

RTI ACT

Challenges for Implementation

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RECENT reports published in media indicate that the present Caretaker Government (CTG) is committed to enact the Right to Information (RTI) Act. It is learned that respective ministry has formed an inter-ministerial committee to review and finalize the draft RTI Act prepared by Law Commission. The committee is also expected to review the draft prepared by Manusher Jonno Foundation with the assistance of eminent Lawyers and human rights activist connected with RTI campaign. Commonwealth Human Rights Initiative (CHRI) an organization promoting Human Rights provided inputs on both draft.

RTI is considered as development tool, may also be looked as a 'Right' it is related to almost all aspect of people's well being and development. Lack of information is one of the root causes of poverty. It also leads to deprivation of basic rights. Information should not be protected and be made available unless there are strong reasons for denying it.

Domain of RTI: There is a misconception that only public bodies should be con-

sidered for providing information under RTI, private bodies, corporations, NGOs, multinational institutions that carry out public functions and use public fund directly or indirectly should be mandated to provide information since their activities affect public rights and influence the destinies of millions.

How it promotes good governance: Availability of information reduces the misuse of resources and lessens corruption. It helps governance system function well, by making service providers accountable for their action, creates participatory and transparent atmosphere for people to contribute in policy formulation and implementation and by establishing rule of law.

Since Article 7 of the Constitution declares that all powers in the Republic belong to the people. So people's right to know as regards the functioning of the republic cannot be denied in any way.

Right access to information is a necessity for functioning of democracy as it helps people to take accountability of government. It is known that a true democratic environment ensures proper

accountability which is a precondition for good governance. Without information to be known to people it is difficult to bring the government or anybody doing anything for the people within the parameters of accountability.

RTI leads to development. When people know about what has been planned for them they can make suggestion on betterment of project, its implementation and for its continued function. That makes the projects more people oriented. As an example when public know environmental management process of an industry, they can judge if it would have any bad effect on their health and can take measures either to modify or to stop the same.

All services that are meant for the benefit of people should keep open and transparent their activities for easy access to information. Otherwise, there would remain scope for misuse, corruption and mismanagement and ultimately people would be deprived of the level of service originally intended for.

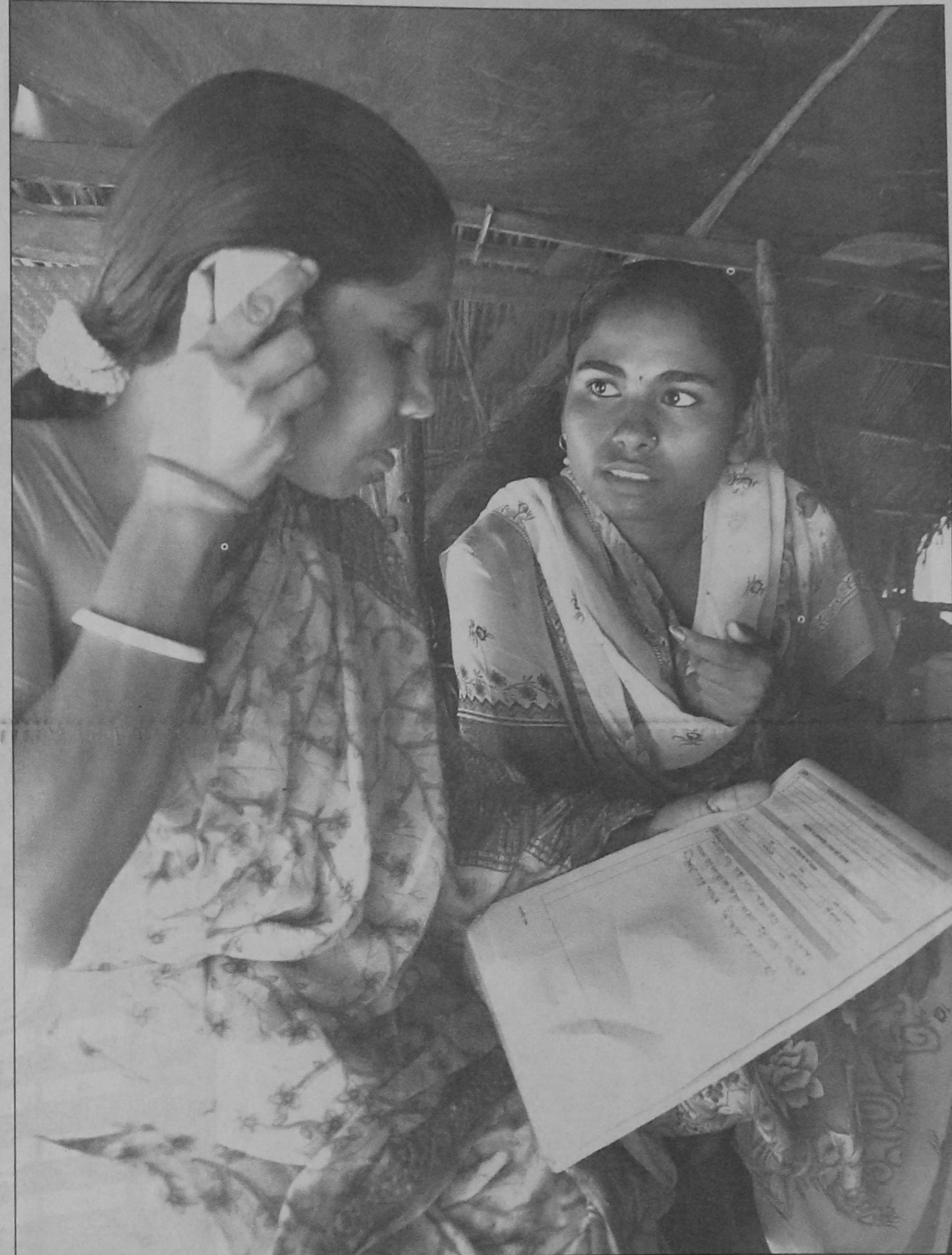
Access to Information: A synopsis of Bangladesh Case

Nature of government officials' duties and responsibilities are bound by some disciplinary norms and regulations. Among those regulations Government Servants (Conduct) Rules 1979, Official Secrets Act of 1923, Evidence Act and Rules of Business 1996 are mentionable. These are some of the rules by which government official's act and actions are being regulated.

There is a conception that due to some of the provisions of those restrictive laws a culture of secrecy has spread over in the administering system and hence free flow of information is being restricted. Government officers deny providing any information showing the reason of the Official Secret Act even to a person directly related to the concerned information.

According to this act any person can be convicted for the disclosure of information possessed by him. So a demand for repealing those restrictive provisions has been evolved for quite some time. At the same time the question of security and threat to sovereignty is very much prevalent in Bangladesh due to geo political context. As such, we cannot rule out the need for a secret act in totality. But what is suggested is that the scope of this law should be kept as limited to specific well defined cases as possible.

RTI act proposed by Manusher Janno Foundation and concerned civil society has made the balance as to how much should be disclosed and what should be kept out of purview of this. Section 25, of the proposed



draft act states, "... this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923 and any other law for the time being in force or any instrument having effect by virtue of any law other than this Act."

At present there are rules and acts to prohibit officials to disclose information. But, there exists no provision that make the officials obliged to provide information to ordinary citizens even if they are very much concerned and connected interest wise.

System of proper documentation and preservation of information has never developed for lack of necessity. Loss and destruction of documents containing useful information is the natural consequence. This is posing a challenge for implementation of RTI act. As soon as the act is made in force different type of information would be sought by people. It might not be possible for the officials to provide the same as those might not be easily traceable as was not preserved prop-

erly.

In reality there is no proper coordination between different branches of governments. That might cause a problem in case the information sought for relates to more than one department. Proper skill for preparation of information in a meaningful way and for presenting it for maximum benefit of the user is also absent at the moment.

Sometimes secrecy is maintained in such a restrictive manner beyond the jurisdiction of preventive acts that concerned official themselves could not know. Even if they know they at times feel uncomfortable to share with fellow officials dealing with the same topic. That has made it difficult for any person made in charge to provide information to collect all information and supply those to the person who asked for the same.

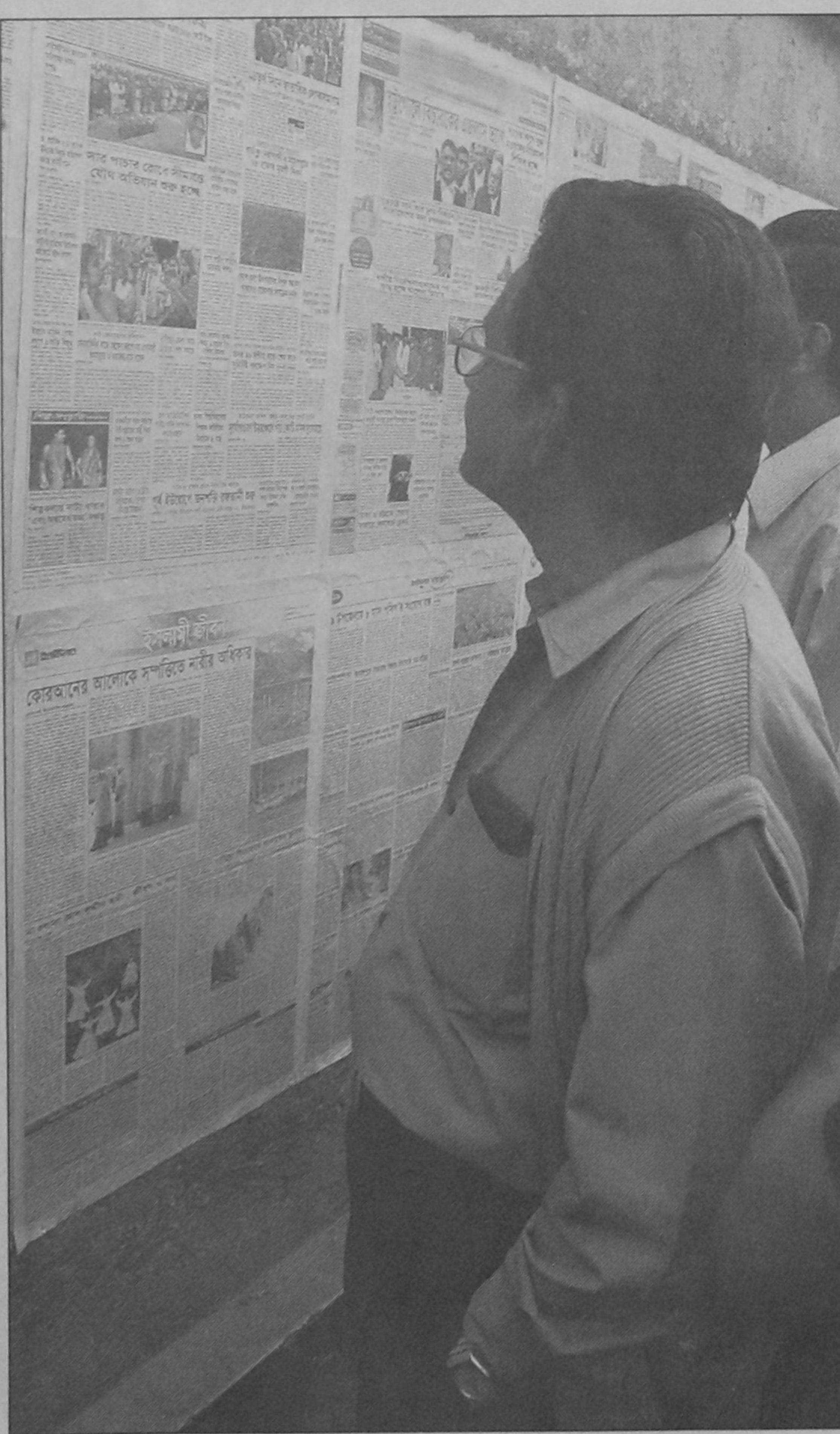
It is very encouraging that government has formed a committee to review the draft of RTI act with an intention to finalize it. But one has to keep in mind that only enactment of the law is not the core issue.

A law only has use and value when it is implemented successfully and people get benefit out of it. It is time to introduce some mechanism and develop capacity of the government office and officers as well which will enable the proper implementation of the law once it is enacted.

It is expected that the said committee will consult with other stakeholders and civil society before finalization of the act. International practices as is in use in our countries may also be verified specially for successful implementation of the act.

People must be made aware of this act. They should be made to understand the need for such a law. People should be made conscious as how and why this law will affect their lives. Here the role of the civil society organizations, media and individuals are very important and that should be acknowledged, encouraged and promoted by all concerned.

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