

RTI Act 2009: A powerful tool against poverty

SHAMSUL BARI and RUHI NAZ

REZIA KHATUN, a 36-year-old woman, became destitute after her husband suddenly died. With three children to look after, she resorted to begging for a living. One day, Rezia met Sabikunnahar, a Right to Information activist trained by D.Net, a reputed Bangladeshi NGO. Rezia learnt from Sabikunnahar how to access various government services and decided to apply for a Vulnerable Group Development (VGD) card, under the government's social safety-net programme. Together they went to see the chairman of the local Union Parishad (UP) in Netrokona district, and described her situation to him. The chairman agreed to provide her a card but failed to deliver. Subsequently, Sabikunnahar learnt that the government was allocating more VGD cards and asked Rezia to apply for one. But her application was denied on the plea that no additional allotment of VGD cards were available.

Later on, Rezia and Sabikunnahar came to know that their local MP was distributing VGD cards through party members instead of going through the Union Parishad. Together, they decided to submit an RTI application to the UP Secretary, wherein Rezia asked to know how many VGD cards had been allotted to their Union that year, whether she was eligible for one and how the cards were distributed.

The UP Secretary provided Rezia the desired information which revealed that she was in fact eligible for one. As a result, the UP Chairman was compelled to allot a VGD card for her. Since then, Rezia gave up begging.

Rezia's is just one story among millions. Bangladesh's socio-economic development is now widely acclaimed. By many metrics, the development trajectory of Bangladesh is very impressive. The fall of poverty incidence to around 30 percent from 60 percent not very long ago has confounded critics who had predicted the country to be a perennial "basket case" at the time of its birth.

A key factor for success is the government's social safety-net programmes under the National Social Security Strategy (NSSS). These are aimed at helping the most vulnerable to cope with specific hardships. Popular among the programmes are Vulnerable Group Feeding (VGF), Vulnerable Group Development (VGD), hundred days' work, old age benefits, maternity benefits, benefits for widows, oppressed, and destitute women, etc.

The importance of NSSS to the government was underlined by the Finance Minister in his budget proposal earlier this month. He announced that the programmes would be made more targeted and focused, with increased coverage and allocation. Tk. 452.30 billion, which is 13.28 percent of the total budget of the country and 2.31 percent of GDP, has been budgeted for FY 2016-17. It is 16.98 percent higher than the previous year.

While the government's commitment to the programmes and their positive outcomes are well-established, circumstantial and anecdotal evidences reveal that the benefits of the programmes do not always reach the rightful claimants. In fact, a widely held view

The NGOs went about spreading awareness of the Act to people, particularly at the grassroots level. In many cases they helped them, literally by holding their hands, to make RTI applications to concerned authorities. By asking to see, for example, the lists of safety-net beneficiaries and how they were compiled, the applicants were able to make the authorities realise, though in a very limited scale, that their days of abuse of the system and arbitrary decision-making were over. Citizens are now empowered to probe how government decisions are made.

Initially, the authorities were able to skirt the problem by offering the desired benefits to the applicants in order to avoid providing written responses. They feared that such

Bangladesh, learnt about irregularities in the allocation of cards under the Maternal Health Voucher Scheme of the government. Through it, impoverished pregnant women are entitled to many free health services.

The members met with expectant mothers who claimed that the cards were being distributed to women from wealthier families. Moreover, health officials had taken bribes of Tk. 200 per card from each of the 20 pregnant women who had received the cards in their area. Bribes were asked from four other families who were denied the cards for not paying the bribes. So the members decided to use RTI to obtain the correct information.

The President of the Gangni Landless

group decided to file a formal RTI appeal with the appellate authority and to collect specific evidences of irregularities. On July 29, 2010, more than 200 men and women staged a demonstration against irregularities in the project and handed over a memorandum with signatures of community members to the civil surgeon, copied to relevant government offices.

Upon probing, the civil surgeon found that in the areas concerned, the cards were indeed given to relatively wealthier families and there was corruption in project implementation. As more than 300 members of the landless committee had gathered in the village during his visit, demanding justice, the civil surgeon had to provide them with particulars about the programme, including beneficiary profiles, selection criteria and procedures.

Armed with these, the group gathered in the village, identified local beneficiaries, and proposed the names of 20 impoverished and pregnant women for benefits under the scheme. All 20 were given the cards and benefits under the scheme. The health officer was transferred out of his post after alleged irregularities and corruption were proven. He was also forced to return the money he had collected as bribes.

Such is indeed the power of RTI. And yet the Act is hardly known for being put to use in significant numbers. It has so far worked mainly with the marginalised and disadvantaged communities because of the help of NGOs and activists. The educated and the middle classes are yet to be fired by the powerful reach of the law. If only they extended a helping hand to the needy to obtain their rightful claims under various programmes of the government, the RTI ball will keep rolling till others begin to pick it up. Additionally, it will quicken the pace of reducing poverty and achieving middle-income-country status for Bangladesh sooner than later.

If, however, the law is not put to use by citizens in significant numbers, there is a danger that it may slowly wither away. That will be a great loss indeed for the nation. Citizens will lose the only law of the land that allows them to monitor the work of the government. And the government will be deprived of people's support to advance its reform and development programmes.

The writers are Chairman, Research Initiatives, Bangladesh (RIB) and Project Coordinator (RTI section) of RIB respectively. Their email is: rib@citech-bd.com.



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is that about 30 percent of the benefits go to non-deserving claimants through corrupt practices of officials concerned. Whatever the slippage, it is obvious that the government's objectives would be better served if they were eliminated or at least reduced.

Some hope was generated in this regard by the adoption of the Right to Information Act, 2009. A number of NGOs and social activists in the country immediately saw the tremendous power of the Act to promote transparency and accountability in the work of public officials and thereby to combat corrupt practices that have accrued over the years in the delivery of safety-net benefits.

responses could expose their wrong-doings. Over time, however, the applicants came to understand that apart from getting the benefits, they must also insist on written responses to promote systemic change. But alas, such interventions are very few and far between. There are not enough NGOs or activists in the country who have the means or interest to help such people. It is strange that a politically and socially alert nation like Bangladesh is still to discover the power of RTI.

On the other hand, members of a landless group of women in Meherpur district, organised by Nijera Kori, a reputed NGO of

Committee and three other members, who were trained by Nijera Kori on RTI, jointly submitted a RTI request to the Upazila Health Officer seeking information on the maternal health voucher scheme. They asked in particular how many cards were distributed monthly in the concerned UPs and Municipal Corporation under the scheme; the criteria for selection of families for distribution of cards; who selected the beneficiaries and distributed the cards, etc.

In response, they only received some quantitative data on the number of cards distributed in the respective areas. Upon discussing the matter among themselves, the

If we really want genuinely free and fair elections. . .

MD. ABDUL ALIM

THE Union Parishad (UP) Election 2016, held between March 22 to June 4, left at least 126 people killed (*The Daily Star*, June 5, 2016) and at least five thousand injured (Prothom Alo, June 5, 2016) and has been termed as 'the deadliest' in the electoral history of Bangladesh. In terms of unopposed elections, it has also surpassed all previous records with more than two hundred chairmen candidates elected unopposed. Pertinent to election irregularities, a new type of irregularity has been observed: in many places, "ballots of chairmen candidates were not given to the voters".

Much discussion has been done on these aspects by the media, observers, CSOs and political parties. AL leader Suranjit Sengupta has said, "It [EC] does not move, or budge". Few others have said that "the commission should have played a strict role to check violence and irregularities since the start, but it did not", while others have said that the "entire electoral system is on the verge of collapse". As an election monitor, I want to emphasise on the lack of the EC's authority over the election administration, which is the main reason behind such anomalies. During elections, the commission should emerge as the de facto government, assuming total control over bureaucracy, cutting its link with the political government completely.

Let me cite an example from India. During the last parliament election in

2014, the ECI deferred the recruitment of the army chief at the middle of the nine-phase elections, and allowed the Ministry of Defence to forward the file to the appointment committee headed by the prime minister after completing all the nine phases. There is no legal provision of the ECI recruiting or deferring the recruitment of an army chief, but it went ahead with their decision, thereby conveying the message that there should be no confusion regarding the fact that the constitutional body becomes the supreme de facto government during elections.

Our Prime Minister has also condemned the irregularities, violence and deaths in the UP elections, saying that these incidents are "unacceptable". She further added that "We never wanted the UP polls to be like this". Keeping her reaction in mind, I would like to suggest the following reforms to make future elections of the country genuinely free and fair.

Firstly, in Bangladesh there is no law to recruit an election commissioner, although the Constitution has the provision to promulgate such a law. Due to the absence of law, the appointments of commissioners have been at the whim of the government of the day. The successive party governments have generally appointed those considered to be sympathisers of the party, particularly to influence the general elections of members of the parliament. Since 1972, in some cases, due to lack of capacity and

professionalism, the EC failed to deliver its constitutional mandate or exercise constitutional power to conduct free and fair elections. In order to ensure credible recruitment, there is no alternative to promulgating a law delimiting the qualification, experience and recruitment process of the commissioners. Bangladesh really needs to recruit commissioners who do not bend to governmental, political or other partisan influences

We need an EC which is truly independent from all aspects; this independence does not only mean structural independence, but operational and financial independence along with individual independence of the election commissioners.

while taking decisions. Also they must have the capacity to prevent any external influence to alter their decisions, behaviour or actions.

Secondly, structurally Bangladesh's EC is an independent body; this independence does not mean that it is not accountable to anybody for violence and irregularities in elections. It does not mean that the EC is not accountable for playing an indifferent role or for its failure to

enforce the legal provision and conduct free and fair elections. In a few countries of the world, the activities of the Electoral Management Body (EMB) are reviewed by legislature (Pakistan, Georgia). In some countries, the EC is formally accountable to the legislature (Canada), the judiciary (Panama) or the head of state (Fiji, Zambia). When an EC is not accountable to anybody, it is assumed that it is accountable to the citizens,

and such accountability means that the commissioners are answerable to the citizens for all their activities, decisions and behaviour. Their performance must be guided not only by law but also by ethical and technical standards. In Bangladesh, the EC is accountable to the citizens; but in many cases, people do not see such accountability. In order to ensure this, the law needs to be revised so that the EC shows actual

accountability to the citizens.

Thirdly, a comprehensive security mechanism with specific responsibility of the government and/or EC is vital to avoid violence in elections. During the last UP elections, there were concerns on the responsibility of killings and the provision of security between the EC and government. On May 27, one of the commissioners said, "The Election Commission would not take responsibility for the violence over Union Parishad polls". On June 3, another commissioner raised a question: is there any legal provision that says EC is responsible to ensure security? In response, the Home Minister said that the Commission was trying to put the responsibility of election security on the Home Ministry (Prothom Alo, June 4, 2016). This proves that our electoral system has a serious shortcoming on the issue of election security. Here, one can ask: if EC is not responsible to ensure security why does it prepare or ask for budget for the law enforcing agencies? Article 126 of the Constitution defines that "it shall be the duty of all executive authorities to assist the Election Commission in the discharge of its function", but it does not clearly define how this assistance is given. Thus, I strongly believe that we need a legal framework describing how the executive branch provides support to the EC, including security during elections.

Fourthly, the EC fails to establish its control over the temporary polling personnel recruited as returning/assistant returning,

presiding and assistant presiding officers from local administration. The CEC has himself said, "We don't have much authority over them. So, we don't get the desired cooperation from them [local administration]" (*The Daily Star*, March 21, 2016). Although the Election Officials (Special Provisions) Act, 1991 states that these temporary polling personnel, once appointed as polling officials, are subject to the commission for election duty, there is no legal bar to do their regular duties under the executive branch of the government. This indistinct legal provision is a barrier for the EC to establish full authority over the local administration. Hence, this law needs to be revised to bring those officials under full control of the EC including their posting, transfer and suspension from the service. Also, the law must say that the EC, and not the government, is the final decision maker here.

Finally, we need an EC which is truly independent from all aspects; this independence does not only mean structural independence, but operational and financial independence along with individual independence of the election commissioners. A truly independent EC possesses three powers: legislative, administrative and judicial power. In order to make our EC fully independent, we need to establish it as the fourth branch of the government.

The writer is Director of Election Working Group. E-mail: aalim@ewgbg.org.

QUOTABLE Quote



HAN KANG
South Korean writer

Conscience. Conscience, the most terrifying thing in the world.

CROSSWORD BY THOMAS JOSEPH

ACROSS

- Dance unit
- Fly catchers
- Bengal beast
- Ultimate
- Wed in secret
- Geometry measure
- Boxing great
- Slash
- Bad government
- Rent out
- Sword metal
- Back, on a boat
- Manual readers
- Eat late
- Appearance
- Immoral act
- Astronaut's vessel
- Sleuth Poirot
- Supply voices for
- Provinces
- Island
- Unrefined
- One who accepts a bet
- Leafy vegetable

DOWN

- Strong wind
- Iron output
- Country singer Mel
- Conceited one
- Energy
- Mansion part
- Swallow up
- Pavlova's field
- Winty weather
- Musical shows
- Flight cost
- Criminal
- Go in for another hitch
- Tag sale label
- Media mogul Murdoch
- Western range
- Other worldly
- Number puzzle
- Avoids
- Crude home
- Use foul language
- Reviewer Roger
- Job for Sherlock
- Crone

YESTERDAY'S ANSWER

P R E F E R R I V I E W
R E L A T E I S L E
O F F T H E S C A L E
C A D E T
P L A N V O W S
R I O T B E R E T S
A N D B U N A I L
H U G H E S P R E Y
P E E R F U S S
A T L A S
O F F T H E C H A I N
R O L L E S T U C C O
B E A D T O P T E N

BEETLE BAILEY by Mort Walker



I INVENTED A WAY TO KEEP YOU SAFE WHEN DRIVING

WHAT DID YOU DO?

I COVERED YOUR JEEP WITH MARSHMALLOWS!

BABY BLUES by Kirkman & Scott



DAD, DO YOU HAVE AN OLD SHIRT I COULD WEAR AS AN ART SMOCK?

SURE

LET'S SEE... HOW ABOUT THIS ONE?

THINK IT'LL GET RUINED?

IF IT DOES, I'LL BE DOING US ALL A FAVOR.

I KEEP TELLING HIM TO GO SHOPPING!