

The need to know

Access to information is a fundamental right. In fact, there are few areas which need to be kept secret in the public offices. Establishment of good governance is not possible without ensuring transparency, which is only possible through allowing people to access information easily.

NAZRUL ISLAM

INFORMATION is power. A more informed person is more powerful. As a result, there has always been a conflict between rulers and subjects on how much information should be made available for those who are being ruled.

There was a time when information about state affairs was a prohibited matter for the general public. With the passage of time and democratisation of state and society, the notion has changed substantially.

But in third world countries, especially where the democratic system has not flourished properly, the scenario is still much less than satisfactory. Although the press in Bangladesh has made remarkable advancement of late, people's access to information is still limited.

People in general, and rights groups in particular, have been

demanding a law that would ensure access to information. Responding to the demand, the current caretaker government has taken a laudable initiative to enact the Right to Information Ordinance (RTI), and formed a committee to draft it.

Preparation of the draft by the bureaucrats is a blow to the hopes of the people. Instead of ensuring access to information, the proposed RTI, if implemented, will be a tool for exploiting the people.

When the present government took the move to prepare the draft of the RTI, everybody, including the journalist community, which is primarily responsible for disseminating information to the public, welcomed it.

But there was doubt about the good intention of the move as the responsibility was reposed on a committee headed by a bureaucrat.

Personally, I was not optimistic about the outcome of the committee,

as I believe that Bangladesh's public servants are very cunning and farsighted in respect of their personal interests and benefits. They are public servants and meant to serve the people.

But actually, they spin their sticks over the heads of the people to realise undue facilities and kickbacks from them. Their skill is unmatched, not only in protecting their existing facilities but also in expanding those for the future.

And, finally, things happened as apprehended, although a lot of work had been done in finalising the draft. There were series of seminars, symposia and roundtables seeking mass public opinion, talkshows on TV, etc.

As the journalists are directly involved with dissemination of information, they showed much interest and enthusiasm in the act so that people could get maximum benefit from it. They even submitted an alternative draft.

Numerous suggestions have also



Catching up on the latest.

come from general people.

It was expected that the flaws in the first draft, which were pointed out during the public debate, would be taken into consideration and accordingly corrected. But it was found that the draft ordinance, which was okayed by the council of advisers, is more stringent in respect of dissemination of information.

Now the draft RTI is a foolproof instrument to deny any information about the activities and intentions of public offices.

It is not that we were not getting information about public offices. Rather, in the absence of any formal law, people, particularly the journalist community used to dig out information through various "sources."

There are always some people in every organisation, who supply information. Journalists establish rapport with those people. Without mentioning their names, newspapers used to publish "authentic" news without any distortion.

Under the existing system, it is not easy to challenge the published information, if it is based on facts. But once the new law is enacted it will be difficult to get

such information, and the media will face problems in publishing unauthorised information.

The organisation about which information is published may challenge it by saying that it was not derived from authorised persons (information officers).

The incorporated conditions, stages and timetable for getting information are tantamount to denying access to information. Moreover, there was a long exemption list of items about which information would not be divulged.

In the first draft, the number of such exempted items was nine, but in the draft RTI it has been raised to 23. This means that it will be very difficult for a journalist to get information in immediate use.

And think about a farmer in a remote village. He needs some information about agriculture. He goes to the agriculture office at the upazila headquarters and is asked to fill in a form and come 20 days later.

After 20 days, he is denied the information and asked to file an appeal to the higher authority, and the process goes on. Is it possible for a farmer to get information in this way? The suggestions rural

people used to get about their farm-related problems will now be sold as information.

As I already mentioned that people in the public offices are cunning. They will simply use the law as a tool to extract kickbacks from information-seekers. One should not forget the proverb that public officials extract money through counting waves.

The journalist community has already rejected the draft RTI. In a meeting recently, senior journalists termed the RTI as a black law, and vowed to resist it. It is not a good thing for the government to go into a direct clash with the journalist community. Therefore, it would be wise to remove the obstacles in accessing information in the draft RTI.

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Naazul Islam is a freelance contributor to The Daily Star.

The flawed presidency of Pakistan

Regardless of whether the constitution is restored to ceremonial presidency, Pakistan is in for a rough ride under Zardari. Now that the coalition has split, Zardari's personal character will be politicised, highlighting his past criminal record. A sullied civilian president will diminish the nation's confidence in political rule.

LIAQUAT ALI KHAN

PAKISTAN has been unsuccessful in designing a stable presidency. Two competing models vie for approval. Pakistan's formulaic constitution, borrowed from the legal-political traditions of

England and India, establishes a ceremonial presidency as subordinate to parliament. The president, with few powers, is the head of state and represents the unity of the Republic.

The ceremonial presidency empowers elected assemblies to run affairs of the state and prov-

inces in accordance with the wishes of the people. It also spawns political cronyism; allowing politicians to freely broker power relations, and distribute ministries and governmental offices on the basis of connection rather than competence and, for the worse, use state resources to advance personal and family interests.

The competing model, which Pakistan's generals as well as American policymakers prefer, institutes a strong presidency -- a praetorian presidency -- that listens to the armed forces and kowtows to American interests.

Under the praetorian model, the president exercises formidable powers, appoints heads of the armed forces, and can dissolve dysfunctional or discordant elected assemblies. Even the judiciary is made subservient to the president.

The praetorian presidency empowers what Pakistanis call the establishment -- a congregation of bureaucrats, army generals, advisers, and experts. The praetorian presidency focuses on economy and foreign relations. But it alienates political forces and weakens elected assemblies. Consequently, corruption permeates the state machinery with little or no accountability.

The nomination of Asif Zardari,

the widower of assassinated former prime minister Benazir Bhutto, to contest the presidential election is a disturbing development. If elected, president Zardari would further muddle the models of presidency.

Zardari might not use the iron hand of praetorian presidency, as General Pervez Musharraf did, to please the establishment and foreign masters. Under no circumstance, however, will Zardari be the ceremonial president.

Ceremonial presidency

The ceremonial presidency works best when the president is a non-political, consensus figure enjoying the trust of major political parties. Ideally, the ceremonial president is a person of great stature, unimpeachable character, and favourable reputation.

The ceremonial president must not be the head of any political party, nor must he be ideologically inclined toward a certain foreign policy, domestic agenda, or political set-up. This apparent neutrality of the ceremonial presidency generates confidence among political forces that the state is open to political diversity and pluralism.

Zardari does not qualify to be a ceremonial president. Though many criminal cases filed against him were fabricated, his reputation is sullied with charges of corruption. His recent making and breaking of political accords, regarding the restoration of judges, also leaves the impression that Zardari equates the art of politics with amoral cunningness rather than tough bargaining over controversial issues.

Even United States would prefer that the constitution remains as is, and that the praetorian presidency is not weakened. It is easier for US to deal with one strong man at the top than with an elected parliament accountable to the people.

Furthermore, Zardari is politically too powerful to be a ceremonial president. He is the co-chairman of Pakistan People's Party (PPP), the party in power. The other chairman is Zardari's son.

This family, holding the rank and file of the PPP, will continue to exist even if Zardari resigns from co-chairmanship. Furthermore, the prime minister, a member of the PPP, is unlikely to challenge president Zardari on the theory that the prime minister has the constitutional powers to run the country. For all practical purposes, therefore, Zardari will run the country as the top man even if the praetorian presidency is constitutionally dismantled.

Praetorian presidency

In opposing Musharraf, the PPP was planning to introduce a complex constitutional package in the parliament to cut down powers of the praetorian presidency. Almost all political parties favour restoring the constitution to its formulaic format. This political consensus will now fall apart.

If Zardari is elected president, the PPP will most likely withdraw the constitutional package. The constitution, as it stands, confers huge powers on the president. Zardari would want to retain these powers in case the political tide turns against him or the PPP.

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The US can fight the war in Afghanistan more effectively if Pakistan furnishes its intelligence and armed resources to defeat the Taliban and foreign fighters. Pakistan's praetorian presidency can deliver these resources to satisfy US interests in the region, including the pressure on Iran.

Zardari, a powerful man who cannot overcome the reputation of being a crook, is a godsend for the US. In the past, the US has deftly exploited praetorian characters, such as Manuel Noriega, Saddam Hussein, the Shah of Iran, and Pervez Musharraf, for its global interests.

Pakistan under Zardari

Regardless of whether the constitution is restored to ceremonial presidency, Pakistan is in for a rough ride under Zardari. Now that the coalition has split, Zardari's personal character will be politicised, highlighting his past criminal record.

A sullied civilian president will diminish the nation's confidence in political rule. The insurgents in Pakistan's tribal areas will intensify their battle against the government, increasing suicide bombings.

The war in Afghanistan will spill over the border into Pakistan, as the US daringly strikes the terrorist infrastructure on both sides of the border. Engaged in inter-personal politics, the government will have little time to solve the nation's basic problems, including shortages of electricity, fuel, and clean water.

The other question people ask me is: "Are there markets for fiction written in Asia?" The answer is: yes, all over the place -- they're called "landfills." That's where most local manuscripts are lovingly filed. Asia has lots of publishers and readers, but little good fiction yet. One hopes the workshops and seminars of the storytelling festival will do something to change that.

Then it's only a matter of time before some desperate writer in Asia receives the long-awaited response: "Thank you for your story; where would you like your billion dollars sent?"

Most Asians, by necessity, become highly skilled in reading carefully-worded stuff and then trying to work out what is really going on. Thanks to the limitations of the Asian press, we have developed generations of hyper-analytical readers. Now all we have to do is write decent novels for them.

The other question people ask me is: "Is there any serious fiction-writing going on in Asia?"

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Novelists are easy-going people and we accept any currency including the Floating Liquid Hyper-Shekel from Betelgeuse III.

Come and see me at the Storytelling Festival and that pile of shekels may be yours.

Learn about storytelling by visiting this site: www.bookcouncil.sg.

Streamlining the bureaucracy

There are many reasons, however, to address issues raised by top bureaucrats to streamline the administration and ensure good governance in the rank and file. Sheer negligence toward such issues is gradually compounding the discontent and discouraging diligent and dutiful bureaucrats from discharging their responsibilities with dedication and devotion.

DHIRAJ KUMAR NATH

THE chief adviser, while addressing the top bureaucrats a few days back, put emphasis on a comprehensive reform program for civil services to streamline administrative methods, speed up processes and cut red tape.

He also asked them to overcome partisan concerns and concentrate on holding free, fair and credible upazila and parliament elections.

The secretaries present in the meeting suggested ways to improve the standard and restore the image of public services with the immediate implementation of the following:

• Forming a pay commission;

• Raising the retirement age of public servants from 57 years to 60 years;

• Forming a recruitment commission;

• Renunciation of the rule for compulsory retirement after completion of 25 years of services;

• Opening up positions for placement in the UN system and inclusion in peace keeping missions;

• Framing of a legal regulatory framework for all promotions and postings of civil servants, replacing the present ad-hoc rules;

• Protection from the law in discharging services under pressure;

• Pension benefit up to 100 percent.

Some of the issues are pending resolution for quite a long time, of which change in the retirement age tops the list. The Public Servants (Retirement) Act, 1974 Clause 4 states: "A public servant shall retire from service on the completion of the fifty-seventh year of his age."

Since 1974, there have been many movements for reviewing this act, but to no effect. A general notion has been established that politicians do not like a strong bureaucracy with wide experience.

On the other hand, Clause 5(3) of the same act, prohibiting re-

employment but giving an opportunity for contract service after retirement, has been applied in many cases.

The demand for the review of the retirement age was tabled time and again in view of the enhancement of life expectancy.

Besides, the age of retirement in India has been fixed at 59, while in Pakistan and Sri Lanka it has been raised to 60 years, considering the benefits of services from experienced bureaucrats.

In our country, too, the retirement age of judges has been increased to 76, while for teachers it has been revised to 65 to get the benefit of experience and wisdom.

More precisely, a person cannot have wide experience of serving at the policy level if he cannot render service for at least 30 years -- 20 years at the field level and 10 years at the decision making ministry level.

A person cannot get this opportunity if he enters service at the age of 30, as provided now, and a free-lance fighter entering service at the

age of 32 can hardly get the opportunity of servicing for 25 years. Thus, the canon of justice demands review of the retirement age as suggested by the bureaucrats.

How can this provision of the act be changed without the promulgation of an Ordinance, or in the absence of the parliament?

In fact, the constitution provides enough authority to the president to decide the tenure of service in the republic. The president might consider promulgating an Ordinance considering the justification of the same.

At the same time, the provision of the Public Servants (Retirement) Act, 1974, Clause 9(2), for the compulsory retirement of a public servant at any time after completion of twenty-five years of service, without assigning any reason, needs to be reviewed immediately.

This provision has been exercised with political motives on different occasions and, therefore, needs to be repealed to ensure security of job for a bureaucrat.

It is also contradictory to Article 135 (2) of the constitution, providing opportunity for making a statement of defence against any accusation/allegation.

The Services (Reorganisation and Conditions) Act of 1975 is the mother law governing the power of the government to reorganise

services of the republic and public bodies or national enterprises.

Bangladesh Civil Services (Reorganisation) Order, 1980 was issued in exercise of the powers conferred under this act of 1975. A legal regulatory framework for all postings and promotions could be considered under this act, keeping in view Article 133 of the constitution, and also in consultation with the Public Service Commission as provided under Article 140 of the constitution.

The visible discrimination in promotions and postings has generated resentment, and a demand was placed time and again for framing a transparent framework governing the management of this aspect of civil service.

In fact, there were repeated allegations about changes in promotion criteria during different regimes to accommodate blue-eyed boys and most obliging bureaucrats in important places of work.

Protection from the law, for any action under pressure, was also an issue discussed many times before.

There is a difference of opinion on creation of new rules to protect public servants from prosecution on the plea that they discharge certain duties under duress.

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