

RIGHT TO INFORMATION ACT

A new breed of truth seekers

SHAMSUL BARI and RUHI NAZ

HERE is a new breed of fans in South Asia: fans of the Right to Information (RTI) laws in our region. These are passionate, almost fanatical, RTI activists. They live, breathe and dream of the potential of the law to change the way governments work for them, and they have made it a habit to send one or more RTI demands a day to public authorities in the country.

One such fan is Subhas Chandra Agarwal of India, who has filed so many thousands of RTI applications over the years that his name has entered the Guinness Book of World Records. Another, journalist Shyam Lal Yadav, has filed more than 6,000 RTI applications, mostly to government ministries. Still another, Wing Commander Sanjeev Sharma, filed more than 5,000 RTI applications to different units of one authority alone, the Indian Navy.

When such applications arrive in government offices, they enhance awareness of the law and its requirements among a very large number of public officials. Few of these officials can now claim ignorance of the law, as many of their counterparts in Bangladesh do, almost eight years after the law was enacted.

Applications from these activists have also led to systemic changes in the work of the government. Shyam Lal Yadav's RTI queries on trips made by Central Government ministers and their senior colleagues every year on public cost led to a government directive, which require such trips to be publicly monitored and recorded on open websites.

Applications like these also contributed to increasing experience and expertise of the Information Commissions (IC). The applications raised pertinent issues on interpretation of the law. The reasons provided in their decisions have enriched jurisprudence in the field.

Unfortunately, no such trend is in sight yet in Bangladesh.

The emergence of such passionate RTI fans in Bangladesh has been slow. In our efforts to seek them out, we found that many of them had given up in the face of difficulties they encountered. Not only were the concerned officials unhelpful, and sometimes even threatening, but the Information Commission itself, whose interventions they sought to resolve their difficulties, was not very encouraging.

One person who faced them valiantly and continues to fight them indefatigably is Biplob Kumar Karmakar of Comilla. Biplob claims to have filed over 150 RTI applications to different public authorities in Bangladesh. His experience tells us not only about his

travails and frustrations, encountered at different stages of the RTI process, but also his unbounded joy and satisfaction whenever his efforts were able to puncture, however slightly, the wheels of corruption in our country.

Biplob had appeared in the 29th Bangladesh Civil Service (BCS) examination. The results disappointed him very much. He felt that he was a victim of grave injustice of the examiners, but could not think of anything he could do about it.

A year later, after the results of the 30th BCS examination were published, Biplob read in the newspapers that a group of

He immediately filed an RTI application to the PSC asking to see the marks he was given for his written and viva tests.

He received no response to his queries from the PSC within the stipulated period, nor any for his appeal. So, he filed a complaint to the Information Commission (IC) which promptly rejected it - on the grounds that he had addressed both the applications to wrongly named persons.

Where others in his position may have given up, Biplob persisted and applied again after obtaining the correct particulars. This time too he received no response from any, which made him complain to the IC again.

information sought is of a sensitive nature and the IC is unwilling to pressurise a powerful authority.

At four hearings at the IC during this period, six different PSC officials testified, some contradicting the others, some saying the information was sent, some saying it could not be divulged and so on. In between, Biplob intervened several times, claiming he received no response and challenging arguments justifying delay in responding.

To its credit, the IC, had decided that the results sought by Biplob were disclosable under the law and not exempt. The PSC disagreed. Finally, after much back-and-

of his efforts has revealed to Biplob the many shortcomings of the system. The most important of these, he thinks, are the unwillingness of public officials to respond to RTI queries in the first place and the reluctance of the IC to penalise them for their disregard of the law. He cites an earlier verdict of the High Court which had ruled that such sanctions are mandatory.

Despite his seeming failure, Biplob is not disheartened and considers his efforts immensely worthwhile. The lengthy process resulted in a lot of publicity; many prospective RTI users approached him for advice. So, not only did he continue to make use of the law regularly, he also helped many others to do so.

Of the more than 150 RTI applications submitted by Biplob to various authorities in the country, most relate to transparency and accountability issues. They range from corruption in the selection process of candidates for government jobs, to postings, from irregularities in the management of pension funds, to unfair charges levied upon students in schools or corruption in land registration.

Biplob claims several successes stemming from his efforts. The primary school scholarship programme, at least in his area, is now relatively fairer; the harassment of people at land record offices has reduced; and people can obtain rail tickets during festival seasons at fixed price.

Another significant achievement, Biplob claims, is that all courts, tribunals, the Supreme Court and 54 district judge courts in the country have seen the appointment of DOs and Appellate officials to cater to RTI queries, which did not exist before. He feels proud that even the Prime Minister's Office has duly responded to his RTI application.

Some disturbing developments, however, bother Biplob. Among those he helped to lodge RTI applications, some have faced physical threats from irate recipients. One was physically assaulted recently, and Biplob himself faces threats for encouraging people to use the law.

That the country is going through a transition period vis a vis RTI is obvious. Unless great care is taken to deal with the negative developments, the consequences for the system could be grave. Concerned citizens and enlightened government authorities must work together for the RTI regime to thrive. Biplob must be seen as friends of the system, not adversaries. For RTI is essential for good governance.

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aggrieved BCS examinees had attacked the residence of a university professor, who was also a member of the Public Service Commission (PSC), which conducts the BCS examinations. Apparently, the professor had taken large bribes from them to ensure better results.

Biplob immediately connected this with other news he had recently read about rampant corruption in employment and postings in public offices. He was determined to do something about it. His first mission would be to find out if he was discriminated against in his BCS exam the year before.

Around this time, he came to know about the RTI Act and its immense power to find out how public officials go about their work.

The complaint was accepted this time.

Several months had already passed since Biplob's first application in December 2012. The law required that the entire process be over in 75 days; in this case, more than 750 days have passed, and the information has still not been provided.

In a nutshell, the main reason for this protracted process is that the PSC is unwilling to divulge the information on the marking process, particularly for the viva and how candidates are graded for different postings. They think that the matter belongs to an exempted category of the law.

The saga of Biplob's RTI efforts is indicative of the fate many RTI users encounter in Bangladesh, when the

forth, the latter went to the High Court with a writ petition challenging the directive of the IC to provide the information. The matter still lies there, as neither the IC nor the government are keen to resolve it. Biplob feels that as an ordinary citizen, he is only a cog in the wheel.

Biplob is convinced the PSC refuses to divulge his marks because it wants to hide the facts. If he had succeeded in unearthing the truth, he would have helped to reduce corruption in the country's most important public examination system. Only the combined efforts of citizens can ameliorate the situation, he thinks. And the RTI law can be a big help in this regard.

The long process he has endured in pursuit

Rape and ordinary men

RAFIA ZAKARIA

LAST week, the Supreme Court of India upheld the death sentence handed out by a lower court to five of the men who had raped her [the victim famously known as Nirbhaya].

"YOU can't clap with one hand," one of the rapists in the notorious Delhi gang rape case had famously said after being convicted of rape and murder.

This man, along with five others, had been found guilty of taking a young woman to the back of a Delhi bus one night in December 2012. The men raped the young woman, inflicting injuries that were so terrible that the doctors, including those in Singapore, where she was sent for treatment, could not save her.

A few weeks after the incident - after she had identified her assailants and given her statement - she succumbed to her injuries.

Last week, the Supreme Court of India upheld the death sentence handed out by a lower court to five of the men who had raped her. (One

escaped the sentence as he was a juvenile at the time of the crime. He spent three years in a correctional facility.)

It was an unusual move, according to experts; lower courts in India routinely hand out death sentences but many, if not most, are overturned on appeal based on some technicality, such as shoddy investigation by the law-enforcement authorities. So it was expected it would be the same in this case, some detail or procedural provision invoked to show 'mercy' to the men. The fact that this did not happen signifies that the highest court in India saw it necessary to uphold the worst possible punishment in a case so grotesque that it saw hundreds of protests across India and headlines around the world.

Unlike in India, little attention has been paid to the issue of rape in Pakistan.

Unlike the Indian Supreme Court, the higher judiciary in Pakistan has seen it fit to sentence convicts to death, even those who are mentally ill. In many cases, defendants have

been executed even when there are problems with investigations and prosecutions. It is rape, and not the death penalty, however, that is the issue here. While India has imposed the highest punishment on these gang rapists, Pakistan has yet to take similar action in rape cases.

One relevant example is the 2002 case of the gang rape of Mukhtaran Mai. Like the woman in the Delhi rape case, Mukhtaran saw her assailants and was able to identify them and chose to do so. It wasn't enough. As happens with so many cases in Pakistan, the case was pushed around on appeal from one court to another, in the mess of parallel jurisdictions that is the Pakistani judicial system. Initially, six men - the alleged rapists and those who were part of the panchayat that ordered her rape - were found guilty. Justice, it seemed, would be served, to a woman who had undergone the most horrific ordeal possible.

It was not, however, the end of the story. In 2005, five of the six men, who had been found guilty and sentenced to death by an anti-

terrorism court, were acquitted by the Lahore High Court and the sentence of the sixth was commuted to life imprisonment. In 2011, an appeal to the Supreme Court against the high court verdict was rejected.

In an interview she gave to the BBC when the decision was announced, Mukhtaran said that the police had not recorded her statements properly. She said that she had lost faith in all Pakistani courts.

Most Pakistani women, particularly those who have had some encounter with the justice system, would likely agree. Like the convicted Indian rapist who alleged that the woman he raped and killed had only herself to blame because she was out at nine o'clock at night, most men here are used to blaming women for the abuse and harassment they suffer at the hands of Pakistani men. If a man beats his wife, it's because she 'made' him, by refusing to acquiesce fast enough, or with enough submission and servitude, to his demands.

If a male professor harasses a

female student, it's because she dressed or looked or smiled in a certain way and so 'deserved' the treatment. If a boss harasses an employee, well, you 'can't clap with one hand'; it's her fault for being in his employ, for working outside the home, for being present in a place where he can prey on her.

A border may divide India and Pakistan but this logic of 'you can't clap with one hand' unites the men of both countries.

In the initial days after the Delhi rape incident, several newspapers commented on the fact that the men were not particularly big or burly and looked rather ordinary. It is an important and thought-provoking comment because it draws attention to the rapist in every South Asian man, sitting dormant and eager to grab an opportunity. In Delhi, that opportunity came when six men jointly decided to prey on an innocent female for the crime of being out at nine in the evening.

For others, it may come in other places, in empty offices or

darkened corridors or silent streets. In a society where men are so unquestionably dominant and women grow up internalising this hatred towards them, the woman is always believed to be at fault; the number of rape cases and the lack of punishment for rapists simply prove the point.

In all other instances, military might or athletic achievement, rhetoric or regional influence, Pakistan and India try to outdo each other. In this instance, however, there will be no attempt to do that. India may have imposed the worst punishment possible on five of the rapists, but Pakistan will continue to ensure that its rapists go free. All the ordinary men, the ones who believe that women are asking for it simply by existing in the ambit of their predatory and sinister intentions, need not worry; in Pakistan no one will stop them, no one will get in their way.

The writer is an attorney teaching constitutional law and political philosophy. Copyright: ANN/Dawn (Pakistan)

QUOTABLE Quote



CHE GUEVARA
Cruel leaders are replaced only to have new leaders turn cruel.

CROSSWORD BY THOMAS JOSEPH

ACROSS

- 1 Bottled buy
- 6 Hunt goddess
- 11 Full of energy
- 12 Silver bar
- 13 Change the boundaries of
- 14 "Uncle Tom's Cabin" author
- 15 Opera's Caruso
- 17 Singer Shannon
- 19 Twisty turn
- 20 Chemist's place
- 23 In the thick of
- 25 Fill with cargo
- 26 Race goals
- 28 Run off
- 29 Confuse
- 30 "You bet!"
- 31 Merriment
- 32 Rent out
- 33 Pungent
- 35 South American capital
- 38 Lively dance
- 41 Similar
- 42 Clarifying phrase
- 43 Blended
- 44 Social group
- 10 Finished off
- 16 Panama, for one
- 17 Mindless
- 18 Writer Zola
- 20 Traditional phone connections
- 21 "Hello" singer
- 22 Plague
- 24 Spotted cube
- 25 Pot part
- 27 Madman
- 31 Disconcerted
- 33 Boat's trail
- 34 Crimson Tide, for short
- 35 Hightail it
- 36 2001 Will Smith film
- 37 Films, slangily
- 39 Gangster's gun
- 40 Math unity

DOWN

- 1 Kids' card game
- 2 Hoppy brew
- 3 History book insets
- 4 Writer Hunter
- 5 Hold back
- 6 Harrow blades
- 7 A fan of
- 8 In the past
- 9 At present

YESTERDAY'S ANSWER

LAPSE R MALT
 ERROR MIGHT
 ATONE OSAGE
 DIPS AUSTIN
 USA ALL END
 PANTRIES
 NEAR TIFF
 GANTRIES
 ARC NEE REP
 DONTGO DELI
 ADORE LIMIT
 PETER INANE
 TOES TONGS

BEETLE BAILEY BY MORT WALKER

I DON'T GET IT... MANKIND HAS BEEN AT WAR SINCE THE BEGINNING OF TIME. WHAT'S WRONG WITH MANKIND? WHY CAN'T WE GET SMART AND FIGURE IT OUT? BECAUSE EVERY 30 YEARS THERE'S A NEW MANKIND.

BABY BLUES BY KIRKMAN & SCOTT

ISN'T THIS CUTE? IT'S A LITTLE WALKER SHAPED LIKE A MOTORCYCLE! IT HAS CUTE LITTLE WHEELS, CUTE LITTLE HANDLEBARS, AND IF YOU SQUINT YOUR EYES, IT ALMOST LOOKS... REAL. PLEASE? PLEASE? PLEASE? PLEASE?