

The meaning of “information” under the RTI law (PART 1)

Lest We Forget

SHAMSUL BARI and RUHI NAZ

IN last month's column, we said that a key reason for the tardy progress of the Right to Information Act (RTI) in the country is general disbelief that the age-old practice of official secrecy in the work of public authorities will change just because there is a new law that seeks to end it. In fact, the erosion of faith in the rule of law extends to most laws of the land.

With the RTI law, an additional impediment is the lack of understanding about the unique nature of the law, its revolutionary objectives and the fact that, unlike other laws, it is meant to be used by citizens vis-à-vis the government and not vice versa.

Concomitantly, there is a general misunderstanding about the meaning of the term “information” itself, as used in the act. Those who are not aware of the difference between the popular meaning of the term and its specific connotation under the act are prone to conclude that as more information is not their priority and as they are happy with whatever information they get through the media or from published sources or through traditional means, they do not see any need to seek further information by invoking the act.

An important task of RTI activists in the country over the years has, therefore, been to make people realise that the meaning of the term “information” under the RTI law is more circumscribed and, in any case, obtaining information per se is not the main objective of the law. The objective of the law, in fact, is establishing transparency and accountability in the work of public/government offices. By seeking RTI-relevant information, citizens promote the objectives of the law. The process of information-seeking, therefore, is as important, if not more, as information itself. This will be evident from examples we have cited below.

It is important to underline that the term “information” under the RTI Act relates only to information which is associated with the work of public authorities. The latter create information in the process of their work, such as those they put on their files. They also receive information from other sources, such as letters, reports and the like, stored on files or in other forms, such as CD, maps, videos, books, reports, etc. Taken together, they constitute the sort of information that concerns the RTI law.

Such information, like the contents

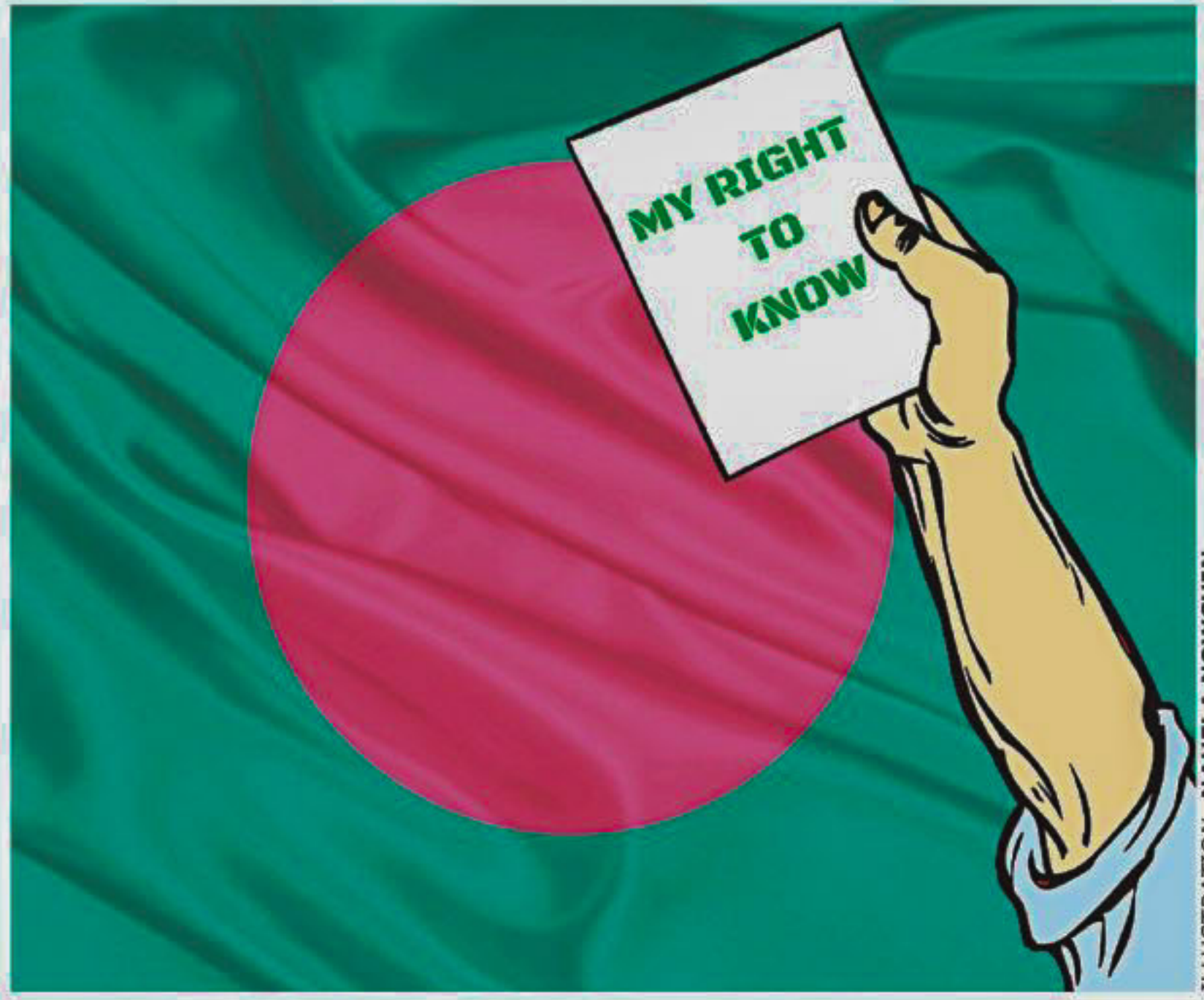


ILLUSTRATION: NABILA NOWSHIN

on the files of public offices, is not normally made public. RTI law seeks to make as much of such information as possible available to all citizens. Some of these can be provided through publication on websites, annual reports and the like. Those that are not or cannot be so disclosed in a proactive manner must be provided to citizens who ask for them. Only some sensitive information--such as those relating to national security, foreign relations, privacy of individuals etc.--has been exempted from such disclosures. The law makes it mandatory for public authorities to provide the non-exempted information to applicants without any questions asked as to why the information is being sought. Citizens are entitled to them as their rights and not as a grace from authorities.

In short, though citizens cannot ask public authorities to create information, unless they were in any case obliged to collect or record the information and had failed to do so, all information that is already with them (and which is not legally exempt) can be accessed by citizens. In fact the future of the RTI regime lies in making more and more information proactively available, but in an easily accessible and comprehensible manner.

This revolutionary provision of the law is premised upon the notion that under democracy and under the constitution of the country, all power of the state belongs to the people and, therefore, the latter has the right to know how those who are employed to exercise these powers do their jobs. By

seeking relevant information, citizens are able to monitor the work of public bodies and check whether public officials are performing diligently and honestly. Moreover, it allows them to ensure that the laws are applied objectively, without fear or favour, and wrong or misconceived decisions are corrected.

RTI is, thus, an excellent tool to link citizens with the government. It helps to enhance and deepen the sense of citizenship of the people. By accessing relevant information, citizens are able to get improved services from the government, and conversely, the government too is helped to assess how it is performing and what its deficiencies are.

An added advantage for the government is that as citizens become better informed about the functioning of the government, they also understand better the constraints that governments often function under, and become more appreciative of efficient and honest officers and departments. The same argument would apply vis-à-vis the public and NGOs who use public funds or receive foreign funding and who have been brought within the purview of the law.

A few examples may help amplify the above points. As mentioned before, a unique feature of the Bangladesh experience is the fact that it is mostly the ordinary and marginalised people who made use of RTI in the initial years. To a large extent they still do so. Having been sensitised about the scope and objectives of the law by NGOs, they soon realised that the best use of

the law for them would be to ask officials engaged in implementing government's safety-net programmes for information on the processes they follow in selecting beneficiaries. For example, they would simply ask for the list of beneficiaries who received a particular safety-net benefit, such as VGF and VGD cards, and the names of those who were involved in the preparation of the list. Such a demand causes great discomfort for officials concerned since disclosure of true information would expose their irregular practices. At the beginning, therefore, they tried to shoo the applicants away through threats or abuse, but when they persisted, often backed by NGO support, they would soon realise that providing the applicants with the related benefits would be easier than providing them with the information sought. This, in fact, happened in many cases in which the applicants got the benefits without getting the information sought. The RTI process itself, thus, produced the desired result.

Whether getting results like this without getting the information sought is good for the RTI regime has been a matter of debate among RTI scholars and activists. There are those who think that it is fine at least in the beginning as it encourages people, particularly those who are more interested in getting the benefits they seek than to ensure transparency per se, to make use of the law. They also argue that by demanding relevant information, they contribute to creating awareness among public officials that they are now being watched by the people, which is a first step towards transparency and accountability.

There are others who argue that if RTI applications are filed but not followed up by appeals against non-response or wrongfully denied information, the process of information seeking gets weakened. The dealing officials become complacent because there are no adverse consequences of ignoring information requests. The RTI system, they say, is a bit like the use of antibiotics, either follow the full course or do not take them at all. Half way measures are dangerous. We leave it up to readers to make their choice.

Part 2 of this column will be published tomorrow.

The authors are Chairman, Research Initiatives, Bangladesh (RTI) and Project Coordinator (RTI section) RTI respectively.

SALEHUDDIN AHMED

HUMAYUN Kabir is no more with us. It's hard to believe this fact. He left us on July 2, 2015. Humayun *bhai* was a great person and a wonderful human being. On the one hand, he was a very successful business entrepreneur and on the other, he was a very conscientious and empathetic social entrepreneur. Having both these qualities in one person is rare in this world.

I came to know him through BRAC. Humayun *bhai* was the chairperson of BRAC for a long 19 years, since 1982, thus being the longest serving chairperson. I worked at BRAC from 1979 to 2004 as the Governing Body Secretary of the organisation. As a secretary to the Board, I was a silent observer and listener of the dialogues, debates and policy making discussions that took place at the board meetings. I was a witness of how Humayun *bhai* carried himself as the chairperson, effectively conducting the sessions.

Humayun *bhai* was an avid reader. He used to read all the reports, both financial and narrative, would internalise them and then come to the board meetings well-prepared as he asked inquisitive and meaningful questions to Abed *bhai* (Sir Fazle Hasan Abed) and others to understand the logic behind every decision, and then give his feedback and guidance. I am sure Abed *bhai* also learned from that and implemented steps accordingly. I, as a full time staff member of BRAC, would listen to Humayun *bhai* and reflect what I learnt from him in my own organisational work. BRAC tremendously benefited from the advice, guidance and inputs that he made in his deliberations on the board.

Humayun *bhai* had a tremendous thirst for learning. I could feel that he would ask questions to learn. He wanted to know how things were going on the field, what were the experiences of programme participants. Periodically, he would visit the field of BRAC, talk to the staff and the women members at the grassroots, debrief them to benefit from firsthand learning. He had an inquisitive mind and he did all of this with an extremely positive attitude.

Humayun *bhai* made an extraordinary gesture by donating 51 percent of his shares of his successful enterprise Renata Pharmaceuticals to the foundation he created in the name of his wife, Sajida Foundation. Thus he ensured that Sajida Foundation was self-financed. It was a rare example that he had epitomised.

Humayun *bhai* was a perfect gentleman. He would always say things with a smile. I never heard him talking harshly with his managers, staff and people in general. As a manager, he was extremely successful. He was an example that a top manager, or for that matter any manager of any organisation, could be tough without being harsh. He gave very strict directions, carefully monitored, but always in a nice manner.

I was very fortunate to meet Humayun *bhai* after some years at the last Annual General Meeting of the BRAC General Body, on June 11, 2015. I had a brief discussion with him as well, as I asked him about his well-being. He, with his usual smile, enquired about my work and my family.

I was present at the last *doa mahfil* commemorating him at the Golf Garden. There were many speakers who reminisced about him. All talked about his capability and good qualities that helped him manage and lead both business and social organisations. However, I was most impressed when two of his seven grandchildren spoke about their *dada/nana*, about how he loved them, played with them, inculcated good values in them and guided them. I realised that this person knew how to love people, and in return, deservedly received all the respect and love from people.

I heard about his generosity to the disadvantaged people. Out of that generosity and love for them, he founded the Sajida Foundation, which continues his dream of doing good work. His vision, thus, is being translated into action.

As I was about to write something in a book condoling his death at the *doa mahfil*, I was lost. There were so many things I wanted to write, but there was a long queue waiting behind me. So finally, I wrote a sentence expressing my respect, honour and admiration for Humayun *bhai*. I wrote, “*Ekhon biraat manush haralam*” (lost a giant of a person).

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Humayun Kabir

When is Bangladesh's next graduation?

OPEN SKY



BIRJU PAKSHA PAUL

will lose numerous concessional loans and other benefits usually extended to low income nations. What a negative mentality we have! This mindset is seriously poor, regressive, pessimistic, and illogical. It is just like crying over unemployment benefits which you lose once you get a job.

Every improvement involves some costs. But we shouldn't stop building the Padma Bridge because some boatmen will lose fares.

After the recent graduation, some of us are shedding tears over losing a bunch of grace items given by donors or international agencies like the World Bank or the IMF. We hear this noise at the very time that our budget

dependence on foreign donors is only 2 percent while it was 88 percent after independence. The way moral poverty has subconsciously engulfed our sense of dignity is appalling. Let us get rid of this and look forward to how swiftly we can reach the upper middle income status.

To achieve the upper middle income level, we cannot just target the figure of \$4,125 which the World Bank has posted, because they will be updated due to many factors including inflation as time passes by. Roughly, we need to increase our per capita income by around four times. How will it be possible? The two vital determinants are the growth rates of population and output.

Given the current population growth rate of 1.3 percent, I am assuming a one percent growth rate -- for a nation that drastically slashed population growth from 3 percent after independence to 1.3 percent of late. We get three major scenarios based on the three GDP growth rates -- 6, 7, and 8 percent. To graduate to the upper middle income group, we must not only increase our GDP growth, but also make sure that per capita income growth is also impressive. With an increasing population

growth, a substantial part of GDP growth will erode and render the residual as per capita income growth. Hence, to ensure a respectable growth rate of per capita income, our optimal strategy would be to minimise population growth and maximise GDP growth.

If GDP growth remains at 6 percent and population growth at 1 percent, as assumed to be the same for all three scenarios, per capita income growth becomes 4.95 percent [= (1+6%)/(1+1%)]. It will then take 28.69 years to raise our per capita income by four times. Accordingly, Bangladesh is likely to graduate to upper middle income status in approximately 2043. The timeline could be shortened with accelerating growth. For example, it will take us only 24 years to graduate if we can maintain 7 percent GDP growth, enabling us to graduate in 2039. With 8 percent GDP growth, which is slightly too ambitious based on present observations, graduation will come about four years earlier, in 2035.

Even a fortune teller cannot predict the years of graduation exactly, because they are subject to change based on different figures of both population and GDP growth. But the

bottom line is clear: we must work hard to reduce our population growth with dedicated campaigns, work towards women's empowerment, quality education and provide subsidies for birth control. Incentivising one-child families, particularly those with only one daughter, should be a priority. Per capita income in China would not have come to the level of almost \$8,000 had the country not launched the one-child policy in the past. Its population growth rate at present is 0.5 percent. Higher literacy rates and development help reduce population growth rate. For example, Sri Lanka's population growth is 0.8 percent, and that of USA is 0.7 percent.

While efforts to reduce population growth will continue, devising ways to increase GDP growth must be active at full throttle. We all believe that our economy is not operating at its full potential. If our neighbour India can achieve 8.5 percent growth, why can't we? India is not extraordinarily different from us. We share the same climate and have similar institutions. We have a common history of policy synchronization, going back to the early 1990s. However, one thing is missing on our part. Our liberalisation differed from

India's in pace and nature; we are still hesitant to open our market. That is reflected in the indices of global openness and ease of doing business. The quality of education is another area which we must address immediately. The list of top 100 Asian universities includes none from ours, but at least 10 from India.

We need to address priority areas which must be reformed to steer growth. One of the areas is corruption that takes off 2 to 3 percent of our GDP growth. Bureaucratic tangles and unnecessary impediments are the sources of corruption. These tangles are often blamed for the low foreign direct investment in our country. We ought to be sincere about tackling such issues.

Growth can be increased by at least 1 percentage point by simply making Dhaka functional. If we address only these two areas -- the growth rates of population and output -- lifting our growth to even 8 percent will not be hard. These steps alone will empower us to graduate to upper middle income bracket in almost 20 years from now.

The writer is Chief Economist of Bangladesh Bank.

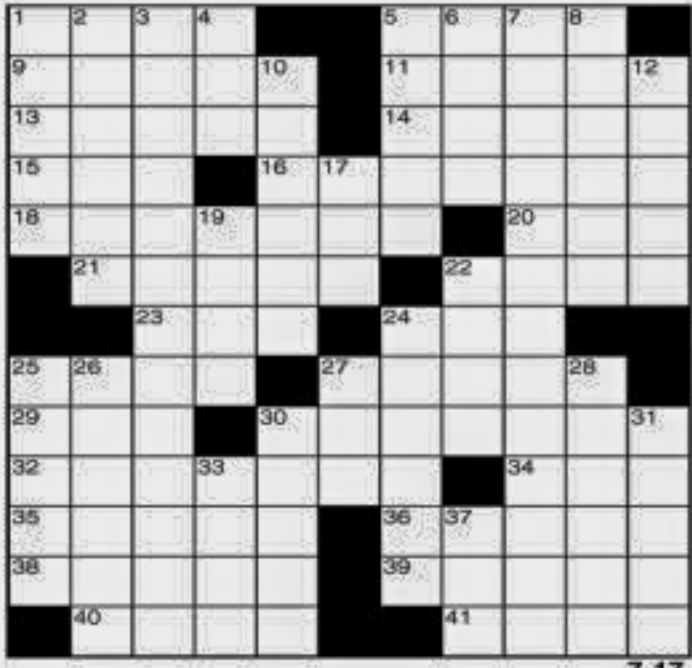
CROSSWORD BY THOMAS JOSEPH

ACROSS

- Flame flutterer
- Implausible
- Friend of D'Artagnan
- garde
- Sword material
- Very small
- PC key
- Ketchikan native
- More speedy
- Easter find
- Concur
- Folding money
- Scoundrel
- Attila, for one
- Bar order
- "What a pity"
- Debtor's letters
- Wishes to participate
- Was behind schedule
- "Golly!"
- Laud
- Struck down, in the Bible
- Audacity
- Like some roofs

DOWN

- Ship staffs
- Capital north of Syracuse
- Gregory Peck western
- Garden tool
- Truman's hometown
- Rara --
- Gregory Peck western
- Incense
- On the schedule
- Salad servers
- Sheltered side
- Brother's home
- Give the boot
- Upright
- Squad car sound
- Took in, in a way
- Convened
- Tried to lose
- Cardiff's land
- Must have
- Valentine word
- Farrow of films



Yesterday's answer



BEETLE BAILEY

by Mort Walker



BABY BLUES

by Kirkman & Scott



QUOTABLE Quote

JEAN-LUC GODARD

PITY THE FRENCH CINEMA BECAUSE IT HAS NO MONEY. I PITY THE AMERICAN CINEMA BECAUSE IT HAS NO IDEAS.