

SPECIAL SUPPLEMENT ON 'RIGHT TO KNOW'

Universal Declaration of Human Right (UDHR), 1948 in its Article-19 has declared that "Everyone has the right to freedom of opinion and expression; This right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless to frontiers"

To mobilise 'right to be informed'

MOHAMMAD GOLAM SARWAR

TO uphold the constitutional commitment of ensuring people's power, right to information, or in other words, right to be informed or right to know is inviolable. In order to realise right to information, right to know comes first. Right to know enables people to know or to be informed in terms of decision making which impacts the life of those people. Right to know, demands for free access to information. To be armed with knowledge about basic civil rights, freedom of information is undeniable.

International human rights instruments

United Nations General Assembly Resolution 59(1) stated that freedom of information is a fundamental human right and ... the touchstone of all the freedoms to which the United Nations is consecrated. Article 19 of the Universal Declaration on Human Rights (UDHR) and Article 19(2) of International Covenant on Civil and Political Rights (ICCPR) declared that 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, either orally, in writing or in print, in the form of art or through any other media of his choice. In addition, regional human rights treaties also affirmed this right of freedom of information.

Constitutional Pledges and Legislative enactment

The Constitution of the Peoples Republic of Bangladesh under Article 39 expressly recognised and guaranteed freedom of thought, conscience, speech and the freedom of press. The interpretation of this Article is intended to include access to information, denial of which amounts to denial of freedoms guaranteed under the constitution. Again the careful reading of Article 7 and 11 of the Constitution which states for people's power and democracy, fundamental human rights and freedom respectively, implicitly urge for people's right to information.

In line with this, Right to Information Act 2009 underscored the potentiality of right to information on the following issues:

- to empower people
- to engage themselves meaningfully in the democratic process
- with a view to increasing transparency and accountability in the mechanisms of governance, reducing corruption
- and more generally to achieve the development goals.

How to seek information?

Right to Information Act 2009 enables every citizen access to information from the authority and the authority shall, on demand from a citizen, be bound to provide him with the information. Here it implies that everybody should aware of their right to information and if any kind of information is necessary, he has to make a demand for it by making an application.

- Under this Act, people have to apply to the concerned Designated Officer (DO) of the concerned Government and Non- Government authority directly requesting for

information either in writing or through electronic means or by e-mail.

- All information requests must provide the applicant's name, address and other particulars for a response in prescribed format as mentioned in the Rules.
- Description of the information sought for should be correct and clear as possible.
- One can express a reasonable preference for the mode they wish the information to be supplied, for example, making inspection, having copy, taking note or any other approved mode like e-mail.
- For obtaining information one must pay fees as determined by the DO as prescribed in the Rules.

- period or, as the case may be, from the receipt of such a decision, prefer an appeal to the appellate authority.
- The appellate authority will settle the appeal within a period of fifteen days either by making direction to the concerned designated office to supply the appellant the requested information or dismiss the appeal if it is not considered fit for acceptance.

Complaint to the Information Commission

When complaint can be made:

- If any person is unable to submit a request to any Designated Officer either by reason that such an officer has not been appointed by the concerned public author-

Commissioner, if finds it necessary, may himself inquire into or direct inquiry by any of the Information Commissioners into the contents of the petition.

- The Commission may decide a complaint after hearing the parties to the complaint or by inspection of documents produced by the complainant.
- The parties may present their statements before the Commission either personally or through their engaged lawyers at the time of hearing.
- The complaint will generally be settled within 45 days and it will not exceed 75 days in any cases.
- If the complaint has been proved against the concerned designated officer the commission can impose fine not exceeding 5000 taka and can take departmental action as well.
- If the complainant is not satisfied with the decision of the information commission he can file writ petition to the High Court Division of Bangladesh.

Exceptions

However the right to seek information from a public authority is not absolute. Sections 7 of the Right to Information Act enumerates the categories of information which are exempt from disclosure such as information which would prejudicially affect the sovereignty and integrity of Bangladesh, information that may affect relationship with foreign country and many others described under this section and schedule to the Act. These are made to make a balance between the freedom of information and individual privacy as well as state integrity. But here, in defining state interest or integrity due sincerity and good faith must be ensured otherwise the misuse of the exemption particularly by the government can make the whole purpose of law vitiated.

Practical implications: Freedom of information

The Perception Study- 2013 of Community Legal Service (CLS) suggests that more than 70% people of Bangladesh particularly the poor and marginalised people are unaware of basic human rights and legal issues connected with daily life. This reveals the poor implementation of right to information Act even after five years of its enactment. In addition, factors like the lengthy and cumbersome process needed to extract information, the traditional mindset of government officials about maintaining secrecy of information, lack of commitment from the designated officer, absence of effective information management system, inadequate numbers of information officers are also hindering the implementation of right to information.

In this regard it is recommended that a countrywide popularisation campaign should be launched to aware people about the existence of the Right to information Act and to disseminate knowledge regarding prescribed procedure of seeking information. The mental barriers both at the level of information-seekers and disseminators need to be reduced to ensure free flow of information.

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- The designated officer shall, on receipt of a request by fulfilling the above mentioned criteria, provide the information to the applicant within 20 (twenty) working days from the date of receiving the request. If more than one unit or authority are involved with the information sought for, such information may be provided within 30 (thirty) working days.
- If the designated officer, due to any reason, fails to provide the information sought for, he shall inform the applicant the reasons thereof in writing within 10 (ten) working days.
- If any person fails to receive information within the aforesaid time or is aggrieved by a decision of the designated officer, within 30 (thirty) days from the expiry of such

- ity; or
- the Designated Officer has refused to accept his or her application;
- he has been refused access to any information requested by him under the RTI Act;
- he has not been given a response to a request for information within the time limit specified in the Act;
- he has been required to pay an amount of fee which he considers unreasonable;
- he believes that he has been given incomplete, misleading or false information.

Disposal of complaints:

- On receipt of a complaint the Chief Information



Implementation and success of RTI

The NGO's should continue to work as a leader of implementing the RTI. The civil society should not be an exception in this regard. There should be more awareness programmes throughout the country.

INTERNATIONAL Right to Know Day started since 2008 on the 28th day of September when freedom of information organisations from around the world came together in Sofia, Bulgaria and created the FOI Advocates Network, a global coalition working together to promote the right of access to information for all people and the benefits of open, transparent, and accountable governments. The members of the network decided to commemorate this day as a way to share ideas, strategies, and success stories about the development of freedom of information laws and genuinely transparent governance in their own nations. Bangladesh by passing The Right to Information Act 2009 joined the rest of the 75 countries in the world with RTI regimes.

The Law & Our Rights page observes this day with the help of Manusher Jonno Foundation (MJF) who are set to achieve peo-

successful implementation of RTI, as a result some success case stories are shared here.

Rafiqul Islam, is a farmer and got to know about the RTI Act by attending one of the training course organised by the MJF. He also learnt that the public in general has the right to get government information. He came to know that the Food and Disaster Management Ministry runs a safety net project called 'Vulnerable Group Feeding (VGF)' to provide food security for the poor in times of famine, flood, drought and other natural disasters. This was started to facilitate the day labours, people without a regular source of income, the landless people with less than 0.15 acres of land, disabled and victims of natural disasters. After hearing that the government is helping to distribute rice, Rafiqul asked the local Project Implementation Officer (PIO) about the amount of rice that each person will receive against the policy of VGF. At first PIO refused to give the information, later when he said he is aware of the RTI Act, and that it was the PIO's duty to give the citizens information about the project, the PIO informed Rafiqul that in Lemshikhali ( Rafiqul's locality) they are entitled to get 10 kilograms of rice each. Rafiqul managed to get this information because he was aware of his right to information.

Later at the time of rice distribution at the Union Parishad Office, the chairman ordered that each person will get 7 kilograms of rice against each VGF cards ( VGF card is needed to receive food under the VGF project). Rafiqul was aggrieved and dissatisfied with the chairman's decision and informed all the fellow villagers that he learnt from PIO that each person was supposed to receive 10 kilograms of rice. Finally, after lots of protest and demands made by the villagers to the Union Parishad

Chairman, they have settled on the payment of 9.5 kilograms of rice. This scenario clearly shows that because of the knowledge that Rafiqul had, they managed to get a just and reasonable outcome.

RTI Act also helped Mosharaf who was cheated by recruiting agencies. Mosharaf sold his land and took a loan at high interest rate. He gave the loan money to a recruiting agency with hope that his three sons will go abroad for their better future. Year passed, but he received no news from that recruiting agency. At one point Mosharaf lost all his hope.

Later, Mosharaf came in contact with Assistance for Human resource Development with Technology (AHRDT). He also became a

member of a committee working with the rights of the migrant workers. Gradually, he learnt a lot about migrant workers and found out that the government's Manpower Employment Training Bureau (BMET) deals with the online complaints about fraudulence of recruiting agencies. He then complained to BMET online about the fraudulence of the recruiting agency and also went to BMET several times to get a hearing but unfortunately nothing effective happened. Even the MRPC and AHRDT could not help him about this either.

However, thanks to Manusher Jonno Foundation who hosted a daylong workshop about right to information in the said locality where local members of MRP and AHRDT also took part in it. They learnt how this Act support to get information and can give proper solution to their problems. After learning that the cheated workers could get justice, the workshop participants got really inspired to bring action and they also shared it with the locals about it. As a result, Mosharaf also learnt about the RTI Act and then with the help of MRPC and AHRDT filed an application to BMET and asked for the verdicts on his previous complain. He did not get any response within the stipulated time. Later he applied to the Information Commissioner, and became successful. He received a letter from BMET director general about the verdict and in the letter it was stated that Mosharaf's complaint was correct and the recruiting agency would have to pay 2 lakh 52 thousand taka within a certain time and if failed to do so they will be punished according to the Immigration Ordinance 1982.

There were many other success stories shared by Manusher Jonno Foundation where people actually received the redress relying on the Right to Information Act. Such as, the RTI Act proved the illegality of the BGMEA Bhaban, people started keeping eye on the government spending to ensure the quality of work, landless people forced the Union Parishad to change the unjust Policy, there where protest to ensure rural healthcare facilities and so on.

The NGO's and organisations like Manusher Jonno Foundation should continue to work as a leader of implementing the law. The civil society should not be an exception in this regard. Great and noticeable initiatives have been taken to ensure the right to information, but still it is below the standard of expectations. There should be more awareness programmes throughout the country. Also the proper implementation of the RTI Act should be ensured by giving constant effort.

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COURTESY: MJF

ple's rights in places where they are ignored.

To pass a Right to Information Act in Bangladesh, Manusher Jonno Foundation has worked with more than hundred of its partner organisations and other NGO's. They have taken a project to create awareness regarding right to information (RTI) among the government organisations and the other concern group. While doing so, they build up a partnership with the Bangladesh Public Administration Training Centre to train the government officers and assist them about RTI.

It is good news that many partner organisations of the said foundation and the concern group while working with them ensured

LAW QUOTATIONS

"When the public's right to know is threatened, and when the rights of free speech and free press are at risk, all of the other liberties we hold dear are endangered."

- Christopher Dodd

"I'll turn the page on a growing empire of classified information. We'll protect sources and methods, but we won't use sources and methods to hide the truth."

- Barack Obama

"When I am president,... I will empower the federal government to operate from a presumption of openness, not secrecy... I will direct my administration to prevent needless classification of information that ought to be shared with the public."

- Hillary Clinton

"Making good use of both moral and efficiency claims, the international freedom-of-information movement stands on the verge of changing the definition of democratic governance. The movement is creating a new norm, a new expectation, and a new threshold requirement for any government to be considered a democracy."

- Thomas S. Blanton

Dear reader,

You may send us your daily life legal problems, queries, write ups, opinions to: Law Desk, 64-65, Kazi Nazrul Islam Avenue, Dhaka-1215; Tel: 9144330,8124944, fax 9144332; email: dslawdesk@yahoo.co.uk.