it can be exposed and eliminated.

### Bangladesh situation

In Bangladesh, where democratic governments have been in power since 1991, there are some laws in force that are antithetic to the right to information. The Official Secrets Act (1923), the Evidence Act (1872), Penal Code (1860), Government Servants (Conduct) Act (1979) the Code of Criminal Procedure (1960), the Rules of Business (1996) and the Oath of Secrecy, are such restricting laws that are being imposed by the governments to curtail people's rights of access to information. Article 19 of the Government Servants (Conduct) Act says: "A government servant shall not, unless generally or specially empowered by the government in this behalf, disclose directly or indirectly to government servants belonging to other Ministries, Divisions or Departments, or to non-official persons or to the Press, the contents of any official document or communicate any information which has come into his possession in the course of his official duties, or has been prepared or collected by him in the course of those duties, whether from official sources or otherwise."

Despite an abundance of advocacy and citizen groups in Bangladesh, the lack of right of access to information has consigned the country and its people to an abject obscurity about the government functionaries. The proposed Right to Information Act, drafted by the Bangladesh Law

Commission in 2002, is now lying with the Ministry of Law, Justice and Parliamentary Affairs for scrutiny and yet to be passed as an ordinance.

At present, a national movement is going on in Bangladesh in support of the demand for right to information. Several civil society organisations have formed coalitions and networks to work at different levels to make the act a reality. Attempts were taken up and a draft law on the right of information has been prepared by Manusher Jonno Foundation (MJF) based on the existing one by the Law Commission along with addressing its loopholes. A process of consultation was also initiated by MJF with a number of civil society organisations to take inputs from a wide stakeholders group on the draft law and prepare a final draft that has ownership of many, including lawyers, professions, and the general public. It has now been imperative that we take coordinated efforts to get this draft law adopted and ratified by the government. In this regard the example of civil society movement of India can be a guiding light. In India, the demand for such a law came from the people instead of an idea from some urban elites. It is therefore important that in Bangladesh we continue to raise awareness on the issue especially its impact on the livelihood of common people.

The right to information is a cardinal phenomenon to good governance and the whole mechanism of governance in the country has been vitiated owing to lack of it. An example can be cited from the Public Expenditure Review Commission (PERC), which has detected hundreds of irregularities in public expenditure and waste of funds. The PERC also categorically has reported that the parliamentary standing committees failed to ensure accountability and transparency in public expenditure and to remove corruption from the state organs. Absence of accountability and transparency coupled with ever increasing corruption in most of the government departments is no doubt the consequence of lack of right to information.

Although the constitution does not make a clear reference on right to information, Article 39 (2) states: "a) the right of every citizen to freedom of speech and expression and b) freedom of the press are guaranteed."

Access to information is a vital factor for achieving the goals of good governance, which promote transparency and public accountability in the working of government functionaries. Information is a public resource in the hand of the government and the government is to share it with the citizens to the best advantage of the society. We sincerely hope that our parliament will ponder over the issue of right to information and enact full-fledged laws to ensure people's right to information which will eventually lead to good governance and give the democracy a real spirit. The media and the conscious people of the country should also come forward to meet their

moral obligation for people's right to information.

Right to information has a governance as well as a rights perspective. Correct information at the right time reduces the chance of misuse of resources and lessens corruption. It also helps governance system function better, makes service providers accountable for their actions, creates participatory and transparent environment for people to contribute in policy formulation and establishing rule of law. It also gives people a legal right to demand entitlements and monitor the use or misuse of funds meant for them. Right to Information regime is also a means for government to empower the poor and inform them about pro-poor policies and safety net programs.

### Concluding remark

Although right to information is not yet recognised 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 will assist people to live in dignity and security. 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.

With the present effort by civil society organisations to build mass awareness, it is hoped that more and more people will understand the implication of such a law. It is only when the demand for Right to Information law comes from the people that policymakers will take notice and speed up the process to enact it. An example can be cited from the Public Expenditure Review Commission (PERC), which has detected hundreds of irregularities in public expenditure and waste of funds. The PERC also categorically has reported that the parliamentary standing committees failed to ensure accountability and transparency in public expenditure and to remove corruption from the state organs. Absence of accountability and transparency coupled with ever increasing corruption in most of the government departments is no doubt the consequence of lack of right to information.

Finally, we should all make an effort, at individual and institutional level to get out of the culture of secrecy. For too many years, information has been the monopoly of only a few. Open and timely information has the potential to change the lives of millions. It can also help and assist governments to promote their pro-poor policies and bring benefits to the poor.

The current poverty discourse stresses the need to integrate governance issues into poverty reduction strategies because more attention needs to be paid to accountability, transparency, empowerment, responsiveness and participation of people in poverty programmes. By informing all stakeholders on the (human rights) ground rules for development, "participation, accountability and empowerment" become the logical modality for future development efforts. In these efforts the RTI can play a catalytic role in articulating a vision for human-centred sustainable development.

The writer works with Manusher Jonno Foundation and the write-up is a compilation from different documents on RTI.

## RIGHTS investigation



### WORLDWIDE PRESS FREEDOM INDEX 2007

## Eritrea ranks last while G8 members except Russia recover lost ground

**E**RITREA has replaced North Korea in last place in an index measuring the level of press freedom in 169 countries throughout the world that is published by Reporters Without Borders for the sixth year running.

"There is nothing surprising about this," Reporters Without Borders said. "Even if we are not aware of all the press freedom violations in North Korea and Turkmenistan, which are second and third from last, Eritrea deserves to be at the bottom. The privately-owned press has been banned by the authoritarian President Issaias Afewerki and the few journalists who dare to criticise the regime are sent off to prison camps. We know that four of them have died in detention and we have every reason to fear that others will suffer the same fate."

Outside Europe - in which the top 14 countries are located - no region of the world has been spared censorship or violence towards journalists. Of the 20 countries at the bottom of the index, seven are Asian (Pakistan, Sri Lanka, Laos, Vietnam, China, Burma, and North Korea), five are African (Ethiopia, Equatorial Guinea, Libya, Somalia and Eritrea), four are in the Middle East (Syria, Iraq, Palestinian Territories and Iran), three are former Soviet republics (Belarus, Uzbekistan and Turkmenistan) and one is in the Americas (Cuba). "We are particularly disturbed by the situation in Burma (164th)," Reporters Without Borders said. "The military junta's crackdown on demonstrations bodes ill for the future of basic freedoms in this country. Journalists continue to work under the yoke of harsh censorship from which nothing escapes, not even small ads. We also regret that China (163rd) stagnates near the bottom of the index. With less than a year to go to the 2008 Beijing Olympics, the reforms and the releases of imprisoned journalists so often promised by the authorities seem to be a vain hope."

Italy (35th) has also stopped its fall, even if journalists continue to be under threat from mafia groups that prevent them from working in complete safety. Japan (37th) has seen a letup in attacks on the press by militant nationalists, and this has allowed it to recover 14 places. "These developments are good news," Reporters Without Borders said. "Perhaps the repeated calls to these democracies to behave in an exemplary manner has finally borne fruit. But we must remain careful and vigilant. Nothing can be taken for granted and we hope this trend will continue or even accentuate next year. We regret all the same that only two G8 members, Canada (18th) and Germany (20th), managed to be among the top 20."

Russia (144th) is not progressing. Anna Politkovskaya's murder in October 2006, the failure to punish those responsible for murdering journalists, and the still glaring lack of diversity in the media, especially the broadcast media, weighed heavily in the evaluation of press freedom in Russia.

### Fickleness of young democracies

Some non-European countries have made their first appearance in the top 50. They are

Mauritania (50th), which has climbed 88 places since 2004, Uruguay (37th) and Nicaragua (47th). "We hope these improvements will be lasting ones," Reporters Without Borders said. "Bolivia (68th) rose dramatically last year, but that improvement unfortunately seems to have been purely circumstantial as it has fallen many places this year because of serious press freedom violations."

Some countries that traditionally held a good position have also fallen noticeably. This is the case with Benin (53rd) and Mali (52nd). Journalists have been imprisoned in these two African countries for the first time in several years for defamation or insulting the president. In the Americas, El Salvador (64th) also dropped from the top 50, falling 36 places in two years.

**War and peace**  
War is largely responsible for the low position assigned to some countries. The increase in fighting in Somalia (159th) and Sri Lanka (156th) has made it very hard for journalists to work. Several have been killed and censorship has been stepped up as clashes became frequent. The belligerents refuse to recognise journalists' rights and accuse them of supporting the other side.

The battle raging between Hamas and Fatah is the main cause of the large number of serious press freedom violations in the Palestinian Territories (158th). Hostage-taking, arrests, physical attacks and ransacking of news organisations - the Palestinian media and the few visiting journalists are threatened from all sides. As predicted last year, Nepal (137th) has jumped more than 20 places in the ranking. The end of the war and the return to democratic rule resulted in an immediate recovery of basic freedoms and created new space for the media.

### Political tensions in Africa

The long crisis in Ethiopia (150th) that began with the November 2005 round-ups began to abate in the spring of this year with the acquittal of some of the imprisoned journalists. An additional



step was achieved in July with the release of leaders of the opposition party that had been accused of trying to overthrow the government, and with them, the release of the last of their journalist co-defendants. As a result, Ethiopia has risen from the bottom rungs of the ranking even if the frequent imprisonment of journalists, the climate of self-censorship and the unclear status of political prisoners, including two Eritrean journalists captured in Somalia, still weigh heavily.

Another year has gone by in Democratic Republic of Congo (133rd) in which journalists were killed. The way the authorities handled the murder of Radio Okapi journalist Serge Maheshe in June is indicative of the climate of impunity and injustice, one sustained by the government's open contempt for the press. This

explains why the country remains stuck in the red zone.

As for Niger (87th), where Moussa Kaka, the correspondent of RFI and Reporters Without Borders, is facing the possibility of a life sentence, its position does not reflect the enormous step backwards it took with his arrest on 20 September (after the 1 September cut-off date for this year's ranking). Until then, Niger had been regarded as a country with significant problems (arrests, censorship and threats). But now it has taken the road of the authoritarian regimes at the bottom of the index.

### Government repression no longer ignores bloggers

The Internet is occupying more and more space in the breakdown of press freedom violations.

Several countries fell in the ranking this year because of serious, repeated violations of the free flow of online news and information.

In Malaysia (124th), Thailand (135th), Vietnam (162nd) and Egypt (146th), for example, bloggers were arrested and news websites were closed or made inaccessible. "We are concerned about the increase in cases of online censorship," Reporters Without Borders said. "More and more governments have realised that the Internet can play a key role in the fight for democracy and they are establishing new methods of censoring it. The governments of repressive countries are now targeting bloggers and online journalists as forcefully as journalists in the traditional media."

At least 64 persons are currently imprisoned worldwide because of what they posted on the Internet. China maintains its leadership in this form of repression, with a total of 50 cyber-dissidents in prison. Eight are being held in Vietnam. A young man known as Kareem Amer was sentenced to four years in prison in Egypt for blog posts criticising the president and Islamist control of the country's universities.

Reporters Without Borders compiled this index by sending a questionnaire to the 15 freedom of expression organisations throughout the world that are its partners, to its network of 130 correspondents, and to journalists, researchers, jurists and human rights activists. It contained 50 questions about press freedom in their countries. The index covers 169 nations. Other countries were not included because of lack of data.

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