

Practical Framework of **RTI Law** Bangladesh and global perspectives



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**RESEARCH
INITIATIVES
BANGLADESH**

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PREFACE

When the Right to Information (RTI) Act 2009 was adopted in the very first session of the new parliament by the present Government after winning general elections in 2008, it was hailed by many as one of the most progressive laws of the land. By adopting the law, Bangladesh joined a large number of countries in the world, around 130 today, which enacted the RTI Act, or similar laws under different names, to demonstrate their commitment to transparent and accountable governance.

The RTI Act allows citizens, and in some countries all inhabitants of the land, to demand information held by public authorities on matters relating to their work, except those specifically exempted under the law, e.g., those relating to national security, foreign relations and citizens' privacy. Through their use of the law, citizens in effect exercise a monitoring role over public bodies.

The Bangladesh RTI Act, however, began its journey without much preparation of the population about the law. This was due mainly to exigencies of the time which resulted in little publicity or discussion about the purposes and objectives of the law either within the parliament or outside. There was an uphill task, therefore, to bring awareness about the law to the public at large.

The task was initially undertaken by the newly formed Information Commission of Bangladesh, supported by a number of NGOs. It, however, became clear very soon that despite such efforts, a great deal of confusion remained in the minds of the people and the public authorities alike about the goals of the law. A widespread feeling prevailed among citizens, who are to be its sole users and main beneficiaries, that the law was meant to be used by them primarily to seek information from public authorities to serve their personal needs.

In fact, in the initial period, the law was largely used to obtain individual benefits under the SafetyNet programmes of the government for the indigent and the needy. Others who felt no such needs, refrained from using the law altogether. Few others felt that the law was meant to unearth public misdeeds but was afraid to use it more often due to fear of negative repercussions from public officials. As a result, the law remained largely underutilized.

It was in this context that Research Initiatives, Bangladesh, (RIB) which had earlier joined other NGOs to promote the law, came to realize that there was a need to bring the attention of citizens to the larger public interest objectives of the law. It undertook to emphasize upon the fact that public interest would be served well through using the law to promote closer interaction between the people and public authorities and making the latter realize that the law allows citizens to play a monitoring role over their work. By using the law properly, citizens can, in fact, promote transparency and accountability in public work and contribute to systemic change in governance.

To advance these objectives, we also chose to use the media. One such use has been the writing of a monthly RTI column in the most popular English language newspaper of the country, The Daily Star. Since June 2015, the column has appeared unfailingly every month. The present book is based on a selection of all the columns.

As will be evident from the selections, our focus in the columns has been on sharing our experiences and knowledge on various aspects of the law, starting from its objectives and goals to its use both at home and abroad, to the role of respective stakeholders of the law - the civil society, individual citizens, government bodies, and the Information Commission alike in realizing the immeasurable potentials of the law. Those who would like to access the entire collection of the columns are invited to look up www.rib-rtibangladesh.org.

We hope that the reflections contained in this volume will help readers to understand the RTI Act, discover its rich potentials, appreciate its importance in promoting good governance and strengthening democracy in the country and stimulate their participation in the process. The use of RTI is not simply a basic right of citizens; it is also a crucial responsibility. For the convenience of reading, in this volume we have divided into 8 (eight) thematic chapters of all the published 76 columns in the Daily Star.

Dr. Shamsul Bari, Chairman, RIB
Ruhi Naz, Assistant Director, RIB

CHAPTER – 1 INTRODUCTION

Right to Information Act was adopted by the Bangladesh Government in the year 2009 to promote it as a tool for open governance and ensuring systemic accountability. The enactment of the RTI Act 2009 was a major step towards improving transparency and accountability in the public sector. The law contains robust provisions for proactive disclosure including procurement and service delivery-related information, establishes an independent information commission, provides for the imposition of penalties on officials who improperly refuse to share information available under the law; and makes it mandatory to adequately preserve, store, and manage records. The Act has enormous potential to empower citizens in their dealings with the state and to improve the delivery of public services through greater transparency. However, the full potential of the Act can only be realized when there is a demand for information which complements to monitoring role of citizens. Even, after all these years of its passage, the level of popular awareness of RTI remains low, among the rural and urban population.

Since its adoption in 2009 there had been efforts equally by the government as well as NGOs, civil society organizations to popularize the law by raising awareness and building capacities of the people, as well as of public authorities. But clearly a lot remains to be done. There is still a serious lack in understanding of the true spirit of the law by the people and government officials alike. This has been accentuated by the fact that the Information Commission, which is an independent body responsible to oversee Implementation of the law, appears to suffer from a bureaucratic mindset itself as a result, they are often face with difficulties to take independent positions while resolving disputes between public authorities and citizens on application of the provisions of the law. But certainly, there is always something to look forward to, to see some light at the end of the proverbial tunnel. There are indications that public officials are beginning to soften their negative stance on the law, however slowly and grudgingly.

Over a little more than twelve years of its implementation in Bangladesh there are significant impacts on certain areas of governance where some semblance of accountability and transparency appears to have emerged, particularly in sectors involving provision of government services like social safety net programs. In addition, many government offices now put up the names of their DOs and appellate authority on visible spots in their offices and on their website. A practice has also emerged in some places of putting up a publicly accessible list of beneficiaries of Government's assistance measures. Equally importantly, people have started questioning and writing to government officials enquiring on various socio-economic issues and it will not be wrong to say that much of these have been achieved due to the injection of significant number of RTI applications into the system. There is a need to continue this process.

It is well known that most governments all over the world are, for obvious reasons, not very keen to promote RTI or similar other transparency laws. The responsibility to make RTI effective, therefore, falls primarily on the people, who must use and nurture it in a responsible manner. It is through continuous practice that an impact evolves. The use of RTI must be seen as a learning and ever evolving process involving citizens and government officials alike. It requires continuous follow-up before maturity can be achieved.

Over the years of its implementation, few organizations working on RTI have identified certain impediments which deter effective use of the law and one such impediment is the lack of appreciation by government officials, and the Information Commission itself, of the benefits of the law for the country and the people. As a result, most of them have not developed any positive attitude to it and do not feel concerned about any consequences they may face for not complying with the provisions of the law.

The basic reason for this mindset may be linked to the lack of substantive discussion in the country on the objectives and goals of RTI before it became law. Neither the Parliament nor the judiciary nor the people at large were involved in a substantive manner in its adoption. This is because the law first came in the form of an Ordinance promulgated in 2008 by a non-elected Care-taker Government, headed by a former World Bank bureaucrat. To its credit, it was later adopted as an Act of the Parliament the following year by the new Government but, because of the prevailing circumstances of the time, it did not go through the usual parliamentary processes, including a thorough debate and discussion on its provisions and media coverage on them. Of course, there was some pressure on the Caretaker government by the civil society for adoption of the law but there was no involvement of the larger public in it. So, the need to prepare the people, including parliamentarians, for a proper understanding of the law and its processes on the one hand and sensitizing public officials, on the other hand, for a sea-change in their mindset, from the age-old practice of official secrecy to transparency and accountability to the people, was never met.

It is primarily through greater use of the law that the mindset of the people and public officials alike can be changed over time. Unless that happens, the law is likely to become stagnant or moribund. More use of the law is likely to generate more publicity, which in turn will increase public awareness about the importance of transparency and accountability in governance generally and more specifically on matters of public interest. The law will succeed only when people see how relevant it is for their own lives and for the country as a whole. There must be an effort to bring citizens and public officials together and create a more congenial relationship between them. There is a need to strategize on how best to go about it.

CHAPTER – 2: REFLECTION ON RTI LAW IN BANGLADESH

a. (2015, June 15) A revolutionary law.

The Right to Information Act (RTI), one of the most important laws of Bangladesh that came into force on July 1, 2009, is perhaps also the country's least known. Many see it as the most revolutionary law adopted by the Bangladesh Parliament. This is because, unlike any other law, it empowers citizens to monitor the work of government officials and public authorities, including many NGOs. And in doing so, they contribute to promoting transparency and accountability in governance. The Daily Star has decided to dedicate a regular monthly RTI column to show its readers that it is possible to challenge anomalies within the system and bring about real change.

Surveys and reports have shown that a key reason for the tardy progress of the RTI law in Bangladesh is the lack of trust of citizens (the demand side) in the government's intention to implement it whole-heartedly. Many find it difficult to believe that the same authorities (supply side), who for centuries have been denying citizens access to pertinent government information, would now open up just because there is a new law.

Despite the disbelief and uncertainty, there are signs of progress. Factors which have contributed to the recent progress in the law include successful promotion of the use of the law by a number of NGOs, particularly among the marginalised communities. In the process, the latter has discovered the tremendous reach of the law to access information on how the benefits of various safety-net programmes of the government, which are aimed at alleviating their poverty, are often denied to them due to malpractices of concerned public authorities. They also learnt how they can change the situation simply by seeking pertinent information through application of the RTI law.

Painstaking but rewarding

Tahera Begum's application to the police station

On July 12, 2011, Tahera Begum, a housewife who lived in Saidpur, decided to submit an RTI application to the local police station asking for information on the number of complaints filed at the police station on torture and abuse of women during the first six months of the year 2011. She had been trained by RIB on how to apply. As mundane as the application sounded, the whole process turned out to be a long drawn ordeal for her. When she went to the police station together with a few other group members, at first, the officer on duty rudely refused to accept her application. However, when the group informed him about the RTI Act and his

responsibilities under it, the officer accepted the application but refused to provide any receipt for it, as required under the law. He told them that an acceptance letter would be provided in the evening after the Officer in Charge (OC) returned to office. Accordingly they returned to the police station that evening, only to learn that their application was 'lost' and could not be traced. Having no other choice, another application was sent through registered mail on July 30, 2011. After that, 20 working days passed without any answer from the concerned police official, as required under the law. An appeal was therefore filed with the Appellate authority, the Police Superintendent, again through registered mail. Receiving no response this time too, the applicant submitted a complaint to the Information Commission on October 30, 2011.

The Information Commission summoned both the parties to attend a complaint hearing in Dhaka. After hearing both sides, and learning that the applicant was harassed and badly treated at the police station, the Information Commission ordered the police officer concerned to provide the required information within one week upon return to their home town. Eventually Tahera Begum was able to receive the information she sought. The local media reported the matter and gave it wide publicity.

The incident created ripples among the public in Saidpur. The RTI animator of the group commented, "In our area, ordinary people avoid police stations for fear of harassment and insult. Here was a simple housewife whose complaint took the SP to Dhaka! The incident was a first step toward removing such fear. It served as a tonic for the people. They are no longer afraid of government offices. This incident is an example of how the RTI Act can empower people through its application." [Ref: Complaint No. 41 of 2011 <http://www.infocom.gov.bd>]

Secondly, the Government has of late awakened to its responsibilities under the law and initiated a number of useful measures to help its implementation. This includes directives to all public officials to discharge their responsibilities under the law more diligently.

The third factor is the maturity gained by the Information Commission over the years which is being put to good use both in terms of promoting greater awareness about the law in the society and in resolving disputes between the demand and supply sides. Taken together, they are likely to lead to greater use and success of the law.

However, real progress will come only when more citizens, from all sections of society, become ardent users of the law. Citizen groups that are yet to be excited about the law includes the middle and educated classes, as well as all professional groups, including the media, lawyers and politicians

If more people were to learn about the inherent strength of the law to help individual citizens redress personal grievances and about the crucial role it can play in changing the colonial mindset of public officials, they too would be attracted to make use of it.

It is hoped that the case studies in these columns will attract more members of these groups towards using the law. It is only through participation of citizens from all walks of life that the basic objectives of the law would be achieved.

The case studies will be prepared by the RTI team of Research Initiatives Bangladesh (RIB) which is involved in the promotion of RTI in Bangladesh. They will be based on incidents gathered from all over the country by the RTI Forum of Bangladesh and also those reported by the Information Commission.

Apart from focusing on the substantive aspects of each case, the studies would also seek to throw light on the processes involved in the implementation of the law. These would include the process of application by the demand side, response from the supply side or the lack of it, and resolution of disputes between the two sides by the Information Commission.

b. (2015, July 15) The meaning of “information” under the RTI law (PART 1)

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 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 sensitized about the scope and objectives of the law by NGOs, they soon realized 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 realize 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.

c. (2015, July 16) The meaning of “information” under RTI Law – (PART 2)



Jharna Rani Roy of Narendrapur Jessore, receives Maternity Allowance as a result of information received by application of RTI. Photo: RIB

UNDER ideal conditions, the fact that citizens can access any information should act as a deterrent to those who seek to use their power to distort the system. How effectively transparency deters the abuse of power is dependent on how far the citizens are willing to use the information accessed and how supportive are the follow-up mechanisms, like the disciplinary authorities, the police, the courts, and the media.

Be that as it may, the use of RTI is generating unprecedented enthusiasm among ordinary people, particularly the marginalised communities throughout the country. Some credit for this, of course, goes to NGOs who help people with the RTI process. However, since funds are limited, their outreach is limited too. Nevertheless, where such help is made available, the positive outcome over time, both in terms of less abusive and friendlier behaviour of concerned officials as well as in obtaining the benefits sought, is clearly contributing to bolstering the confidence of the people. In many instances, there are noticeable personality changes among them.

When people, even the poorest of the poor, experience that they have a legal right to ask for and get information, or at least a response, from powerful civil servants whose shadows they would not dare to cross in the past, it generates a sense of empowerment and a feeling that they are much less unequal and oppressed than they thought. RTI activists throughout the country regularly witness this on the faces of applicants who, for example, succeed in obtaining free medicines from government clinics which were earlier denied to them. The joy and jubilation demonstrated by the bede community (river gypsies) when they learnt that they were given 19 allotments under the government's "one house on farm" programme, was clearly tinged with a sense of empowerment and confidence. Similarly, those who got old age benefits, maternity benefits, employment benefits and the like, behaved as if they were lifted to a higher status. By creating confidence and uplifting their morale, RTI visibly contributes to changing poverty-mindset even of the most down-trodden.

The case study we are providing today largely relates to the above experience, except that it went through the whole gamut of the RTI process, from application to appeal, to complaint. It also shows how the Information Commission can play a positive role in steering the law to the right direction. The case also demonstrates the drive and determination of seven most deprived women from a marginalised community in southern Bangladesh and the heart-warming outcome of their RTI intervention.

We would like to conclude by saying that the final challenge for RTI is to ensure that not only those who use the Act get justice, but that the use of it forces the system, over time, to deal with everyone justly.

Addresses of some relevant RTI-related websites: Error! Hyperlink reference not valid.; www.article19.org; www.dnet.org.bd; www.mrdi.org; www.nuhr.org; www.nijerakori.org; www.ti-bangladesh.org; www.mass-line.org; www.rib-bangladesh.org

Case study: Claiming rightful entitlements for the Bagdi community

Anjali Mondol, Jayanti Mondol, Bhola Mondol, Shikha Mondol, Namita Mondol, Shankar Goldar and Santana Mondol, all belong to the Bagdi community of Komorpur village, Dhulihar Union of Satkhira District in southern Bangladesh. Bagdis are an ethnic group who are traditionally fishermen by occupation. A majority of them live below the poverty line. They had heard that the local authorities under the auspices of the Upazila Nirbahi Office had obtained some funds from the Prime Minister's Office aimed to alleviate the poverty of ethnic groups. It consisted of cash as well as paddle vans that were for use of the most disadvantaged. But none in their community had received it. They first put their heads together on strategising the best way to go about their claims.

Having been sensitised to the scope and objectives of RTI by facilitators belonging to their own community, they submitted an RTI application to the Designated Officer (DO) of the Upazila Nirbahi Office (UNO) seeking, among other things, information on the guidelines followed to enlist recipients of the funds from their area to buy paddle vans provided under a fund from the Prime Minister's Office meant for ethnic communities.

As they received no response within the stipulated period of 20 working days, they submitted an appeal to the DC's office. But they received no response to their appeal within the stipulated 15 working days either. So they filed a complaint to the Information Commission (IC) in Dhaka.

At the complaint hearing on October 29, 2014, where the UNO and the seven complainants were present, the former admitted that there was indeed pressure on him from influential people of the area which had affected selection of beneficiaries. The IC took the UNO to task for his failure to provide the information sought by the complainants and asked him to take necessary corrective measures within the next five days. The complainants were overwhelmed by this decision and the courtesies shown to them by the commissioners, both collectively and individually. Their joy and disbelief at such an unprecedented outcome put large smiles on their faces.

Happily for them and for the RTI regime, the UNO not only provided the information sought by the applicants within the five days but also awarded them the money to buy the paddle vans. The event electrified the community and is considered a milestone in their fight against poverty.

d. (2015, September 28) RIGHT TO INFORMATION DAY 2015: Challenging irregularities in the Education Sector.

A common reaction of most people about the RTI Act is a lack of trust in its efficacy. It is this general lack of faith in the willingness of public officials to break away from the age-old culture of official secrecy -- tinged with fear that the officials might react negatively if the information sought is found to be sensitive -- which has kept particularly the middle class from using the RTI Act in significant numbers.

Fortunately, this has not been the case for many ordinary citizens. As stated in this column before, those who were sensitised about the RTI law by NGOs and activists, and understood its benefits, have shown greater resilience in making use of the law. Education is one such field where people have made effective use of the law.

Since 2009, when the RTI Act came into force, about 15 to 20 percent of all RTI applications to public authorities and complaints to the Information Commission have been related to the education sector. They were largely focused on the irregularities of teachers and management bodies of educational institutions. It is perhaps reflective of the importance the education sector has gained over the years and the corruption that has crept in there. The nature of information sought also reveals the concerns of the applicants and their socio-economic backgrounds.

Applications from more disadvantaged groups included queries on topics such as: government guidelines for distribution of biscuits and other energy boosting food among students; guidelines for distribution of government scholarships to children; quotas for marginalised communities; number of students receiving scholarships and the amount they received; number of students who were from marginalised communities; the management of the Dalit Education Fund; the process through which committee members were chosen; reasons for levying extra money on students; size of school management committees, background of members and whether representatives from marginalised communities were included; attendance of teachers at school, etc.

Applications from underprivileged rural folks included queries on: the appointment process of teachers; their educational qualifications; actions taken against teachers for deliberate negligence of duty, e.g. long absences without permission; the role of management committees and their irregularities, etc. Questions were also raised on markings on examinations, including BCS examinations. A case regarding the latter is currently presented before the High Court Division, as a result of a writ petition filed by a complainant against the decision of the Information Commission.

The nature of the queries shows how empowered ordinary citizens feel by the law to demand information of relevance from public authorities whom they greatly feared in the past. Irrespective of whether they receive the desired information, by simply asking for them, they achieved two things. One, they gained confidence that whatever their socio-economic status, they have the right as citizens to demand accountability from public officials and, two, the latter was made to realise that an alert population was now monitoring their work. If more of such demands were made, their impact on removing many other malaises in the education sector can well be imagined!

The role of the educated middle classes, however, should be more crucial. To illustrate with a simple example, let us consider the situation where people begin to ask for information from public library authorities, including those of public universities, on the fund they annually receive from the government for books and other materials, how much they spend in a given year for the purpose and the proof of such purchases. What could be the outcome? Even assuming that a proper answer may not be forthcoming

right away, it is certain that such queries would alert the authorities about proper utilisation of funds in the future. That is no small gain for transparency and accountability.

For the politically and socially aware population that we are, there is perhaps no need for further examples. It may, however, be useful to indicate some areas where RTI could be used to probe different aspects of education. These are: 1) opportunities, including courses offered, eligibility, scholarships, prospects; 2) admissions, including selection process; 3) standards, including quality of teachers and their attendance, libraries and other support; facilities such as girls' toilets, playfields, etc. and 4) examinations, including unfair practices, leaked papers, cheatings, unfair assessments etc. Even a casual reflection would reveal the umpteen number of RTI applications that may arise from these.

Let us conclude by looking at two case studies, illustrating how ordinary citizens are using RTI to correct irregularities in our education system.

Case one: Irked by irregularities in the appointment of teachers in the Khagrachori Hill District of Bangladesh, a local RTI activist, Ripon Chakma, decided to make use of the RTI Act. He sent an application to the Designated Officer (DO) of the Khagrachori District asking for a copy of rules and regulations for appointment of primary school teachers and list of teachers appointed in recent times. He also asked to see exam sheets of those who qualified and were subsequently appointed as teachers.

The DO's initial reaction was to refuse and play tough. When that failed, he asked Ripon to withdraw his application against an informal settlement. As this too did not work, he eventually provided some incomplete information. Being dissatisfied, Ripon appealed to the designated higher authority. In response, the latter invited Ripon to his office and requested him to withdraw his appeal. When that failed, he tried to scare Ripon through local power brokers.

Ripon still decided not to give in. He eventually got the information but with a request that he would not make it public. The officials orally admitted to him that such irregularities did exist but promised that this would not happen again. Ripon decided not to pursue the matter further. He subsequently learnt that due to his intervention, there was a significant decrease in corruption and irregularities in this regard.

Ripon and his colleagues next turned their attention to combating illegal collection of money by school authorities from parents of students at local schools. They raised the matter with the Upazila education officer and apprised him about their intention to submit an RTI application in this regard. The education officer assured them of quick action. Subsequently, the headmaster of the school concerned agreed to return the money he had collected irregularly from students in the name of issuing certificates after year-end examination.

Case two: The headmistress of the local school in Khariya Union of Munshiganj District was notorious for committing irregularities. A group of young residents, being sensitised to RTI, decided to do something about it, particularly with regard to irregularities in the payment of stipends meant for meritorious and underprivileged children.

In April 2014, a few of them submitted an RTI application asking for information on the number of children who received primary education stipends from the school, together with their names and addresses, for school year 2012-2013. The headmistress was furious and scolded the applicants, saying, “How dare you come to me with this! A couple of years ago you were my students, now you dare to seek secret information from me? Go tell your parents that I am not going to disclose any information to you and am also not accepting your application.” Undeterred, the RTI activists discussed the matter further and decided to approach the headmistress again the next day, accompanied by a senior member of the group.

The headmistress once again refused, saying that she was not obliged to reply to underage citizens. At that point, the senior member showed her the text of the RTI Act, drawing her attention to the particular section in the law regarding age. The headmistress refused to budge, whereupon her attention was drawn to Section 4 of RTI Act 2009, which underlined that every “authority shall, on demand from a citizen, be bound to provide him with the information.” At this point she gave in, deciding to respect the law and providing the young citizens with the information they sought.

e. (2015, October 15) Is RTI bringing any real change?

During the International Right to Information Week celebrations recently, a common question in people's mind was: Is the Right to Information Act 2009 (RTI) going in the right direction? Is it contributing to systemic change in the country? Because of its topicality, we decided to make it the focus of this month's RTI column.

A good way to begin with, we thought, would be to go over decisions of the Information Commission (IC) over the last one year to check if significant changes are taking place in the number and composition of information seekers and in the nature and type of information they are seeking; whether information seekers and providers are interacting with each other more professionally; and how the IC is handling the process. The answers would show how the three key sectors of the regime – demand and supply sides and dispute adjudication system – are doing. To round up the picture, we also decided to look into government efforts to help implementation of the law.

We consulted some 252 complaints dealt with by the IC between August 2014 to August 2015, on which decisions are available. We chose the dates because we wanted to begin with the latest available decisions and go back a year. [<http://www.infocom.gov.bd/> Complaints & Decisions 2014 & 2015].

The exercise turned out to be extremely rewarding. Belying our earlier doubts, we ended up with a feeling that significant progress is taking place and there is reason for optimism. Of course, we were also disappointed by many shortfalls that prevail.

It is not within the scope of this column to go into details of our findings. Nor is this an assessment of the work of the IC. They would require a larger exercise. What we wish to do here is highlight the positive developments as well as those that are not so. We would throw in some statistics and a few examples to provide an overall perspective and a flavour of the developments. This, combined with a brief look at

government efforts to promote RTI, would provide a reasonable picture of the state of affairs.

Among more encouraging developments, the following deserve special mention:

- 1) The number of complaints to the IC and the latter's ability to deal with them professionally has increased significantly. While 324 hearings took place between 2010 and July 2014, the number was 252 in a year since then, which is an increase of 80 percent.
- 2) The geographical spread of the applicants/complainants has grown. Complaints originated from 28 of 64 districts of the country. The majority are from Dhaka (92), Satkhira (33), Kishoreganj (15), Kushtia (15), Nilphamari (10), Dinajpur (9), Comilla (9). Some also came from very remote districts. [For more, see: www.rib-rtibangladesh.org] Perhaps they reflect the efficacy of awareness building efforts by government/IC and support from NGOs.
- 3) The composition of applicants/complainants has changed appreciably. While earlier, marginalised communities were predominant, they have been surpassed by the emergence of middle and educated classes. There are more social activists, journalists, educationists and other professionals among the applicants. 13 percent are women.
- 4) As for nature of applications, while the earlier predominant focus on personal issues (mainly safety-net related) is still there (45 percent), transparency and accountability related public interest issues have surged (51 percent). They include malpractices in land record management, distribution of khas (govt.) land, banking sector, educational institutions, health clinics, implementation of public contracts, police work, government audits, work of Public Service Commission, Union Councils, district administration, city corporations, water and power development board, large public sector contracts, Bapex, Rajuk, the Prime Minister's office and so on. This is an amazing transformation from the more sedate and mundane issues of the past. The fact that citizens are asking for sensitive information even from the Prime Minister's office indicates growing confidence of citizens in the system.
- 5) Faced with increased and varied complaints, the IC too has gained in confidence and expertise. It is meeting more regularly and releasing decisions more promptly, contributing to more trust in the system. The IC has sought to justify its decisions, though there is scope for much improvement. One may not agree with all the decisions, but IC's efforts to deal with complaints of such large and varied nature more professionally deserve recognition. A heartening development is its imposition of fines on four defaulting officials in a year compared to a total of three in the previous five years. It has also awarded compensation to five indigent complainants from an indigenous community (Bagdis) to defray their costs for travel and accommodation in Dhaka. It asked the respondents to compensate because of their failure to respond timely to the applications. It also recommended administrative action against defaulting officials. This will endear the IC to ordinary applicants.

- 6) The emergence of a sizable number of RTI activists who regularly submit complaints to the IC is also significant. Statistics show that 99 cases (40 percent) resulted from multiple applications, mainly from activists. In 41 cases (16.2 percent), complaints were renewed for non-disclosure of information even after IC directives. It may be recalled that activists played a critical role in advancement of RTI in India. Delhi Chief Minister, Arvind Kejriwal, was an activist before turning politician.

The discouraging developments include the following:

- 1) Out of 252 cases considered, in 205 cases (80 percent), the officials concerned provided or agreed to provide information only after being summoned and directed by the IC. It shows their continuing reluctance to provide information willingly.
- 2) In 75 cases (29 percent), concerned public officials got away by denying receipt of the applications, though they were mostly sent by registered mail. If this is not checked, it will continue to hinder progress and encourage recalcitrant officials to use this escape route.
- 3) The difficulty, sometimes the impossibility, of obtaining names and particulars of designated officers (DOs) and appeal authority continue to deter applicants. This is compounded by the fact that IC too tends to believe that mistakes in addressing applications/appeals to specifically designated officials would result in rejection. Consideration to allow addressing applications to posts, rather than to persons, is seriously called for.
- 4) The frequent postponement of dates for complaint hearings due to absence mostly of government officials causes serious financial hardship and frustration to indigent/ordinary complainants. Alternative complaint hearing arrangements thus deserve serious consideration.
- 5) In 19 percent of cases, the complainants were absent at hearings, claiming they were provided the information after summons were issued on parties. This may or may not be true in all cases. It would be good to find out if cost of travel/accommodation or intimidation played any role.
- 6) While the IC deserves commendation for having imposed fines on four public officials and awarding compensation to five indigent complainants during the period covered, in most cases (98.5 percent), the respondents got away without any penalty. It may be recalled that the High Court Division, in a 2011 writ petition [Writ Petition 8118 of 2011 cited in CLR (HCD) 2014], took the view that such penalties are to be considered mandatory under the law. The provision is there to chastise public servants for their disobedience of the law.

Turning to government efforts, the most promising is its project titled “Connecting Government with Citizens: Strategic Plan on Implementing Right to Information Act, Bangladesh”, commenced under the leadership of the Cabinet Division. An important initiative of the project is the establishment of District Advisory Committees (DAC), composed of 15 members representing all government offices and civil society in

each district. It is under various stages of implementation. But activities already undertaken appear to have contributed to spreading greater awareness among officials, as perhaps reflected in increased disclosure of information, albeit at the goading of the IC. The Cabinet Division is also providing active support to the IC and promoting publication of annual reports and adoption of proactive disclosure measures by all government offices. Such overt government support to promote RTI is quite unique in South Asia.

For space constraints, we are postponing presentation of case studies to next month's column. We would conclude by saying that if positive trends depicted above continue and negative factors are contained, the future of RTI in Bangladesh appears promising. But to rid citizens' fear of bureaucracy and erase the traditional secretive nature of bureaucratic culture, there is still a long way to go.

f. (2015, November 15) Changing Contours of RTI.

In last month's column we focused on progress of RTI in Bangladesh in the last one year. Due to space limits we could not provide examples to show the changing contours of the applications and the subjects on which they were being made. We intend to do so in this month's column. However, to contextualise the examples, it may be useful to recall the key objectives of RTI first.

The Right to Information (RTI) or Freedom of Information (FOI) regimes evolved globally following the end of World War II premised upon people's sovereignty over all state affairs. Under this concept, all powers of the state belong to the people, therefore, all activities of state organs must be open to them. People, or more specifically citizens, have the right to monitor, query and oversee their work. RTI/FOI laws simply provide a legal basis for citizens to demand and obtain information from public authorities on their work, except for a few exceptions related to state security, foreign affairs and individual privacy. By asking for relevant information in the non-excepted fields, citizens promote adherence by public officials to laws and rules of the land. This contributes to transparent and accountable governance.

In short, the ultimate goal of RTI is to change the way government relates to citizens. It seeks to change the secretive, close-door practices of the past and replace it with a more open and citizen-friendly official culture. The hope is to achieve systemic change whereby public authorities become ever sensitive to peoples' concerns and responsive to their demands.

It is too early to say if RTI is contributing to such systemic change in Bangladesh. Readers may form their own views from the trends the examples below portend. However, to understand what to expect, consider the following examples of India's experience after a decade under RTI.

A survey by an Indian RTI observer, Shyamlal Yadav, published in The Indian Express in its October 28, 2015 edition, has identified "10 ways in which RTI has changed the functioning of the (Indian) government and officials." They include the following:

Restrictions on Ministers' foreign trips: An RTI-based investigation conducted in 2008 revealed that union ministers had made overseas trips equivalent to 256 rounds of the globe. Irrked by it, Prime Minister Manmohan Singh wrote to all ministers asking them to cut expenses on foreign travels. A subsequent RTI intervention showed significant fall in government spending on ministers' foreign travels.

Restrictions on Bureaucrats' foreign trips: Several reports based on RTI interventions exposed huge amounts of public money spent by bureaucrats for their foreign trips. As a result, government circulars were issued asking departments to put details of their foreign trips on official websites.

Disclosure of Ministers' and Bureaucrats' assets: Based on RTI questions put to Prime Minister's office and the Cabinet Secretariat in 2009 and a CIC directive to the authorities to respond to the queries, all ministers began submitting details of their assets and liabilities to the government. This has now become a norm. Similarly, the assets and liabilities of every civil servant are now available in the public domain and updated annually.

Judges' assets: An RTI application in 2010 to the Supreme Court seeking implementation of a 1997 resolution requiring judges to declare their assets to the Chief justice, led the Chief Justice of India to take the position that his office was not a “public authority” under RTI. The legal battle which ensued is still ongoing. But the office nevertheless posted details of assets and liabilities of all judges on its website. This practice is being followed by several state High Courts.

Exam results: As a result of RTI interventions asking for mark sheets, answer keys, etc. related to government jobs, the selection processes of UPSC, IITs, UGC, etc. have become more transparent.

Personal staff of MPs, Ministers: An RTI based investigation by The Indian Express in 2013 revealed that 146 MPs had employed close relatives like fathers, children, spouses, etc. as “Personal Assistants” to keep the sanctioned Rs 30,000 within the family. This prompted the Rajya Sabha Ethics Committee to intervene and the NDA government issued specific directions to put an end to such practice.

Accessible file notings: After several interventions by the CIC, in 2012 the government made file notings available under the RTI Act. This has put pressure on bureaucrats to write file notes more carefully.

Scams exposed: The RTI Act was used to expose several scams including a housing scam that resulted in the fall of the Maharashtra Chief Minister. RTI was also used in 2G, coal blocs and Commonwealth Games scandals.

Income tax returns of political parties: An order of the CIC in 2008 for disclosure of IT returns of political parties triggered a legal battle to bring political parties within RTI fold. Another CIC order of June 2013 declaring political parties to be “public authorities” under the RTI Act has been challenged by the government.

g. (2015, November 16) Changing Contours of RTI, Part II

It would be unfair to compare the Bangladesh situation with the Indian experience (refer to Part I of this column published yesterday). This is mainly because our citizens are not using the RTI Act as much as Indian citizens do in their country. Unlike India, we did not have a long-drawn peoples' movement for accountable governance preceding adoption of the Act. Unless citizens put the law to use with a missionary zeal, real change is bound to be slow. A few statistics may help to understand the differences between the two situations.

In 2015 alone, the forecast in India is that over 6 million RTI applications will be filed all over the country. This will bring the total in the last one decade to around 25 million. Only such huge numbers can generate an average of about 3000 complaints/appeals to the Central Information Commission (CIC) per month. If we compare it to our figure of 926 complaints handled by the Bangladesh Information Commission (IC) in the last six years, the gulf between the two countries become clearer. Expecting systemic change at such a pace is thus a far cry. But there is no reason to lose hope. The pace has begun to pick up as stated in this column last month. The main task is how to accelerate it.

INDICATIONS FROM RECENT DECISIONS OF THE IC

The following case studies based on decisions of the Bangladesh IC in the last one year are cited to show recent trends in the nature and subjects of RTI applications. They indicate that applications are going beyond personal concerns, which we witnessed in the earlier phase, to probing integrity and objectivity of decision-makers. If the trend continues and the number of such applications increases, we may begin to see the proverbial light at the end of the tunnel.

Selection process by Public Service Commission: Thakur Das Malo, Sub-Inspector of Police Kalabagan Thana, sent an RTI application to the DO of BPCS seeking information on the number of posts in the general cadre under 28th BCS exam, numbers reserved for Adivasis/Upojatris (indigenous) candidates, number of Adivasis recommended for appointment at cadre posts, number of Adivasis/Upojatris qualified for the written/viva-voce exam and finally number of posts that remained vacant under Freedom Fighter, indigenous and women quota etc. He was given a response after appeal which he found incomplete and misleading. So he complained to the IC which found the information provided to be justified under the given circumstances.

Union Parishad irregularities: Matiur Rahman of village Kolma, Savar, filed an RTI application seeking information on the amount of money allocated under Local Governance Support Project (LGSP) for financial years 2010-2014, list of development work undertaken with the money including awarding of contract to a particular agent. Not receiving information from DO or appellate authority, he filed a complaint to the IC, which ordered disclosure of the information.

Checking on the Anti-Corruption Commission: Matlu Mollik of Daily Alokito Bangladesh submitted an RTI application to the DO of ACC seeking information on

charge sheets prepared by the Commission between July 1 2014 to Feb 28 2015 together with names and addresses of persons charge-sheeted, case numbers and date of commencement of investigation, date of approval of charge sheet, investigating officer's name and that of the court. At complaint hearing, the IC directed the DO to provide the information sought except the name and designation of investigating officer.

Illegal occupation of land: Arup Roy of Savar asked the Water Development Board, through an RTI application, if a particular piece of land was owned by it, whether it was leased out to any private person/organisation, or, if it was acquired land, information of such acquisition and its present status. Without any result at the earlier stages, the matter went up to the IC. The latter directed the DO of the Board to initiate the process of collecting names of illegal land grabbers, provide the same to the applicant and undertake eviction measures with the help of the DC.

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Non-action by law enforcement agencies: Md. Kutub Uddin of Agargaon, Dhaka, filed an RTI application to the DO of Ministry of Home Affairs, seeking information as to why an accused was not arrested and charge-sheeted in a particular criminal case of Keranigonj thana under Dhaka District. The matter went up to the IC as no response came from the DO or appeal authority. At the complaint hearing, the DO claimed non-receipt of application. The IC asked the complainant to resubmit his application and directed the DO to provide the information.

Corruption in banks: Delwar Bin Shiraj of Bangabandhu Avenue, Dhaka, sought, through an application to the DO of Janata Bank, information on issuance of loans from 2013 to 2015 as recorded in the register book of the bank. Not receiving a response from the DO and the appellate authority, he filed a complaint to the IC. At the complaint hearing, the applicant informed that he got the information the same day and prayed for withdrawal of complaint.

Environment issues: Badshah Miah of Karwan Bazar, Dhaka filed an RTI application to the DO of Environment Directorate seeking information on list of factories which were mandated to install Effluent Treatment Plant (ETP), number of environment release orders provided to ETP-compliance factories, number of ETP-compliance factories which were inspected by mobile court during inspection drives and number of factories fined for non-compliance. Not receiving the information, he appealed to the appellate authority with no result. So he filed a complaint to the IC. Upon hearing both sides, the IC asked the complainant to frame his question more specifically and directed the DO to provide information upon receipt of his reformulated application.

Discriminatory appointment: Nazrul Islam Ajhar, a journalist from weekly Banglacadumi of Joydebpur, Gazipur District, used RTI to seek information from Bangladesh Agricultural Research Institute (BARI) on its practice of appointing labour at its head office and sub-offices pursuant to an executive order and asked if the order was legal. Not receiving an answer even at appellate stage, he complained to the IC which passed an order directing DO of BARI to provide information sought.

Tender irregularities: Saif Ali from Daily Sarejamin Barta of Dhaka filed an RTI application with DO of Police Super office seeking information on a tender invitation for construction of a boundary in Gopalganj district, the names of national dailies publishing the tender, date and name of the company obtaining the contract along with its commercial address. Not receiving the desired information from the DO or the appellate authority, he filed a complaint to the IC which passed an order directing the DO to provide the information requested.

A stark element that emerges from the above examples is that in almost all the cases the information sought was not supplied by the concerned authorities before reaching the complaint stage. They agreed to provide information only at the prodding of the IC. Therefore, if the IC puts greater attention to the matter and starts imposing fines on defaulting officials, it is likely to infuse more life into the RTI regime. However, what is clear is that citizens have begun to understand the potentials of the Act, however slowly. If their efforts are sustained, and larger numbers take the cue from above examples and start to put the law to more vigorous use, systemic change may not be far away.

h. (2015, December 15) Right to Information: Using RTI to get justice.

Since our last column, we were privileged to attend three meetings organised by the government as part of its efforts to promote open and accountable governance in the country through RTI. These included a meeting at the Bangladesh Secretariat where most officials of the Cabinet Division of the Government were present. The other two meetings related to District Advisory Committees (DAC), set up by the government last year, in all 64 districts. The government gazette mandated them "to implement effectively the Right to Information Act at District level as well as for coordination of functions of Government and non-government organisations." DACs are required to meet once a month under the chairmanship of the District Commissioner, with 15 other members representing key sectors of the government and the civil society. If they fulfill their objectives, DACs will provide a much needed shot in the arm of the fledgling RTI regime in Bangladesh.

All the three meetings were moderated by the Cabinet Division of the government. The fact that the government has appointed a secretary level official, with the required staff, to steer its programme titled "Connecting Government with Citizens: Strategic Plan on Implementing Right to Information Act, Bangladesh", is by itself most commendable [see <http://www.cabinet.gov.bd>]. No other government in South Asia has shown such commitment to promote RTI.

From these meetings we learnt what the government has done so far to promote compliance of the RTI Act by public officials. We were shown pictures in which senior government officials were seen signing pledges and handing them over to the prime minister as a mark of their commitment to promote government programmes in this regard. Such pictures will warm the hearts of ardent believers of transparent, accountable governance in the country. However, as they say, the taste of the pudding is in the eating. It is for citizens now to test the will of the government to deliver on its promises.

Government participants at the meetings dwelt at length to express their commitment to implement the RTI Act. Skeptics may not, however, be convinced by their utterances. There are those who still mistrust the government's resolve to steer away from the age-old culture of secretive governance, in which people are mere recipients of government's grace, towards a more open, accountable system where they exercise rights to monitor the work of the government. Despite this, however, those who understand the immense capacity of RTI to serve as catalyst for change would also understand that there is now a tremendous opportunity for citizens to pursue the change they wish to see in governance.

To drive the point farther, it may be useful to remind readers that the RTI Act is the only law, among over 1,100 laws of Bangladesh, which allows citizens to control the behaviour of the government, while the rest are mostly meant for the government to control citizens. Let us now consider a few examples, from home and abroad, to see how RTI can:

- * help individual citizens to claim their legitimate rights;
- * aid citizens' groups to obtain services wrongly denied to them;
- * benefit the entire country by preventing abuse of public power/funds; and
- * speed up processes of government service.

RTI helps individual citizens

A mother in India lost her policeman son in an accident, thus being deprived of the financial support from his income. Her daughter-in-law drew the family pension till she resided in her husband's home. But when she remarried, the modest financial benefit she used to share with her mother-in-law also stopped. The mother was left destitute. She went from one office to another asking about her son's other benefits to support her old age but did not get any cooperation from the authorities concerned. Finally, she filed a complaint with the Central Information Commission. The directive of the Commission allowed her to access all files and their notings about her son's terminal benefits. It also asked the authority concerned why the information was not provided earlier. As a result, she learnt that the benefits due to her amounted to Rs. 4 lakhs.

RTI aids citizens' groups

The Food and Disaster Management Ministry implements many safety net programmes to help vulnerable people living below the poverty line. Among these, a key programme is the Vulnerable Group Feeding (VGF) which provides food ration to indigent households through VGF cards. However, cards are often awarded to less deserving people due to malpractice and nepotism. To combat this practice, the submission of RTI applications seeking a list of recipients and the names of people who prepared the list is often enough for applicants to obtain a VGF card. Fearing unpleasant consequences, the authorities would rather provide VGF cards than answer probing RTI queries. Sometimes RTI activists would ask for quantity of food grains VGF card holders are entitled to receive. In one such case, an activist found that the amount was 10 kgs.

Armed with this information, he went to the Union Council and informed beneficiaries queued up for their ration that their entitlement was 10 kgs and not the 7 kgs they were being offered. After some haggling, the Chairman fixed the amount at 9.5 kgs.

RTI benefits the country as a whole

An investigation into corruption by senior politicians in India sparked public interest when the Controller General of India pointed out that large and profitable coal allocations had been made improperly. This resulted in the loss of millions to the public exchequer and led to a CBI investigation. Fearing a cover up, concerned citizens made RTI applications to learn how decisions to allot large coal mining blocs had been made. At first, information was refused on the grounds that giving it would hamper investigation. However, the Information Commission insisted that the information be provided. Replies showed that procedures had been deliberately changed in ways to benefit the favourites. File notings showed who had made those unfair decisions. When the government claimed some vital files were untraceable, RTI applications were again filed to inspect the movement register of the ministry. This showed where files had gone and how they were suddenly found. The publicity thus generated forced questions in Parliament and deeper explanations from the government. It also forced changes in the way future allocations were made and eventually landed the minister in jail.

RTI speeds up government processes

In a remote village in India, there were no drainage systems or roads to connect to the cities. A housing scheme announced by the government remained unimplemented. Five villagers got together to file an RTI application asking why roads and drains had not been laid and why no disbursement of funds had been made under a government programme. They also asked for a copy of the government survey list which plotted the subsidised housing scheme. As a result, the administration quickly began putting down roads and drains and released funds for the construction of houses. The practice of naming beneficiaries in public lists displayed at the village office ensured that transparency had come to stay.

We hope that as RTI picks up pace, we shall be able to cite more examples from Bangladesh. However, it will accelerate only when more citizens make greater use of the law. There is a particular need for the educated classes to take the lead. As the government exhibits greater intent to make the law work, citizens must put it to test. Their predilection to take the government to task for its failures must now be matched by their determination to make use of the RTI Act for greater transparency and accountability in governance.

i. (2016, April 13) Right to Information - Is it catching on in Bangladesh?

There are different ways to measure how the Right to Information (RTI) regime is working in a country. A common measure is to see if citizens' demand for information to public officials is increasing steadily. This would indicate that they are becoming

more aware of the law and its importance in exercising their democratic right to monitor the work of the government and its machinery. By doing so, they also seek to ensure that public officials are transparent in their work, abide by the laws and are accountable to citizens.

Another measure is to see if public officials are becoming more alert to their duties to citizens and responding to their demand for information in a timely and courteous manner. The idea is that improvements in this regard will eventually lead to systemic change in the way they serve people.

At a different level, the progress of RTI can also be assessed from the nature of information citizens seek from public officials. They resort to the law for various reasons. They may ask for information for personal needs or grievances, like the status of their application to a government office, say for a passport or a license or for electric or gas connections or benefits under a safety-net programme, such as VGF cards, old age or maternity benefits etc. By resorting to the law, they basically convey to public officials that the days are over when they could hide behind the shield of official secrecy to deny citizens their right to know how they go about their jobs.

Beyond personal interest or grievances, citizens may also ask for information that concern welfare of their neighborhood. They may ask, for example, for information relating to repair work on a road or a bridge - when will they be completed, who are the contractors, how were they chosen etc.? This they do to check if any unfair practices are involved.

Information may also be sought on matters that affect the well-being of all citizens. For example, issues concerning the construction of a nuclear power plant - whether the necessary safety measures are in place and compliance with relevant laws has been ensured.

At a higher level, citizens may also ask for information that relate to policy matters, governance issues, legislation, performance of people's representatives and the like. Experience has shown that as people become used to RTI and understand its potential to impact governance, they learn to scale-up their demand for information, going beyond personal matters to include those that are linked to the good of the society and nation as a whole.

On these counts, how does RTI fare in Bangladesh? To answer, let us consider the indicators identified earlier. To begin with, the quantum of the use of the law by citizens is still negligible. That people's awareness of the law is very limited is obvious from the relatively small number of information requests made to public offices, though it is increasing.

Unfortunately, there is no dependable way to know exactly how much use is being made of the RTI Act by people from different walks of life. NGO experience shows that many RTI applications from marginalised communities do not get recorded as those who obtain benefits by simply using the law do not care about receiving a formal response. Officials concerned also do not wish to record applications and may

even avoid reporting them to concerned offices, as they often resort to irregular practices to dispose them off. More importantly, no dependable mechanism has yet been found to collect information from all sources. So the numbers reported by the Information Commission may not be fully correct.

There is, however, a surer way to assess qualitative progress by checking the decisions of the Bangladesh Information Commission (BIC) and analysing categories/nature of information citizens seek, which lead to complaints for denial. In this month's column, therefore, we decided to check if RTI applicants are scaling up their demand for information from more mundane personal benefit/grievance-oriented subjects to larger transparency and accountability issues, affecting collective wellbeing of society as a whole.

We looked at over 80 decisions of BIC, covering the period from October 2015 to February 2016. Our objective was limited to assessing the subjects of applications rather than analysing the decisions themselves. We reserve that for a future column.

Readers may recall that in some earlier columns we had stated that in the initial phase, the RTI Act was largely used by underprivileged and marginalised communities, helped by NGOs, to access their claims under various safety-net programs of the government. However, in the past couple of years, more and more middle class applicants have come in and begun to seek information of a more varied and multifarious nature.

Following are a few examples of information sought by RTI applicants in recent months. They are presented as bullet-points due to space limitations. Applicants wanted to know from concerned authorities:

- percentage of railway tickets reserved for VIPs, railway officials and ordinary citizens.
- amount of money allotted to a MP for development work in his constituency, the amount spent on each project, including proof of expenditure.
- list of services provided by a Upazila Health Centre with names of doctors and list of medicine distributed free, including names of recipients.
- amount of money provided by a Upazila Council to a Union Council for development work, projects undertaken and statement of accounts.
- action taken against persons involved in leaking question papers of public exams.
- number of primary schools in a given Upazila, number of vacant teachers' posts and teachers on leave prior to retirement (LPR).
- amount of money spent by a Cantonment Board in past four years, how much of it was provided by the government and how much from own funds.
- membership of school management committees and resolutions of their meetings.

Majority of other applications were of a similar nature. They show that citizens are increasingly asking for information, which bear on transparency and accountability of

public bodies and their adherence to the laws. This forebodes well for the future of the RTI regime. But more such applications are required for systemic impact.

Before concluding, a closer look at a case study may help readers understand the appalling disdain of government officials to citizens' demand for information. The case relates to an RTI application addressed to the Officer-in-Charge of a local police station asking if an order of the High Court on a writ petition filed by the applicant had reached the police station. As the latter refused to receive the hand-delivered application, the applicant re-submitted it by registered mail. When this too yielded no response, he filed a complaint to BIC. The latter had to fix a third date for the hearing, as the respondent police official failed to appear on the first two. On the third day too, he failed to appear, though served with summons by a more secure method. So, the hearing took place in his absence. After considering all factors, BIC decided that the police officer should not only provide the information sought by the complainant but also pay a fine of Tk. 5,000 and face disciplinary action for his brazen disregard of the law.

The case highlights the attitude of many public officials who continue to believe that they are above the law and can disregard it at will. In fact, in majority of cases considered by BIC over the years, the defaulting public officials agreed to provide information only after being summoned to complaint hearings. This is a sad state of affairs and calls for serious corrective measures, including more frequent use of penalty provisions of the law.

j. (2016, October 17) "Right to know", not "need to know"

How often do we make use of our networks to get the information we need? Whether the transformer in the neighbourhood is out of order or a relative needs a new passport, we instinctively reach for our networks: old school friends, colleagues, extended family and contacts. Networks are as old as humanity. But what about when we want to hold our government accountable, when it is not just about my need for information but my right? That is when we reach for the law.

The overwhelming majority of Right to Information (RTI) laws around the world were enacted in the last quarter of a century, following the end of the Cold War. They became one of the fastest growing legislations in the contemporary world. States are ranked today on the strength of their RTI/Freedom of Information laws to ensure the transparency and accountability of their governments to citizens. In South Asia, the Indian RTI Act is ranked 4th in the world, Sri Lanka 9th, Maldives 12th, Bangladesh 23rd and Pakistan 89th. With a clear global trend towards recognition of this important right, its inclusion as target 16.10 in the recently adopted Sustainable Development Goals (SDG) was logical.

Good legislation alone, however, cannot be the sole measure of efficacy of the law. That depends largely on how it is implemented. The global debate on RTI/FOI laws is, therefore, increasingly focused on assessing whether it is contributing to unveiling the traditional culture of official secrecy and making governance more open to people.

The key questions raised include: are public officials becoming more respectful of the law and responding positively to people's demand for government-held information? Are the provisions of the law being interpreted correctly? Is the law helping to change the age-old bureaucratic mindset of public officials and contributing to systemic change in governance?

Very little, if any, substantive discussion on the above questions is taking place in Bangladesh. Such discussion would include the use of RTI by citizens to contribute, individually and collectively, to making the government more transparent and accountable; to fight corruption in public offices; to assess if systemic changes are taking place; to devise strategies for effective collaboration between citizen-groups and public authorities for progressive improvement in the implementation of the law; and more.

When the journey began seven years ago, our focus as a nation was understandably on proper dissemination of the law and establishing the required mechanism for its implementation, including creating demand and generating applications for information.

The law was premised on a very new concept, which challenged our historical experience in citizen-state relationship - acquired since colonial times - and which opened up revolutionary possibilities for a fundamental change in that relationship. Instinctively, we chose the easiest path, which was to use the law primarily to redress personal grievances. In this way, marginalised communities and poverty groups in the country were able to use the law to obtain their due benefits from the government's safety-net programmes.

However, since we have now gained some experience and have been enriched by knowledge gathered through growing interaction with RTI/Freedom of Information networks throughout the world, the time has come for us to recognise that there is more to the law than simply using it for benefits to individuals or small groups.

The RTI Act evolved globally as an instrument to empower citizens to oversee the work of the government, to monitor its activities, to help fight corruption and make public officials more citizen-friendly and law-abiding. This explains why the progress of RTI has been made a target in the SDG. RTI captures the essence of democracy in which power belongs to the people, who rule through their representatives, who serve the people on basis of the laws of the land and where citizens collaborate with the government to strengthen good governance.

Citizens can ask for any information, except for those specifically exempted under the law, from the concerned public authority. The latter is not entitled to ask why the information is “needed”. The basic assumption is that citizens seek information under the Act to exercise their right and to fulfill their role in strengthening transparency and accountability in the work of public authorities. The “need” for information does not figure in the law.

Focusing on the “rights” aspect will encourage the middle and educated classes to use the law, which has not been the case so far. Most members of the middle class currently claim that they avoid asking for information from public authorities for fear of possible reprisals; and in any case, they can obtain any information they may “need” through their networks.

However, the “need to know” may vary from person to person; the “right to know” belongs to all citizens. If the focus is firmly placed on “rights” – and the power of the law to compel public officials to respect that right is properly propagated – it is likely that citizens of the country who are well-known for their social/political activism and always maintain a critical watch on the government would be more likely to make use of the law. If influential social and political activists use the law, they set a trend for its broader fulfillment. Irrespective of what an activist's agenda may be, as observers and advocates for RTI, our role is not to judge but to encourage the use of the law.

In this context, we can ask if those agitating against the Rampal coal-based power project near the Sundarbans are fully aware of the RTI Act and its potential to advance their cause. RTI is effectively used by environmentalists in many countries.

Upholding the “rights” aspect of RTI and firmly rejecting the often wrongly-imposed “need to know” requirement in its application can be a useful strategy to advance the use of RTI by all sections of the society, particularly the socially/politically aware population. A “right” requires a commitment from an authority to respect. RTI imposes that commitment on the government. Our government has assumed that commitment by adopting the RTI Act. It is for citizens to effectively utilise that right.

k. (2016, December 15) RTI Act: Learning how to use it.

Despite the political turmoil that engulfed much of the first two and a half decades of Bangladesh's entry into the 21st century, we have fared remarkably well in terms of development and economic growth. While serious governance issues persist, accompanied by socio-political unrest, there is a consensus that the country is going through fundamental changes. We are moving away from the image of a poverty-stricken, trouble-ridden third world country and surging towards becoming a middle-income country soon.

Important questions, however, remain on the future course of development. What kind of a nation is Bangladesh going to be? Will it move towards authoritarianism or become more democratic? Will economic progress be at the cost of good governance or will the two proceed in tandem? Will political and sectarian tensions affect future economic growth or will rule of law bring stability and co-existence among differing groups? In short, will Bangladesh abandon its troubled past and emerge as a stable developing nation?

There are, of course, no simple answers to these questions. Nor is there any inevitability in the likely course of development. The outcome could be a combination of factors. While the government's role is key to spur development and create

conditions conducive to sustained growth, active participation by citizens is vital. Since in a democracy people are the final arbiters of state powers, they have the responsibility to ensure that the government exercises its authority responsibly. By keeping watch on its performance, citizens make the government accountable to them. Accountability is recognised as key to stability and good governance.

To talk about monitoring and controlling the work of government would be sacrilegious not very long ago. But the Right to Information Act 2009 (RTI) has now given citizens a legal right to do so in practice. A watchdog role for the people is envisaged in the law, which states: it is “expedient and necessary to make provisions for ensuring transparency and accountability in all public, autonomous and statutory organisations and in other private institutions constituted or run by government or foreign financing.”

Every authority which uses or benefits from public funds falls within the ambit of the law. Citizens can now seek and obtain information from public authorities that would shed light on their integrity and diligence. There can be no better tool to keep public authorities in check.

Despite such clarity, however, the law has remained underutilised. Misunderstanding about its objectives abound among all classes of citizens. Many still perceive it simply as a tool to obtain information they may need occasionally, not realising that information under the law is a tool for an end, which is to establish transparency and accountability of public offices. Because of such misperceptions, people who are traditionally afraid to approach government offices are reluctant to use the law.

It is important, therefore, that citizens, particularly the middle class, who have traditionally been at the forefront of all progressive movements in the country, fully understand the purpose and power of the law. They must realise that RTI provides them the possibility to make public authorities more responsive and law-abiding. At the very least, RTI queries make public servants aware that their work is under public scrutiny; occasionally, inquiries may unearth wrongdoings or irregularities in their work. Over time, this may lead to systemic change in bureaucratic culture.

In the seven years since the RTI Act came into force in Bangladesh, the law has been used mainly to seek information of relevance by individuals and groups. It has helped them obtain benefits from authorities under various laws, such as those relating to social safety net programmes. Their RTI queries often made authorities wary that their misdeeds might get exposed. Such results may be called first degree outcomes.

But other, more socially beneficial outcomes are also possible. Second-degree outcomes would be those which over time lead to transparency and accountability in the work of public offices. Third-degree outcomes are those that bring overall systemic change in governance.

How can such outcomes be brought about? The approaches may vary but there are some basic elements. The first task is to know the types of information, relevant for the RTI process, that are available with public authorities. Survey of RTI literature discloses

several categories which formed the basis for most RTI applications globally. These range from institutional information about internal regulations and mechanisms of an authority to organisational information, indicating who does what in an organisation. They also include budget details and information on lists, registers, databases held by the authority, and operational information including strategies, plans, policies, activities, procedure, reports, evaluations and so on.

Armed with this knowledge, the next task is to identify issues that require probing. These generally include questions relating to health, drug standards, food adulteration, industrial emission, environmental pollution, education, tendering and procurement, construction of bridges, roads and highways, building permits, government assistance and subsidies, water supply and corruption issues.

After identification of the issue, the objective for RTI intervention must be determined. Most applications are aimed to find out if public policies, laws, rules and regulations are duly followed. Others seek to ensure transparent and corruption-free decision-making. In short, the important thing to remember is that the law has been framed to combat personal, political, class or group interests in the work of public offices and promote public interest in all state activities.

Once the issue and purpose have been determined, the drafting of the application would require some careful attention. It must be made in the prescribed format to be obtained from the website of the Information Commission. It is important to remember that some types of information are exempt from disclosure. These include matters relating to national security, foreign relations and individual privacy. Another useful point is that the RTI request must be specific and unambiguous. It must relate to existing information which is available with the authorities in one form or another, as described above. The authorities are not required to answer “why” questions, provide explanations or concoct information.

It is time that all citizens take note that the RTI Act has given them a tremendous opportunity to play a critical role in state-building. We can help the government to ensure that public authorities abide by the law and arbitrary decision-making is replaced by transparent and accountable governance. We can do so without fear, as we are now legally empowered. This is a proven way to build our democracy and strengthen public institutions, while we move ahead as a confident nation.

I. (2017, July 15) Eight years old: How is the Right to Information Act faring?

"The freedom of a nation cannot be upheld by laws alone, but also by the light of the nation and knowledge of their use." These words by Anders Chydenius, a Swedish enlightenment thinker and politician of the eighteenth century, had set the ball rolling for the adoption of world's first freedom of information law in Sweden and Finland in 1766. Since then around 115 countries/territories have enacted similar transparency laws.

The Bangladesh Right to Information Act (RTI) 2009 was inspired by the same objective of empowering citizens with the right to know how the government exercises its authority under the laws of the land. On July 1, 2017, it completed eight years since it became operational with the establishment of the Information Commission of Bangladesh.

The anniversary provides a good occasion to assess how the law itself and the Information Commission have fared over the years. The exercise is equally important in relation to the implementation of Sustainable Development Goals (SDG) 2030, of which RTI is an integral part. To obtain a good rating when Bangladesh's RTI use is measured against international standards, we must identify the shortfalls and mend them quickly.

We can base our assessment on the Information Commission's Annual Report 2016, combined with the perspectives of individual users of the law, activists engaged in its promotion and media reports and emerging literature on the subject.

The speech delivered by the Honourable President of the country on “International Right to Information Day” last year indicates support to the RTI Act from the highest level of government: “Having or not having the right information is like living under light or darkness. Just as light shows the path to human wellbeing and progress, right information helps citizens to claim their legitimate rights and dispel corruption and unfair practices from society. Contrarily, darkness promotes misfortune and spreads corruption.”

Is the Information Commission living up to the claims of the government and the expectations of the people?

The Annual Report shows that in 2016, some 6,369 requests for information were made to public authorities. Of these, over 95 percent were provided with the information sought.

539 complaints were lodged with the Information Commission by disgruntled information seekers. Of these, 364 were accepted for hearing. The rest were either rejected for faulty submissions or decided without a hearing.

From 2010, the first year of the law, the number of requests for information declined from 25,401 to 6,181 in 2015. Altogether, some 82,412 RTI applications were recorded in eight years. One may ask if this is a respectable figure for a country of over 160 million people.

A quick comparison with our two giant neighbours, India and China, may help. In 2015-16, some 1.2 million RTI requests were entertained by public authorities under the central government of India alone, of which 94 percent received positive responses. During the same period 106,556 appeals and complaints were resolved by the Central Information Commission (CIC). The numbers would be much higher for the entire country if State figures were added.

For China, the available figure was 1.5 million for the year 2011. Of these 85 percent resulted in disclosure. Who would have thought that a transparency law would work under a totalitarian system?

Lest readers attribute the large numbers to population sizes, the following figures from countries with lesser populations than Bangladesh may help. The UK FOI requests in 2016 numbered 45,415. The figure for Australia for 2015-16 is 37,996. It shows that population size does not determine use.

It would be simplistic to claim that the Bangladesh Act is failing. A transparency regime, by nature, makes slow progress. It takes a long time to break away from a deep-rooted culture of official secrecy and change people's mindset forged over centuries.

A more constructive position would be to check if we are going in the right direction and if corrective measures may change the situation. Some positive indications are available from the Annual Report, including the following:

The list of issues on which RTI requests were made in 2016 show a growing maturity of users. Many more requests now relate to public interest and transparency/accountability issues, and not simply to personal needs.

The overwhelming use of the law by marginalised communities is slowly giving way to more users from the middle and educated classes. More requests are now made to Central Ministries and authorities, departing from the earlier focus on local bodies.

The emergence of a breed of passionate RTI users, named in the Annual Report, is another notable development.

The Designated Officials (DOs) appear to be less likely to get away by falsely claiming at complaint hearings that the RTI requests never reached them.

The Information Commission is slowly moving towards making greater use of penalties on defaulting DOs. Seven DOs were fined in 2016 alone, which is more than 50 percent of the total of 12 imposed till then.

Written decisions by the Information Commission on complaint hearings are in many cases better reasoned and articulated. It indicates evolution of a good jurisprudence.

Let us also pay heed to less encouraging trends so that we may address them.

The practice of rejecting complaints on procedural grounds continues to be a key factor impacting negatively on prospective applicants. The Annual Report shows that 70 out of 175 complaints (40 percent), rejected by the Information Commission was because applications/appeals were not addressed to the right persons.

The non-appointment of DOs, or their non-replacement upon transfer, is linked to the above factor. So far around 24,103 DOs have been appointed against a possible figure of 39,000 for the whole country. Where would applicants go when no DOs are appointed or the authorities disregard the directives of the Information Commission to appoint them?

The time taken by the Information Commission to resolve complaints sometimes exceed the legal limit of 75 days by many times. It is known to postpone or reschedule hearings frequently at the urging of powerful authorities. This causes much frustrations, lengthy delays, increased expenses and undue suffering to ordinary complainants.

The practice of resorting to one-party hearing by the Information Commission to resolve complaints disappoints users who find it contrary to basic principles of justice.

A growing practice of the Information Commission to declare a complaint to be “sub judice”, if a writ petition on a similar claim remains pending in the High Court, is another source of frustration. Many complaints are kept hanging on this ground though clear precedents exist.

We hope that this analysis of the implementation of RTI in the country would help all concerned—the government, the Information Commission and citizens—to

appreciate that the potential of the law can only be achieved through their combined efforts. While there are reasons to worry about the low use of the law, there are also some gleams of hope.

The government must provide the necessary moral and ancillary support to help the Information Commission undertake the required corrective measures. It should ensure inclusion of legal expertise in future composition of the Commission. On its part, the Commission must strive to win back citizen's trust by earnestly removing all impediments in the use of the law and setting examples of its own transparency and accountability. This should enhance growth.

Let us keep in mind that “there is not a crime, there is not a dodge, there is not a trick, there is not a swindle, there is not a vice which does not live by secrecy.” (Joseph Pulitzer). Together, we can pierce the veil of secrecy from the work of public offices. It would strengthen our democracy and promote good governance.

m. (2018, July 15) 9 YEARS OF RTI: Has it lived up to the expectations?

Nine years ago this month, the RTI Act 2009 of Bangladesh was born. It came at a time when the entire nation was filled with a deep sense of relief and hope for change and reforms. The country had just held one of the fairest of general elections in its troubled history, after long spells of non-representative and military-led governments. A popularly elected government had assumed power. In such a positive milieu, the adoption of the RTI Act by the new government was both symbolic and radical. But has the law lived up to the expectations?

“The radical, modernising and democratic symbolism” of RTI laws is the subject of many recent studies which seek to understand this global phenomenon—radical, because it seeks to banish the tradition of secrecy in governance and replace it with transparency and accountability; modern, because it promotes active participation of people in governance as an essential element of development and progress; and democratic, because it recognises people's supremacy over the state by giving them the right to monitor government work.

The recent studies show us that RTI fares better where ground realities are “shaped by long-term social and political changes, as the case for secrecy gradually erodes amid institutional reform, changing societal attitudes and technical advances.” Lack of such realities hinders growth.

Another study found that the existence of a deep-rooted culture of official secrecy impacts negatively on its implementation. According to the study: “The UK represents one of the most challenging environments for FOI (RTI) in a developed democracy and one of the least conducive to success... UK carried a reputation as the developed world's most secretive democracy.” This was attributed to the existence of numerous “Official Secrets Acts”, which contributed to a “culture of secrecy which dominated British public life and symptomatic of the secret nature of the state.”

Other studies focused on the nature of RTI requests and the background of people who made them. Some found that the law does well where social activists,

journalists, researchers and political parties make greater use of the law than private individuals. In other words, the law flourishes where it is used for broad social issues instead of mere personal interests.

How does the Bangladeshi situation relate to the above findings? On the relevance of ground realities, recall the context in which the RTI Act 2009 was adopted. During the years of its growth, Bangladesh suffered severe political upheavals, causing grave instability and deep social division. There was little scope for citizens to make meaningful demands for change. Issues like citizen-state relationship, transparency and accountability in governance were raised from time to time but never crystalized into popular demands.

In the euphoria that gripped the nation for renewal when the new government assumed power in 2009, there was little alternative for it but to attend to the call for change. It chose to embrace the RTI Ordinance 2008, which was promulgated by the outgoing interim government, and adopt it as an Act of the new parliament. In less than three months, the RTI Act 2009 was born.

But in the rush to adopt the law, without any discussion or debate in the parliament, the country missed an opportunity to flesh out its pros and cons. This, as we saw later, had a clear negative impact on its implementation. A law that called for fundamental changes in the way a government relates to citizens cannot work unless both sides are fully aware of the role they must play under it.

Added to this is the existence of a deep-seated culture of official secrecy, for which the Bangladeshi experience is comparable to that of the UK. It was inherited, together with the system of governance, from colonial times. As was aptly described by a British scholar: “The Westminster system, with its executive dominance, one-party government and strict lines of control, made both for power hoarding and, as a corollary, information hoarding.”

The RTI ship in Bangladesh was thus set to sail on uncharted waters. Citizens of the country, for whose empowerment the law was ostensibly enacted, were left largely unaware about their enormous responsibilities to make it work. Public officials, tasked with providing the requested information to citizens, were unprepared to give up their tradition of official secrecy. The Information Commission was given a herculean task to steer the ship without the necessary know-how. They had to learn on the job. The government, too, was largely unaware of its responsibilities beyond the adoption of the law.

With such an uncertain beginning, it is indeed creditable that the RTI ship of Bangladesh is still afloat. However, it is still a rickety ship in which we hope to reach shore.

The number of people using the law is still miniscule compared to the size of the population. The focus of the few who use the law is still largely limited to matters of personal interest, such as how to obtain benefits from government entities at the local level. This is indicated in the reported 95 percent positive responses to all RTI

requests made in the country. The use of RTI on matters of public interest, like malfeasance in governance, corrupt practices in awarding government tenders, misuse of power, etc., is still few and far between.

The lack of awareness of public officials about the law is aggravated by the attitude of many who, though aware, are reluctant to abide by it. This is obvious from the over 2,000 decisions that the Information Commission has made, over the last nine years, on complaints received from aggrieved applicants. The decisions are replete with examples of senior officials discouraging their subordinates from disclosing requested information, relevant officials refusing to attend complaint hearings even after repeated summons, and so on. Many complainants lose time, money, and heart—leading them to abandon the process.

In the midst of such difficulties, the tasks of the Information Commission have multiplied. As for the government, after a lapse of time, it has tasked the Cabinet Division to play the role of a nodal agency to promote implementation. It has initiated a number of useful measures to enforce compliance by government officials. We are yet to see the results though.

To meet the various challenges, it is time the main protagonists of RTI in the country, namely, citizen's groups, the Information Commission and the Cabinet Division of the government, work out a common strategy. Clearly, the most urgent need is to promote greater and more relevant use of the law. If we continue to use it largely for trivial matters of personal interest, and not for vital issues of public concern, there will be little for us to demonstrate its positive impact on governance and on implementation of Goal 16 of the Sustainable Development Goals (SDGs), which includes effective use of RTI.

By this time next year, let us be ready to celebrate the “Decade of RTI in Bangladesh” by demonstrating, through relevant data, that RTI in Bangladesh is on the right track.

n. (2018,December 15) Progress and regress of RTI in Bangladesh.

As the Right to Information (RTI) regime nears completion of its first decade of existence, we asked a few scholars, advocates and users of the law for their views on its progress so far. Results were mixed.

A common view is that Bangladesh's RTI regime has not lived up to its expectations. Many are just happy that the law continues to exist, however waveringly, and has not withered away, as some had feared. They hope that over time, citizens and public officials alike will get used to the law and discover its immense value for the future of democracy in the country.

Others are discouraged by the paltry figure of 7,000 RTI requests on an average annually, which too has largely stagnated in recent years. They feel that for a country with over 160 million people, this doesn't augur well for the future of the law. They are afraid that it may end up as a paper law.

The majority, however, take a middle position. They feel that though the law has not flourished as well as it should have, there are indications that it may do better if

serious attention is given to the challenges identified over years. We feel the same way. We have highlighted many of the challenges in this column before.

To learn more about contemporary challenges, we looked into recent decisions of the Information Commission (IC) on complaint cases. They often provide a comprehensive picture of the entire journey of an RTI request. Of course, such cases represent only about 15 percent of all RTI applications filed in the country.

As we reviewed the general opinions against the IC decisions themselves, it was apparent that the law has both progressed and regressed in recent times. While some positive developments have taken place, which raise our hope, the continuation of the old and emergence of new negative practices, both on the part of public authorities and the Information Commission itself, cause us concern.

The good news is that a large number of private authorities, who were previously considered to be outside the ambit of the law, have now been brought within its fold. The Information Commission, together with the government, has officially included all private banks of the country to be covered by the definition of “authorities” with whom citizens may file RTI requests directly.

This is welcome news indeed. Private entities are normally excluded from the purview of the law in most countries. Bangladesh has set an example in this regard.

It would have been more useful, though, if we knew the rationale for the decision. We only know that, faced with a complaint from a citizen who was refused information by a private bank, the IC sought the opinion of the Law Ministry if private banks could be specifically included in Section 2 (2) (vii) of the Act. According to the latter, “any organisation or institution as may be notified in the official gazette from time to time by the government” would be considered as “authority” under the law.

In its response, the Law Ministry simply held, without giving any reason, that private banks should indeed be considered as covered by the law. Subsequently, the Ministry of Information issued the notification through official gazette.

Determining whether an entity is an “authority” under the law often requires interpretation of the substantive provisions of the definition provided in the law. This is both a prerogative and responsibility of the IC. We do not know why the IC did not exercise that prerogative. Of course, we welcome the end result but believe that an exposition of IC's reasoning would have been even better for democracy.

Private entities are normally excluded from RTI law simply because the latter is premised upon the fact that citizens are entitled to monitor the work primarily of those authorities which use public funds. Problems arise where private entities may not benefit from public funds directly but interact with the public more closely than many public bodies. Should they not be accountable to the people? The question is a matter of much debate globally.

A global approach has, however, emerged whereby private bodies which have to abide by government regulations are indirectly brought within the RTI fold through

the regulatory path. For example, citizens aggrieved by stale food at private restaurants may ask for the government food inspector's inspection report. The Bangladesh IC too has taken this approach wherever appropriate. We laud its position.

These laudable developments have, however, been marred by many less generous and sometimes outright negative positions taken by the IC in dealing with citizens' complaints. In one particular case, the IC's ire against a frequent complainant was expressed through having the local police check on his antecedents. The police found nothing on him, but the action sent a wrong message to prospective users.

It must be remembered that the law does not restrict any citizen from asking for any information from a public authority without providing any reason or justification. The concerned authority may refuse to disclose the information, if permitted by the law, but it cannot reject a request or suspect the motives of a claimant simply because voluminous or even nonsensical or frivolous information is sought.

In another case, the IC found it necessary to investigate if any unfair motive lay behind large number of requests made by two frequent users of the law. However, even if the nature of their requests could arguably give rise to suspicion, a better approach would have been for the IC to look into the matter first by calling in the applicants instead of asking the police to do so.

The observations of the Supreme Court of India in an RTI case where excessive workload of a public authority was invoked may be instructive here. After underlining that public authorities must realise that the era of transparency has arrived, the Court went on to state categorically that: "Additional workload is not a defence. If there are practical insurmountable difficulties, it is open to the...bodies to bring them to the notice of the government for consideration so that any changes to the Act can be deliberated upon."

If we wish to see an unhindered growth of the RTI regime in Bangladesh, we must take note of the underlying message. An accommodating approach towards the few RTI users in the country who have persevered to apply the law, will have a salutary effect on the regime.

Improvements in some other areas will also be useful. Many designated officers of public authorities are still reluctant to attend complaint hearings at the IC, even after repeated summons, leading to frequent postponements. One hearing was postponed more than eight times. Such delays cause unnecessary hardship for ordinary citizens, including cost in money and time, and are very discouraging. The law provides clear guidance to deal with such dereliction of duty. There is a growing feeling among RTI users that the IC is more lenient towards government officials compared to ordinary applicants. Such impressions must be avoided.

We also found that the IC continues to deny even a hearing to many complainants simply because of procedural errors. Some indulgence here, as practised in many countries, will be helpful.

We hope that our observations would be taken by all concerned in the constructive spirit with which they have been made. As the law benefits us all in the country equally, we need to work together for its success. Let us hope that in the forthcoming general elections, political parties will renew their commitment to uphold the objectives of RTI Act 2009, and whichever government comes to power will take it forward.

o. (2019, January 14) Stop-and-go: Use of RTI in Bangladesh.

International observers who follow global trends on the progress of transparency and accountability instruments, such as Right to Information (RTI) or Freedom of Information (FOI), which have witnessed phenomenal growth in the last three decades, are often asked if the laws have fared well in their new abodes with varying levels of democratization.

One way of observing the progress of the law in any country is to assess existing trends and the nature of its use. The decisions of the Information Commission (IC) are a good indicator of the state of RTI in Bangladesh. A random selection of all the IC decisions made in 2018 provides a flavour of the types of RTI requests made by citizens and the authorities to whom they are made. They also indicate how receptive—or not—the authorities are to citizens' requests for information.

The decisions also serve as a yardstick to assess the approach of the IC in dealing with issues raised in the complaints, as well as how it applies the provisions and objectives of the law.

A quick glance at the decisions show that the majority of RTI users in the country continue to see the law primarily as an instrument to obtain information for personal needs or to unearth the wrong-doings of public authorities. In other words, their main focus is on the transparency and accountability objectives of the law.

That the law has many other uses beyond these objectives appears to be lost on our citizens. These are only the tip of the iceberg. Underneath it lies a whole range of functions which include extending the knowledge base of citizens on important national issues and developing closer interaction between citizens and the government. They may or may not be directly related to transparency and accountability but are nevertheless very important objectives.

We shall cite only three decisions here. Readers may wish to look up their fuller versions and other decisions from the IC at the commission's website.

In decision number 08/2018, the applicant asked the Designated Officer (DO) of Bangladesh Livestock Research Institute for information relating to the appointment of a Procurement Officer for the institute. He sought copies of the advertisement for the post, where and when it was published, photocopies of exam papers of candidates and other relevant documents.

Not receiving a response from him, the applicant appealed to the Appellate authority of the institute, following which the DO asked him to reapply, since the font of his

email application was apparently broken in transmission. The applicant refused this argument and complained to the IC for relief.

After listening to the arguments of both sides, the IC simply directed the institute to provide the information sought by the complainant minus the photocopies of the papers of all examinees. These could not be provided as the applicant himself was not an examinee, and had no right to see the written papers of other examinees, which are their intellectual property.

In decision number 09/2018, the applicant asked the Office of the Divisional Customs and Bond Commissionerate, Savar, Dhaka, for various information dating as far back as ten years, which included the number of vehicles seized for illegal transportation of goods from the premises of various authorities, the names of the owners of the vehicles, particulars of the vehicles and the dates of their seizure. He also wanted to know where the seized vehicles were kept, whether cases were filed in accordance with Customs rules, whether the vehicles were released after payment of fines, the amount levied and the section of the law under which they were released.

Not receiving a response, the applicant appealed to the appellate authority of the institution, which too did not respond. He, therefore, complained to the IC which summoned the parties to a complaint hearing.

At the hearing, the DO of the Commissionerate claimed that he was new to the post and discovered only recently that his office began recording information, as required under RTI regulations, only four years ago. As such, he would be able to provide the information for those four years only. Based on this assurance, the IC directed him to do so accordingly, overlooking the penalty prescribed by the law for non-response to RTI requests in time.

This is another proof that in the overwhelming number of complaints filed with the IC, where DOs agree to provide the requested information only at the hearing, they go away unpenalised for not doing so in time. The prevalence of this practice since the beginning appears to have emboldened institutions to disregard RTI requests unless compelled to do so.

In decision number 20/2018, the applicant requested the Headmaster of a Government High School to provide the annual statement of income and expenditure of the school for years ranging from 2012 to 2017; list of students admitted for 2016-17 school year; vouchers for all expenses incurred in 2016-17, and the list of all teachers of the school.

As usual, not receiving a response within the stipulated period, the applicant appealed to the appellate authority which too did not respond. So, he complained to the IC.

At the complaint hearing, the headmaster stated that the accounts of the school were regularly audited by the appropriate government authority and he had no problem to share them with the applicant. But the applicant, who is a local journalist, is known

for abusing his background to extort money from different sources. He was nevertheless called over the phone and asked to deposit the required government fees to obtain the information and come personally to fetch them. As he failed to do so, the information could not be provided.

The Commission took the position that as the headmaster was unable to produce a copy of his letter asking the applicant to deposit the required government fees and as the right place for dealing with his allegations against the complainant was the court of law, he should respect the right of the applicant to seek and obtain the requested information, except for the list of students, which may affect their personal security.

The three examples reveal the general tendency of the authorities to disregard RTI requests till forced to do so at the complaint hearings. It is, however, unclear if the information is made available even after the IC's directives. The IC may wish to look it up and develop an effective follow-up mechanism.

The third case also demonstrated a non-partisan position taken by the IC in the face of conflicting claims. Its position in favour of the applicant belied its earlier reputation of being more deferential towards public officials than ordinary citizens. The continuation of such a trend will enhance the prestige and credibility of the IC.

Citizens must, however, also realise that there are greater uses of the law than simply to seek transparency and accountability in the work of public offices. If the latter remains the main focus, and naming and shaming of public officials is seen by the latter as the key motive for RTI users, progress is bound to be adversely affected. Citizens' fear of retributory action by public officials faced with probing RTI requests and the latter's perception that the law is primarily used to harass them is not healthy for the system. We must come out of this quagmire.

It is time, therefore, that citizens are made aware of the broader scope of the law and its application. On our part, we have tried to do so through our columns in this newspaper, in particular the one published on November 15, 2018 under the title: "The many uses of RTI: Our imagination is the limit." We invite others to reflect on the matter.

p. (2020, September 16) International Right to Know Day must generate serious reflections by all sides.

September is an important month for Right to Information (RTI) buffs all over the world. They undertake various activities during the month to commemorate the International Right to Know Day on September 28 with two key focus points. One, to remind citizens that the RTI Act provides them with a legal basis to find out if their government is managing the affairs of the state effectively, efficiently and honestly. And two, to remind governments that they have a duty of transparency and accountability towards their citizens, who are entitled to access nearly all information available within public offices.

Such interaction between citizens and governments is the hallmark of democracy. Without a healthy balance between the two, democracy cannot flourish. It explains

why so many states all over the world, around 130 by the last count, have enacted the RTI Act. By adopting the law, they have sought to enhance their democratic credentials.

Adopting the law and making it work are, however, two different things. Many governments enacted the law primarily as "democratic window-dressing" with little interest to open up their records to the people.

Citizens too are reticent to use the law, either because they do not trust government offices to honour their information requests or are afraid of retaliation from government officials. Hence the law remains only on paper in many countries. The annual Right to Know Day provides an opportunity to all sides to assess challenges and opportunities and draw lessons from them.

Citizens have the highest stake in the success of the law. Among hundreds of laws of the land which governments use to control and regulate citizen behaviour, the RTI Act is one law which allows citizens to control and regulate government behaviour. If citizens fail to apply the law and make it work, governments have little to be blamed of.

How has Bangladesh's RTI Act 2009 fared in the 11 years since it came into force? One easy indicator would be to look at the number of RTI applications made over the years. Records show that on an average, around 8,500 RTI applications have been filed annually in the country. Compared with some six million applications annually during the same period in neighbouring India, it is not difficult to conclude that our citizens are yet to wake up to the value of the law and reap its benefits.

One obvious reason more citizens in Bangladesh do not use the RTI Act is that they do not know about it. Even those who are aware do not necessarily have a clear understanding of its goals. The majority consider that the law is meant to be used primarily for personal reasons, as and when they need specific information from government offices to get things done or redress personal grievances.

True, in a developing country like ours, individuals would use the law to seek information, for example on the process of how the list of recipients for a safety net measure, like old age or widow pension, has been drawn up. This may help them to have their names inserted on the list, as has happened in many places in Bangladesh. While the use of the law for personal needs can indeed be important for citizens, limiting its use to such purposes alone is a waste of a powerful tool. We must help citizens to understand that the law can contribute to systemic change in such a way that the lists are *always* prepared in a fair way.

There is still a common misunderstanding among many in the country that the RTI Act is meant to be used as a tool to expose dishonest or corrupt public officials. True, the law specifically mentions that one of its key objectives is to see that "corruption... shall decrease and good governance... shall be established." But that does not mean that the law should only be used to expose specific corruption. That will be a negative use of the law, which in the long run can be harmful to citizens' interests as irate officials may develop a hostile attitude towards it and frustrate its objectives.

Citizens must learn to use the law positively. They must understand that by making proper use of the law, they can help public officials realise that the days of official secrecy are over. A smooth operation of the law would contribute to systemic change in governance, whereby corruption will automatically diminish.

The RTI law is a positive tool for developing close interactions between citizens and public authorities. Its use should be seen as an opportunity for citizens to ask for information from public authorities which, if properly complied with, would contribute to positive interaction between the two sides. It would establish trust and understanding between them. Such a situation would negate the need to expose individual corruption by digging up information with the help of the law. The purpose of RTI requests should be viewed as a means to advancing systemic change so that corruption can be nipped in the bud.

The success of citizens' demands for information is, of course, linked with its supply by public officials who hold the information. Without a close interplay between the demand and supply sides, the system cannot work properly. For that to happen, two things are important. One, there must be a clear commitment from the highest echelons of the government to make the law work. Public authorities must not only be encouraged to comply with the requirements of the law but regularly exhorted to do so. Two, ways must be found to help public officials realise that they need not fear any penalisation from the authorities for disclosing information permitted under the law. On the contrary, they may have to face sanctions under the law for not doing so.

This leads us to the role of the Information Commission (IC). The three members of the neutral commission are supposed to be chosen for their impartiality by a committee prescribed under the RTI Act. Unfortunately, those often chosen for the jobs, particularly those with bureaucratic pasts, bring their restrictive baggage to the job.

Discussions during the Right to Know Day celebrations should lead to ideas on how to overcome such tendencies. The government may wish to consider setting up a mechanism to assess the decisions of the commission over the years. There is much to learn from them. Citizens too should come together to undertake collective efforts to seek the views of the High Court under its writ jurisdiction, particularly on decisions involving interpretation of important provisions of the RTI Act.

Notwithstanding such limitations in the implementation of the RTI Act in Bangladesh, it is no small achievement that the law has survived over the years and has maintained slow but steady progress. In recent months, the pandemic has taught citizens and their governments all over the world the immense importance of trust between the two sides to deal with national crises. We hope that the lessons learnt in this regard in Bangladesh will help us build an RTI regime in the country that lives up to its lofty ideals.

CHAPTER – 3: RTI ACT- EFFICACY IN PROMOTING AND STRENGTHENING GOOD GOVERNANCE?

a. (2016, July 15) Seventh anniversary of RTI in Bangladesh: Time for introspection.

Authorities have no incentive to publicise and market the Right to Information Act; but that is exactly what they have to do

You idiot. You naive, foolish, irresponsible nincompoop. There is really no description of stupidity, no matter how vivid, that is adequate. I quake at the imbecility of it."

These are not the angry ramblings of any ordinary individual. They are in fact words of the former Prime Minister of the United Kingdom, Tony Blair, addressed to himself in his memoirs while reflecting on his government's introduction of the Freedom of Information (FOI) Act. The latter is the same as our Right to Information (RTI) Act. He was lamenting his "stupidity" for steering the passage of a law that came to hound him subsequently.

The "cash-for-honours-scandal" and the investigation that followed – enabled by the FOI Act – were considered among the most stressful, disruptive and damaging episodes in Blair's premiership. Blair said of the law, "For political leaders, it's like saying to someone who is hitting you over the head with a stick, 'Hey, try this instead', and handing them a mallet." He saw the FOI Act as a blunt instrument for use by citizens against public officials.

And yet the same Mr. Blair thought very differently about FOI when he was the leader of the opposition: "The very fact of its introduction will signal a new relationship between government and people: a relationship which sees the public as legitimate stakeholders in the running of the country and sees election to serve the public as being given on trust."

He justified his government's implementation of FOI by saying: "If a government is genuine about wanting a partnership with the people who it is governing, then the act of government itself must be seen in some sense as a shared responsibility and the government has to empower the people and give them a say in how that politics is conducted."

It is remarkable that the same law gave rise to such opposing points of view. This may be attributed to the immense power of FOI/RTI laws to affect governance issues in different ways. Mr. Blair's laments reflect the frustrations most political leaders and public officials feel at the loss of their authority to hide facts from the public because of transparency provisions of the laws.

On the other hand, his justification of the need for FOI law for the UK demonstrates its importance in the contemporary world. The steady proliferation of transparency laws globally, since the end of the Cold War, testifies to that. No other law has received so much attention in such a short time from so many countries. Out of 108 countries which have adopted the law so far, about 80 did so in the last 25 years. The Sri Lankan Parliament passed the law only last month, fulfilling a commitment of the new President to adopt measures to strengthen democracy and heal war wounds.

The words of another former Prime Minister, Manmohan Singh of India, reflect similar dichotomous views about the law. "Even as we recognise and celebrate the efficacy and the effectiveness of the Right to Information Act", he said, "we must take a critical look at . . . concerns that need to be discussed and addressed honestly." Singh's successor, Narendra Modi, also made a strong statement, albeit indirectly, when he held up the replacement of the Chief Information Commissioner of India for 11 months.

The position of such powerful leaders on FOI/RTI leads us to ask how our own Prime Minister, Sheikh Hasina, the leader of another populous democratic nation, views its application in our country. It is more so because her government steered the adoption of the law in the very first session of the new Parliament in 2009. Has she, since then, followed the implementation of the Act very closely? Does she feel strongly about its success?

Alas, little is available on record on the subject. This is surprising, as she must be aware of the tremendous possibilities that have arisen in the country for promotion of good governance through proper use of the law. Moreover, her party had pledged the adoption of an RTI Act in the election manifesto of 2008 in recognition of its immense value to promote democratic governance. Equally importantly, as an astute politician, she must be aware of the tremendous value her support would have on the success of the law.

How to explain then her seeming silence on the subject? It is unlikely she is indifferent to the subject; more likely, she is not kept informed about critical issues of its implementation.

From all indications, the bulk of our citizens, whose empowerment is the key objective of the law, are not excited by it. So, the demands for information to government offices are few and far between.

Public authorities throughout Bangladesh receive around 10,000 RTI applications annually. The figure in India is almost six million per year. Our Information Commission receives fewer than 200 complaints a year. Its counterpart in India handles some 35,000 complaints/appeals annually (and many more if figures from individual states are added). The Bangladesh figures show that the law is not catching on here.

The paucity of RTI applications to public authorities lets these authorities off the hook. Public officials are neither burdened by a huge number of applications to

respond to, nor are they worried about disclosing embarrassing or sensitive information. They have little to grumble about in terms of this law, and perhaps this is why her officials feel no compulsion to keep the Prime Minister informed of the ground realities of RTI.

If matters continue this way, there is a real risk that the RTI Act may fall into disuse. While we maybe encouraged by a few positive results from a handful of RTI interventions in the country, we cannot expect any systemic change from them. Of course, these examples give hope that all is not lost and that there are a few dedicated NGOs and activists, as well as some committed public officials, to keep the RTI flame alive; but they cannot ensure continuing progress.

In celebrating the seventh anniversary of the entry of the RTI Act into force in Bangladesh this month, we must, therefore, resolve to look back and identify the challenges and impediments we have encountered over the years and work together to find ways of overcoming them. While citizens must bear the bulk of the responsibility because of their pivotal role in making use of the law, the government and the Information Commission must also help, particularly to propagate and facilitate the use of the law by citizens.

In next month's column, we will focus on the role of the Information Commission in steering implementation of the RTI Act. We shall subsequently take a look at some promising recent initiatives of the Cabinet Division of the government in this regard.

b. (2017, April 13) Promoting “open government” through the RTI Act.

We can easily forgive a child who is afraid of the dark; the real tragedy of life is when adults are afraid of the light.” These famous words by Greek philosopher Plato perfectly describe the attitude of adults in Bangladesh towards the Right to Information Act (RTI).

Few of our fellow citizens realise that the RTI law has the power to change the age-old culture of official secrecy in the country and help establish transparent and accountable governance. RTI laws, enacted in over 110 countries of the world, are known as “sunshine laws” — to bring the secretive world of government work from darkness into sunlight.

The law enables citizens to access all information — with a few exceptions — held by public offices. Citizens may use the information so obtained to ensure their legitimate entitlements under the laws of the land. Or they may use it to find out if public offices abide by the laws, rules and regulations or indulge in unfair practices. It is not difficult to see how this can contribute to open government.

But to achieve this objective, the law must be used by citizens first. This is where problems of implementation arise.

Most of our citizens are accustomed to the culture of secrecy that shielded all government work from public view for centuries, and we are understandably reluctant to ask for information from public offices. In fact, many are afraid that the authorities concerned might even retaliate if the information they seek is considered

sensitive. They also do not feel confident that the defence mechanism built into the system, via the Information Commission, will be able to protect them from uncooperative or irate officials. While some citizens have overcome this fear in more recent times, it is still a far cry from what is required for any systemic change.

In the face of such reticence, uptake of the law has been understandably slow. This column suggests alternative ways to deal with the situation to pave the way for further progress.

The main objective of the RTI Act can be encapsulated in two words: open government. Save a few sensitive areas, the law seeks to make most government information open to citizens, who may make RTI demands upon respective public offices, including those of some NGOs. By doing so, citizens, in effect, monitor the work of public servants.

Those who do not feel confident to ask for specific information could consider using other provisions of the law to advance its goals without the attendant fear. One of them is known as the “proactive disclosure” provision of the law. It requires public bodies to proactively disclose basic information about their work to the public at regular intervals. Unfortunately, progress here has been slow as most offices do not feel the compulsion to do so. Citizens can play a role to change this situation.

They could, for example, simply ask the offices concerned about the status of implementation of Section 6 of the RTI Act which contains the “proactive disclosure” provisions of the law [See www.rib-rtibangladesh.org for the text]. By doing so, citizens would alert the authorities concerned that they are being watched by the people — play sort of a “watchdog” role. If many citizens were to do this on a regular basis, the approach is likely to work. For, it is easier for the offices to abide by this general requirement of the law than respond to specific queries about their work.

Section 6 is entitled “publication of information”. It requires every authority under the law “to publish and publicize all information pertaining to any decision they have taken, any proceeding or activity they have executed or proposed, by indexing them in such a manner as may easily be accessible to the citizens.” It also states that in “publishing and publicizing such information, no authority shall conceal any information or limit its easy access.”

The disclosure requirements include the organisational structure, activities, responsibility of the officers and employees; description and process of decision-making; lists of all laws, acts, ordinance, rules, regulations, notifications, directives, manuals, etc., of the authority including the classification of all information lying with it. If the authorities published all these, there would be little need for citizens to resort to RTI demands in the first place.

The provisions further include that public authorities must disclose “all information pertaining to any decision they have taken” and “description and process of decision-making”. They are also required to “explain the reasons and causes in support of such policies and decisions”. This is indeed a big departure from the culture of secretive governance.

It is not difficult to imagine, therefore, the likely reaction of public authorities if citizens were to simply ask them about the status of implementation of the above provisions. They must either state that they are implementing them or, if they don't or disregard even to respond to such queries, face the tune at the complaint hearing before the Information Commission (IC), which is of a quasi-judicial nature.

If the IC plays its role well, it is more likely that the authorities would take the negligence more seriously. And if they respect the provisions of Section 6 fully, at least half the objectives of the RTI Act would be achieved without intervention by citizens.

Unfortunately, the work of the IC too has not been fully up to the mark in this regard. In close to the 2,000 RTI complaints it has dealt with since the law came into force, the IC has given very few decisions to impress upon the authorities the consequences of disregarding the law. Only a handful of noncompliant public officials have been penalised or chastised by the IC so far in accordance with the law. This has not only deprived the public exchequer of large sums of money but has also failed to promote respect for the law by public officials.

Another alternative of a similar nature for citizens to consider would be to ask each public authority for a copy of its "Citizen's Charter". Legal requirements in this regard are contained in regulation 13 of the RTI Regulations (Preservation and Management) 2010.

It requires each public authority to adopt a "Citizen's Charter" containing information on how it deals with information seekers under the RTI Act. It is supposed to include a description of measures the authority takes regarding: standard of services offered to applicants, transparency in the process, choices provided, courtesies shown, provision for complaints and ensuring equal treatment for all.

Apart from other authorities, citizens could ask the IC itself for its "Citizen's Charter" to learn how it deals with their applications or complaints. Regarding the provisions of Section 6 of the Act, a simple request to the IC could be to find out why it has used the penalty and other sanctions of the law so sparingly and not given reasons for many of its decisions, as required by the section. In fact, since the IC is the main torch-bearer of the RTI Act, its own implementation of the law should be exemplary for others to emulate. If it does so properly, the task of citizens would be minimized. They would feel less anxious of public officials and more forthcoming to make use of the law to promote "open government".

c. (2017, November 15) From right to information to right to data. The two pillars of the 'Open Government' movement.

In late 1840s, London was hit by a vicious cholera epidemic. Health officials struggled to curb the spread until Dr John Snow painstakingly collected data on the location and history of each case and traced the source to specific water supplies in the city.

Data of all types are constantly created and stored by public and private entities all over the world. The use of data was limited in the past to specialists of different

fields, but this has changed with modern technology. The value of data for citizens is becoming more pronounced every day.

The frequent ding of incoming text messages on our smartphones and the flurry of apps flooding the markets remind us constantly not only of the use but also the abuse of datasets. It is widely accepted that there is a need to regulate the dataflow to minimize abuse and facilitate beneficial use of data, as Dr Snow exemplified.

Which brings us to the concept of “Open Government Data” (OGD). OGD and Right to Information (RTI) are two sides of the same coin. In fact, the foundation of OGD lies in peoples' right to information. RTI and OGD are thus the two main pillars of the “Open Government” doctrine that has drastically changed our thinking about the importance of citizen-state relationship. An open government is “one with high levels of transparency and mechanisms for public scrutiny and oversight in place, with an emphasis on government accountability.”

Not so long ago, many would question if economic growth and democratic regimes went hand in hand. Others would argue that democracy retarded growth and growth under autocracy induced democracy. Happily, those days are over. Instead, people's participation in state affairs is considered sacrosanct for good governance and sustainable development.

This is most apparent in legislation drawn up in most countries that give citizens the right to access information held by their governments. More than 115 countries have operationalised laws enshrining “Access to Information” (ATI), “Freedom of Information” (FOI) or “Right to Information” (RTI), most of them in the last two decades.

RTI/FOI Acts are based on the concept that giving citizens access to documents and proceedings of the government allows effective public oversight over public work. It promotes transparency and accountability in the work of public bodies by dismantling the age-old practice of state secrecy, based on “reason of the state”, and replacing it with “public interest”.

The OGD concept, on the other hand, seeks to provide citizens with access, on a legal basis, to the rich reservoir of data available with governments. These are data produced or commissioned by government or government-controlled entities. OGD seeks to make them available online, open for downloading and manipulation so that they may be freely used, reused and redistributed by anyone.

Such data include those on cultural works and artefacts collected and held by galleries, libraries, archives and museums; scientific data, from weather patterns to genotypes of fish; financial data ranging from government accounts, expenditure and revenue, to information on financial markets; or statistical data such as census and socioeconomic indicators.

The value of data, both for the public and for specialised users, such as, commercial users, researchers, journalists, activists, civil servants and the government itself, is obvious. In the digital age, data is a key resource for social and commercial activities.

Everything from finding the local post office to building a search engine requires access to data, much of which is created or held by government. By opening up data, government can help drive the creation of innovative businesses and services that deliver social and commercial value.

Data law is needed to, among other things, fix the cost, where applicable, for access; protect proprietary and intellectual rights; safeguard personal data, state security and the like. A good OGD law would help citizens find out how much of taxpayers' money is used for what purpose. An “info-intermediary” would be able to analyse the data for ordinary citizens. In Denmark a woman set up a website with government data which showed all Danish public toilets. People with bladder problems use it before going out. In New York people use data to find out which parks are most favourable to walk their dogs. People with a business knack thus use data to create a service.

The close kinship between RTI and OGD is obvious. Both seek to empower citizens, one to access information and the other to access data, both held by the government. The key objective of both is the same: to make government transparent, accountable and responsive to its citizens. However, RTI is largely reactive and adversarial, while OGD is proactive and collaborative. While citizens could obtain government data by using the RTI process, OGD makes such data proactively available online.

Another difference between the two is that while prospective RTI users include all citizens, OGD users are mostly technical experts who make data useful for others. It is extremely important, therefore, that OGD specialists and RTI activists work closely together to develop supportive mechanisms for the success of both the instruments. Only then can we move from the default of secrecy to transparency in governance.

In Bangladesh, OGD is yet to make its mark. Although government-based data is available online, it is highly fragmented and sometimes inaccessible by the public. And, unlike RTI, for which we have a law, there is no clear policy yet on the subject, let alone legislation. The latter may follow only if there is a public demand.

Fortunately, the government has initiated action to develop an OGD policy. The task has been entrusted to a project under the Prime Minister's Office, known as Access to Information (a2i), which is the torch-bearer of the government's digitisation programme. We wish them well. An Open Government Data Portal has been created and is awaiting inauguration. Our immediate neighbour, India, adopted a National Data Sharing and Accessibility Policy (NDSAP) in 2012.

Readers may also be interested to know that another “open government” initiative, known as “Open Government Partnership” (OGP) was launched in 2011 on the sidelines of the UN General Assembly by eight heads of state from all over the world. It is a global, multilateral enterprise which aims at developing international cooperation to secure concrete commitments from governments, on a voluntary basis, to promote transparency, empower citizens, fight corruption and harness modern technologies to strengthen governance.

There are around 85 participating countries and hundreds of civil society organisations which work in tandem to promote the objectives of OGP. In South Asia,

Afghanistan, Pakistan and Sri Lanka have joined as participating members. Nepal appears to be serious about joining. We are not sure about Bangladesh's position.

Civil society attention to “open government” initiatives is crucial to advance their basic objective of empowering citizens vis-à-vis the state and improving citizen-state relationship. However, as a nation, we do not seem to have fully comprehended their value yet. Our attention even to the only legal instrument we have in this regard, the RTI Act 2009, is woefully poor. We are as nonchalant about changing our age-old mindset in regards to transparency and accountability as our public officials are. The question is: how long can we face away from what is to our own benefit?

There is a glimmer of hope, however, in the small progress observed recently in the implementation of the RTI Act. Let us hope this will extend to other open government mechanisms. Our newspapers are full of reports every day on citizen's gripes against public authorities. It is time we learn to use these mechanisms to alleviate them.

d. (2017, December 15) RTI vs RTP: Is there a contradiction?

The disclosure of information on people's race or ethnicity during World War II caused one of the worst tragedies known to mankind. It led to secret denunciations and seizures, sending millions of friends and neighbours to labour and concentration camps and eventually to gas chambers. It changed the course of history.

A fundamental change it gave rise to was elevating the status of the individual vis-à-vis the State. It led to the introduction of Europe's stringent privacy regulations. Governments in Europe took steps to protect personal information of individuals from such abuses in the future. The concept of protection of personal data or privacy was born. It spread all over Europe quickly, and to the rest of the world gradually.

The technological inventions of our time, including the Internet and social media, have enabled unprecedented connectivity in the world. While humankind is ever closer, privacy and personal space for individuals is constantly shrinking.

The definition of privacy and the meaning of sensitive personal information vary among countries and cultures. Some cultures focus more on community rights rather than individual rights; others, such as countries in Europe, are sensitive to privacy rights because of their experiences in the World War II era.

However, the legal right to privacy is recognised in nearly every national constitution, as in ours, and in most international human rights treaties including the Universal Declaration of Human Rights.

Common examples of “personal data” are: address, credit card number, bank statements, criminal record, medical record, etc. However, new technologies have driven the collection of personal information by governments and private bodies far and wide. Databases handling information that range from tax, medical, employment, criminal, and citizenship records to identification technologies such as identity card systems, fingerprints, and DNA mapping, proliferate at a faster pace. Services run by

communications operators collect information such as emails, records of persons communicated with, lists of websites visited, and mobile locations. And, of course, people share information through social networking sites.

The increased flow of personal data across borders has caused growing concerns among citizens about data abuse by governments and private bodies. There are increasing calls from citizens' groups all over the world for their protection. What is our perspective on the matter in Bangladesh?

Some 80 countries all over the world have adopted comprehensive laws that give individuals some control over the collection and use of these data by public and private bodies. They are among 115 countries that have also legislated on citizen's right to information held by governments.

On the face of it, the right to information (RTI) and the right to privacy (RTP) may appear irreconcilable. RTI laws empower citizens to access information held by governments and public bodies. RTP laws, on the other hand, grant individuals a fundamental right to control the collection of, access to, and use of personal information that is held by governments and private bodies. Thus, one promotes access and the other seeks to control it.

However, instead of looking at them as conflictual laws, RTI and RTP are better considered as “two sides of the same coin.” They complement each other in the sense that one promotes individuals' right to protect themselves and the other promotes government accountability. Both are essential for good governance. This explains why there is considerable debate around the globe on the subject. Is there a need to adopt both the laws or a single law can cover both?

In Bangladesh, unlike in most industrialised countries, there is no single specific privacy or personal data protection law. The Constitution and other laws of the land, however, provide some protection. For example, Article 43 of the Constitution recognises the right of every citizen to be secured in his/her home against entry, search and seizure (subject to any reasonable restrictions imposed by law in the interests of the security of the State, public order, public morality or public health). It also recognises the privacy of a citizen's correspondence and communications.

The RTI Act also provides protection of personal information that may offend the privacy of the personal life of an individual—and any such information that may endanger the life or physical safety of any person.

Additionally, the Information and Communication Technology Act 2006 provides for safeguards of information and related matters stored in the memory of the computer. Although the Act does not explicitly mention “personal data,” there is scope for implied use. An area of relevance is Section 54, which foresees liability in case of data, computer database theft and a wide range of computer trespass, unauthorised digital copying, downloading and extraction of data, computer database or information. To the extent they may relate to personal information or data, they are of relevance. Stiff punishment has been provided for any infringement. However,

the provision does not extend to personal data stored anywhere else other than in computers.

The law of tort may also be of some use for protection of personal data. Damages may, for example, be sought for illegitimate invasion of privacy. The Contract Act 1872 may similarly provide protection in the form of compensation or damages if a party breaches a contract. For example, personal data protection can be inserted into employment contracts and company policies.

But these are not enough in the current data privacy context. As a fast-developing country, we certainly need a broader personal data protection regime to cover all the contingencies. Guidance in this regard is available from the most influential of all Data Protection instruments of the world, the European Union (EU) Data Protection Directive. It has been adopted by the 27 EU member-states (plus three European Economic Area countries) and by numerous other countries in Africa, Europe, and Latin America that trade with the EU.

The directive takes a broad approach to personal information. Personal data are defined as “any information relating to an identified or identifiable natural person... one who can be identified, directly or indirectly, by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity.”

The UK, too, has a Data Protection Act in addition to the Freedom of Information Act (FOI). While the FOI applies only to public sector organisations, it covers a wide range of information. The Data Protection Act, which applies equally in both the public and private sectors, allows individuals the right to find out what information about them was being held, and to insist on having that information kept accurate and up-to-date. The UK Information Commissioner's office deals with dispute resolution for both the instruments.

In the US, though there is no single data protection law comparable to the EU's Data Protection Directive, there are many privacy legislations adopted on an ad hoc basis, as and when circumstances require (e.g., the Video Privacy Protection Act of 1988, the Fair Credit Reporting Act, and the 1996 Health Insurance Portability and Accountability Act).

The above may provide us with guidelines on how to go about the subject in Bangladesh. It is up to us now to decide what is best for us. Do we need separate privacy legislation, as in EU countries, or should we be satisfied with ad hoc mechanisms, as in the US? The Government may have some ideas on the subject but since the subject of privacy concerns citizens directly, we must take the lead. Is the civil society in Bangladesh ready for this challenge?

e. (2018, January 15) RTI ACT Making public exams transparent.

Competitive examinations are a long-standing and important fact of life for our youth entering public service. But few know that the Right to Information (RTI) Act of 2009 can play an effective role to ensure that these exams are transparent and fair.

Unfair and irregular practices in the exam system can impede access of worthy candidates to government jobs and facilitate the entry of the undeserving. The RTI Act has the potential to fight such corrupt practices in the system. A sizeable number of RTI interventions by exam-takers in the country over the last few years show that this is becoming a reality.

A common request for information is to ask to see the marks given by examiners on the answer papers. The objective is to find out if any unfairness can be discerned. Other requests include disclosure of marks and answer papers of qualifying candidates to check if favouritism played any role. A few interventions sought to know if government's quota policies for different underprivileged groups, such as the disabled or disadvantaged communities, were followed.

Examination-related RTI requests are typically submitted to public authorities administering competitive exams. It is not known how many requests receive positive responses. In most cases, the information sought appears to be denied. This is clear from case-studies of complaints which more persevering candidates file with the Information Commission (IC). The IC decisions are largely focused on denial by authorities to the information sought, citing long-standing institutional policy of secrecy and personal safety of the examiners.

A close look at the complaints submitted to the IC in the last five years demonstrates that this is one area where the RTI Act has been used by citizens more for monitoring the work of public institutions and ensuring their transparency and accountability, than for personal benefits.

A survey of IC decisions from 2013, when the first such complaint was made, to the end of 2017, shows that more than 20 complaints were dealt with by the IC during the period. A few examples will shed light on the matter. They will also reveal the shortcomings and challenges facing the RTI regime.

The cases involve authorities such as the Bangladesh Public Service Commission (BPSC), Bangladesh University of Engineering and Technology (BUET), Institute of Bankers, Bangladesh (IBB) and the Bangladesh Judicial Services Commission (BJSC). Exam-related RTI requests have also been made, among others, to the Primary Education Directorate and Comilla and Dhaka Education Boards.

In a well-known case, a candidate asked the Bangladesh Public Service Commission for marks he obtained, both in written and oral tests, in the 29th BCS examination held in 2013. The candidate was denied the oral marks as this would violate the Commission's policy of confidentiality and could endanger the lives of the examiners. When it came as a complaint to the IC, the latter directed BPSC to disclose the marks obtained for the oral exam too, since the latter is based on an aggregate of marks given by a group of examiners and not by a specific examiner, and hence would not endanger any of them.

The candidate had also requested information on the qualifications of the examiner for the Science and Technology Paper. This request was denied on the ground that it

would affect the examiner's safety. The IC, however, directed BPSC to simply disclose the qualifications of the relevant examiner without disclosing his/her identity.

Another request of the candidate was for the scores, both for written and oral exams, obtained by persons who were placed last on the lists of candidates who qualified for appointment to such services as: foreign affairs, public administration, police, tax and customs. The IC asked the complainant to reapply to BPSC with a more specific description of the information sought. Overall, it was a well-argued decision by the IC.

Sadly, however, when the complainant reapplied, the BPSC not only refused to provide the information but ended up challenging the IC decision at the High Court. The latter asked the government and the Information Commission to explain why the decision should not be declared to be of no legal effect. As neither party has so far responded to the HC ruling or, even if they did, it has not come up for hearing, the matter has remained unresolved. Due to this, all RTI applications relating even to subsequent BCS examinations are routinely rejected by the BPSC; the IC, too, refuses to entertain complaints on them.

In an analogous complaint, related to the Institute of Bankers, Bangladesh, the IC had similarly directed for the release of requested information. The Institute likewise challenged the decision in the High Court. As in the earlier case, the matter has since then remained unresolved as no party appears to have responded to the HC ruling.

The IC deserves credit for taking the position in favour of transparency and disclosure. However, it is disconcerting that it has so far not defended it at the High Court. Government support to the IC verdict will be a tremendous encouragement for citizens and a boost for the Act. More concerted civil society efforts are necessary to resolve the stalemate.

In a case involving BUET, the applicant asked for copies of answer papers relating to results of semester examinations held in 2013 and 2014. The information was refused on grounds similar to the preceding examples. In the complaint case that emerged, the IC once again decided in favour of disclosure. However, BUET then claimed that the answer papers had been destroyed. As this was not reported by BUET authorities at earlier hearings of the IC, it became a mockery of the RTI process.

A more hopeful case with the Bangladesh Judicial Services Commission related to a request for information on the number of candidates appearing in the Judicial Services examination; the gender balance; the number of physically challenged; how many among them passed the exams and what numbers they obtained; how many were appointed as judges, etc.

Not receiving the information requested, the applicant filed a complaint to the IC. At the IC hearing, the complainant explained that the basic purpose of his application was to find out if the rights of candidates with various disabilities were violated in the selection process. On the other hand, the representative of BJSC argued that the information was not disclosable as they were of a confidential nature and exempted.

In this case, too, the IC decided that after the announcement of the results, the information in question became public and hence disclosable. And because the quota for persons with disability was introduced after the examinations in question were held, IC found the inability of BJSC to provide the requested information justified. However, being dissatisfied with the disclosure directive, the BJSC subsequently submitted a review petition to the IC, which the latter squashed as there was no scope for it in the RTI Act. It is not known if the information has been subsequently released. Hopefully, the matter will not end up as a writ petition to the HC.

Transparency in the selection of candidates for appointment in different public services has clearly emerged as a matter of grave concern to citizens, as revealed through their RTI applications. It is important that the government and the Information Commission pay due attention to such concerns and help citizens to play a constructive role to take this most important law forward. It will benefit citizens and the state alike.

f. (2018, February 15) THE RIGHT TO INFORMATION: Making police accountable.

At his investiture last month, the new police chief of Bangladesh committed to making each police station truly a centre for welfare of the people. This is a bold undertaking, given that, for people in general, there is a considerable distrust when it comes to the police.

Criticism of police forces is rife throughout the world, as is, the demand for police reform. There is increasing demand for well-defined rules of conduct regarding the police's behaviour towards people, and to bring all police activities under electronic surveillance. In neighbouring India CCTV coverage of all police stations is an ongoing demand. In many western countries, police are required to wear video cameras to record their encounters with people. And yet pictures of police brutality remain common in world media.

Clearly much more is needed to achieve the objective of more democratic, fair, humane and lawful police forces in the world.

Before modern technology came into play, the actions of police and criminal justice officials were subjects of empirical research, promoted by concerned citizens, eminent scholars, civic reformers, non-governmental agencies, parliamentary committees and the like. They contributed significantly to improved normative standards for the police to follow. But these must be implemented more effectively. This is where the peoples' role becomes important.

As democracy has replaced authoritarian or colonial rule, peoples' perception of governance has changed significantly. This change is reflected in the growing emphasis on principles of transparency and accountability in the way public authorities relate to the citizens. These were made legally enforceable rights of the people through the enactments of Right to Information (RTI) or Freedom of Information (FOI) laws throughout the world, which are being increasingly used to monitor police work.

In Bangladesh, the RTI Act 2009 has exempted all government agencies engaged in national security and intelligence work on behalf of the State from being covered by the Act. This includes police units engaged in such activities. But, the rest of the police force, therefore, falls within its ambit and RTI requests may be made to them.

While in the initial years of its implementation, citizens were largely reticent in the use of the RTI Act to seek information from powerful government agencies, there is a perceptible change in the situation. Limited RTI requests are being made to higher government authorities, including the Prime Minister's Office. Police offices are no exception.

To find out more, we decided to look up the decisions of the Information Commission (IC) of Bangladesh on complaint cases heard by it over the years. We found 25 cases relating to the police. These included requests made to police offices on subjects ranging from corruption, tender irregularities, crime investigation, post-mortem reports, video footage of CCTV cameras, etc.

The facts of the cases paint a very sad picture of police response to the requests. In over 90 percent of the cases, the Designated Officers (DOs) not only failed to provide the information sought but also gave no reasons for doing so, as required by the law. In most such cases, they agreed to provide the information only at the prodding of the IC. There were also cases where even the receipt of the request was denied, though they were sent by registered mail.

More worrisome is the fact that even in cases of serious allegations of malfeasance, the police not only reneged on their duty to respond, but also ignored the summons from the IC to appear at complaint hearings. In fact, in one case, the IC had to fine a police officer a sum of Taka 5000 for not coming to a complaint hearing despite three summonses.

The response of the IC too was disappointing in many cases. Instead of imposing sanctions of the law on many other police officers for serious dereliction of duty, it tended to be more accommodating towards them. This is no way to promote compliance to the law.

The non-appearance of some complainants at the IC hearings or their subsequent withdrawal of complaints should also be a matter of concern. They may relate to possible intimidation by the authorities or lack of trust in the process. All these are bad omens for the future of RTI in Bangladesh.

On a more hopeful note, let us now look at two cases where the IC played a key role for their positive outcome. In 2011, a group of women in Saidpur, North Bengal, filed a RTI request to the local police station. They asked to know how many cases of violence against women were filed at the police station in the first six months of 2011. The Designated Officer first refused to receive the request but relented when he was shown the text of the law, which the group had carried with them. But there was no response either to the request or to the subsequent appeal. The matter ended up with the IC as a complaint case.

At the complaint hearing, where the Officer-in-charge of the police station was summoned, the IC took him to task for wilful disregard of the law and ordered disclosure of the information sought within seven days. The decision of the IC improved that police station's treatment of people.

In 2017, a woman requested the DIG of Police, Forensic Department, Malibag, Dhaka, for a copy of the original viscera report obtained by the police in connection with its investigation of her husband's murder case. She wished to compare the original with a subsequent “fake report” she sought to challenge.

Through a remarkable exercise, lasting over four months and spread over many hearings, the IC interviewed a large number of experts involved in the process, listened to their submissions for or against disclosure, matched them with the provisions of the law and decided, in a well-argued judgement, in favour of full disclosure of the report. It was a commendable job by the IC.

Despite these faint positive signs, the RTI regime in Bangladesh is clearly not faring as well as it should. Many shortcomings have been identified in these columns and by others in the past. They require attention from all the stakeholders—citizens, public authorities and the IC alike.

It is encouraging that the new police chief has vowed to improve the image of the police force in the country. All of us should help him to achieve that goal. It will be truly commendable if he could ensure that police forces learn to take the RTI law more seriously. Their positive response to RTI requests by citizens would be a boost to the regime. The IC too must not hesitate to impose penalties on serious defaulters to promote compliance. The encouragement of the Government in this regard would help. Otherwise the efficacy of this beautiful law will suffer.

In this election year, citizens must insist on political parties to declare their whole-hearted commitment to implementation of the RTI Act. This is one law that can bring citizens and state authorities closer and improve governance.

g. (2018, April 16) Bringing transparency to public service recruitment.

The recent countrywide agitation against the quota system for selection of candidates for government jobs was successfully ended through the timely intervention of the prime minister. But our youth remain concerned about corruption in many other areas of the recruitment process. The authorities should pay heed to them before they turn into a full-blown crisis.

The frustration caused to many hardworking and meritorious students and their parents by frequent leakage of question papers before exams is profound and has potentially far-reaching consequences. Even the government expresses its exasperation for its inability to control the menace.

What is less known is the anguish of those who sit for public service examinations only to discover, when results are out, that less meritorious and undeserving

candidates are selected for the coveted jobs. There was very little they could do about it in the past. However, with the adoption of the Right to Information Act (RTI) 2009, many of them have resorted to using the law to unearth the truth.

Over the last five years, applicants have filed many RTI requests with the authorities who conduct public service examinations. They include the Public Service Commission, Judicial Services Commission, Institute of Bankers, Bangladesh University of Engineering and Technology, various Education Directorates and Boards and others. These normally relate to the marks the applicants and others had obtained in the exams and other information which would indicate if an unfair practice had taken place and if policies, such as those on quota, were properly followed.

We learnt from an analysis of the complaints filed with the Information Commission that the concerned authorities are generally reticent to disclose information, even those permitted under the RTI Act. There is still great reluctance to change from the age-old culture of “official secrecy” to “transparency and accountability”, as required in the law.

The analysis implies that the authorities are fearful of disclosure of information which may land them in trouble for any irregularity in their action. What is more unfortunate, however, is their penchant to disregard even the decision of the Information Commission in favour of disclosure.

Additionally, most of the authorities concerned are quick to deny disclosure by resorting to a ruling by the High Court issued in response to a writ petition.

This ruling related to a RTI application made in 2013 by a candidate appearing in the Bangladesh Civil Service examination. He had asked the Public Service Commission to provide him with his marks from the written and oral examinations. He had also asked for information on the qualification of the examiner for the Science and Technology paper. Both requests were denied on grounds that it was against their policy to provide such information, as it may endanger the lives of the examiners. The Information Commission directed the Public Service Commission to provide the information without disclosing the names of the examiners. The candidate's other request related to marks obtained by persons placed last on the lists of candidates who qualified for various categories of government services. The applicant was asked to reapply with a more specific description of the information sought.

Alas, when he reapplied, the applicant was informed that the Public Service Commission had challenged the decision of the Information Commission in the High Court. And, as is normally the case, the court asked the relevant parties to show cause why the Information Commission decision for disclosure of the requested information should not be held illegal. The matter has since then remained there, as no one has responded to the ruling yet, not even the Information Commission.

Greater damage was, however, caused by the unfair use of the High Court ruling in subsequent RTI requests made to the Public Service Commission and similar bodies. In

most cases, the authorities concerned took the position that since the matter was under judicial consideration of the High Court, the information requested could not be disclosed until it was resolved.

Known as the subjudice principle, this became a thorn in the side of RTI applicants. A subjudice matter must be resolved before similar requests may be dealt with; it presents an easy excuse for the authorities to drag their feet.

RTI complainants challenged this argument, noting that the ruling applied to specificities of the case and that the High Court had not specifically forbidden the disclosure of any information. The Information Commission initially wavered and denied intervening in cases where the subjudice principle was invoked by public authorities. But in a more recent case, it took a clear-cut position in a well-argued judgement.

In this case, two applicants, Ripon Chakma and Jayati Chakma, from the Rangamati District of the CHT region, had applied for information from the Public Service Commission relating to the process of the appointment of Assistant Upazila Education Officer. The applicants had qualified in the written examinations and had sat for the oral exams. When they were not chosen, they asked the Public Service Commission for relevant information to establish if due process, including application of the quota policy, was followed.

The Public Service Commission denied the information on various grounds, including the safety and security of the examiners, privacy of personal information, and the subjudice argument referred to above. In a well-argued decision on the complaint case filed by Ripon Chakma to the Information Commission, the latter rejected the submissions of the Public Service Commission and decided in favour of disclosure of information sought by the applicant.

The Information Commission also took the initiative, on its own volition, to include the case of Jayati Chakma in its decision even though she had not filed a complaint; she was discouraged by the hassle and cost involved in the complaint process. The Information Commission deserves praise for the correct position it took in this case; for providing detailed argument for its decisions in this and many other recent cases and for a significant increase in the number of complaint cases it has dealt with in the last two years.

Four months have passed since the Chakma decision, but the Public Service Commission is yet to abide by the Information Commission's decision. The government should be deeply concerned about this. Our youth is dissatisfied with the selection process for public jobs and showed this in their recent agitations. We must pay attention to their remaining concerns in this regard before they take a more serious turn. We must also remember that RTI is an essential element for Bangladesh's progress towards attaining the objectives of Sustainable Development Goals by 2030. Let us show our commitment to transparent and accountable governance.

h. (2018, June 15) GENERAL DATA PROTECTION REGULATIONS -Why it's relevant for us and how it relates to RTI.

In the days before May 25, email users all over the world were bombarded with a barrage of electronic messages updating them on something called the General Data Protection Regulations (GDPR). Observers claim that the number of messages dispatched by businesses throughout the world on the occasion might have surpassed those sent during Christmas or New Year. On that day, Europe became subject to the GDPR, a law aimed primarily at bringing outdated personal data laws across EU up to speed with the fast-moving digital era. GDPR has an impact far beyond Europe.

The GDPR foresees new rules on the collection of personal information/data by businesses and public sector organisations from EU citizens. It defines the limits for processing of such data and sets new rights for citizens on the use or abuse of their personal data. It confers on citizens the right to access information that companies hold on them. It establishes strict criteria for businesses on the transfer of such data outside EU; importantly, the law also includes measures to be taken if this new law is violated.

GDPR goes beyond EU boundaries because of the tremendous reach of modern technology. Every entity that operates within the EU or deals with EU citizens, wherever they may be, must ensure that their activities comply with GDPR.

It is this global impact of the GDPR which explains why people all over the world, including in Bangladesh, received email messages from such entities as Apple, Amazon, Facebook, Google, Microsoft, Twitter and hundreds of others to which they are linked. The new regulations require the entities to inform us about the security and processes of all data they have on us, to comply with GDPR.

Even local companies in Bangladesh are updating their privacy policies and informing their clients/subscribers. For example, airlines and travel agencies are informing their online clients about their new privacy policy, in case there are EU citizens among them. This is a good omen. Not very long ago, hardly anybody bothered with the privacy of individuals.

Such developments underline the importance of transparency in relation to information needs and data protection of citizens. It heralds the advent of new standards in the relationship between citizens and the state, in particular. The latter must change from the age-old culture of secrecy and autocracy and move towards transparency and accountability.

It was not very long ago that all information at the disposal of the government was its sole preserve and could be kept away from ordinary citizens. This is no longer the case legally. The Right to Information (RTI) and Freedom of Information (FOI) laws, which have been adopted by most states of the world, now require governments to be open to the people regarding all information at their disposal, except a few.

In Bangladesh, we are yet to fully comprehend and take advantage of the opportunities that have arisen for us through the adoption of our only transparency

instrument so far, namely the Right to Information Act, 2009. As for citizens' right to privacy, or RTP, we are yet to have a law. In fact, there is little awareness and very little discussion on the subject. More than 80 countries in the world have, however, legislated on the collection and use of personal data by public and private bodies.

The advent of GDPR and its impact worldwide will hopefully change the situation for the remaining countries. The recent blizzard of related emails is likely to help people realise that there are individuals, organisations, and companies who are either “controllers” or “processors” of personal data on us. Such data stitch together complex sets of information that can be used to identify a person, potentially including genetic data, information about religious and political views, sexual orientation and the like. It is not difficult to understand how susceptible all this data is to abuse.

An article in the Washington Post on June 2 entitled “Hands off my data!” depicts a graphic picture of how our personal data is collected without our knowledge: “Google has been saving a map of everywhere you go, if you turned on its Assistant when you set up an Android phone. Amazon makes your wish list public—and keeps recordings of all your conversations with Alexa. Facebook exposes to the public your friends list and all the pages you follow, and it lets marketers use your name in their Facebook ads. By default, Microsoft's Cortana in Windows 10 gobbles up ... pretty much your entire digital life.”

If the above picture bothers us, we must pay heed to the new privacy policies that the companies concerned have been communicating to us more recently as a follow-up to GDPR. We can ignore them only at our own peril, since our inaction may cause loss of our data by default.

It is equally important to remember that our right to privacy is directly linked to our right to information. They are two sides of the same coin. In Bangladesh, we shall shortly commemorate the ninth anniversary of the RTI Act, 2009. We need to look back at the status of its implementation. Everyone agrees that the law is yet to make a deep impression on the minds and imagination of the people and public authorities alike. This should concern us all.

While some RTI requests are being made to public offices and some responses are being provided in a pro forma manner, there is no excitement about it either from the demand or the supply side. Many public offices are still reluctant to respect legitimate requests. The Information Commission too is carrying on its business perfunctorily, keeping the system alive, with little effort to go the extra mile.

On its part, the government must recognise that its success in putting Bangladesh on the map of developed nations will depend largely upon transparency and accountability in governance. This is why RTI was made part of UN's Sustainable Development Goals (SDGs).

Just as people need adequate, accurate information on the functioning of their government, the latter too can benefit by examining the trend of peoples' RTI

requests. They indicate which government offices receive greater public attention and why. Only with such interactive and interdependent citizen-state relationship can the engine of development be properly fuelled.

i. (2018, September 15) Of political parties, general elections and RTI in Bangladesh.

A positive outcome of the contemporary trend towards authoritarian rule by democratically elected governments around the world is that it is providing a welcome boost to the limping Right to Information (RTI) or Freedom of Information (FOI) movements globally. Faced with shrinking democratic spaces, citizens' groups and RTI/FOI enthusiasts are coming together to form national, regional and international watchdog bodies to share their strengths, identifying ways to counter the trend. The need for citizens to use RTI to question public authorities on why and how they do what they do has perhaps never been so important.

RTI law allows citizens to seek information from government and public bodies on matters relating to their functions. The idea is to make them more transparent in their work and accountable to the people, the two basic requirements for democracy. If nothing else, citizens' queries can at least cause consternation for concerned authorities. The hope is, over time, this will lead to better governance.

RTI groups are discovering the value of sharing and discussing experiences in different countries and devising strategies based on good practices. The immense reach of the internet and social media is playing a stellar role in this regard.

Though many governments have adopted RTI/FOI laws only recently, most of them increasingly feel uneasy about them. As they face sensitive RTI requests from citizens, they begin to worry about the impact on their hitherto unbridled exercise of power and authority. Hence, they quickly develop a negative stance about the law. International RTI/FOI groups see this happening all over the world.

Governments are also discovering that while it is easier to disregard or abuse many other laws of the land, this is not true for RTI/FOI. The law contains specific sanctions against non-compliant public officials, who may be summoned, reprimanded or fined by the Information Commissions. Many in the government, therefore, wish to water it down through amendments. This is motivating RTI/FOI watchdog groups around the world to come together and fight this trend through collective wisdom.

Resistance to RTI/FOI instruments comes not only from governments but also from politicians and their parties. The latter take the view that political parties are not “public authorities” and, therefore, not susceptible to RTI queries from citizens. RTI activists take the view that as political parties ostensibly seek to promote public wellbeing and owe their existence to public support, they must be accountable to the people—political parties challenge the legal validity of this position.

This explains why only seven out of over 115 countries that have adopted RTI/FOI Acts have specifically included political parties as falling within the definition of

“public authorities”. As the Acts are normally adopted by national parliaments, most of whose members belong to political parties, the latter have managed to keep themselves formally outside the fold of the law in most countries.

Their position has, of course, been challenged by citizens at National Information Commissions and/or in the court of law. In a landmark case, the Central Information Commission (CIC) of India ruled that political parties are indeed covered by the Indian RTI Act 2005. But the political parties have so far refused to abide by the ruling. It has provided a rare occasion for them to unite. Government efforts to undo the CIC decision by amending the RTI Act failed in 2013 due to dogged resistance by Indian RTI groups. But similar efforts continue.

In a more positive development, the South African Constitutional Court has recently held that the right to access information and the entitlement to exercise an informed right to vote, implicitly demands that information on the private funding of political parties and independent candidates be made reasonably accessible to the public. The case was precipitated by an RTI request for information from certain political parties about their private funding.

The Constitutional Court highlighted the centrality of information to the electoral process and warned against political candidates being able to pick and choose what information should be made available to voters. It also indicated that access to information on private funding could deter corruption and avoid the appearance of corruption in politics. In Bangladesh, the question of whether political parties come within the ambit of the RTI Act has not been directly contested yet. But, it indirectly featured in a judgement of the High Court (HC) in connection with a writ petition filed by Shujon, a civil society organisation, against a decision of the Information Commission of Bangladesh.

The decision related to a request by Shujon to the Election Commission (EC), asking for copies of audited annual statement of accounts of political parties, which the latter regularly file with the EC. The EC declined, claiming it was “secret information” for which permission must be sought first from the parties concerned. When Shujon challenged this position to the Information Commission, the latter sided with the EC, whereupon Shujon filed the writ petition. The HC judgement declared Information Commission's decision to “have been passed without lawful authority and is of no legal effect”.

The judgement firmly stated that: “Ignoring the people's right to know, keeping them in dark and playing hide-and-seek with them in a democratic country like us where all powers belong to the people and their mandate is necessary for ruling the country, no registered political party can be allowed to take the stand that the audited statements submitted to the Election Commission were 'secret information'.”

It went on to add that: “In modern democratic countries, citizens have a right to information in order to be able to know about the affairs of each political party which, if elected by them, seeks to formulate policies of good governance. This right

to information is a basic right which the citizens of a democratic country aspire in the broader horizon of their right to live. This right has reached a new dimension and urgency which puts better responsibility upon those political parties towards their conduct, maintenance of transparency and accountability to the public whom they aspire to represent in the parliament.”

The above exposition of our High Court's view on the role of political parties in a democracy, should encourage RTI enthusiasts in Bangladesh to test the waters by sending RTI requests directly to the political parties. If they claim not to be covered by the RTI Act, the judgement would be useful to challenge it both at complaint and writ stage.

More generally, the time is also right for citizens groups to seek, in the context of the forthcoming general elections, a clear commitment from the political parties to accept their inclusion under the RTI Act and to take the law forward by removing all barriers to its proper utilisation by citizens. This should feature clearly in their election manifestos. The government should also use the occasion to restate its full commitment to the RTI Act 2009.

And in the larger context, let the international Right to Know Day on the 28th of this month be the occasion for members of the RTI Forum of Bangladesh to join forces with the global RTI/FOI movement to turn the law into an effective tool for good governance worldwide. In the face of shrinking multilateralism in inter-governmental affairs today, let the people-to-people cooperation contribute to making governments everywhere more transparent and accountable to their population.

j. (2019, February 15) Government's 'zero-tolerance policy' against corruption. How we can use RTI to help achieve it?

In her first address to the nation after being sworn in for her third consecutive term last month, Prime Minister Sheikh Hasina announced “zero tolerance for corruption” as a key policy of her new government. This was followed by the release of Transparency International's annual Corruption Perceptions Index, in which—much to the government's annoyance—Bangladesh was ranked below all other South Asian countries except for war-torn Afghanistan.

Whether or not Bangladesh deserves to be so downgraded, the resolve of the PM to combat “corruption in any form” is welcome news. Her announcement acknowledged the pervasive spread of corruption in governance and recognised that corruption is a serious blot on the otherwise excellent reputation of the country, earned in recent years under her leadership, for progress in economic and social development.

In order for the PM's mission to succeed, citizen's support would be crucial. While this will be a tall order given the fractured politics of the country today, the PM can start by injecting new life into the moribund regime of the Right to Information (RTI) Act, which her government enacted in 2009.

The difference between RTI and anti-corruption laws is that the former is enforced by citizens and the latter by the government. In fact, RTI is the only law in the country

that citizens can use vis-a-vis public authority. Every citizen can, therefore, be a watchman for good governance.

The Preamble to the RTI Act 2009 captured the basic objective of the law in the following words: “if the right to information of the people is ensured, the transparency and accountability of all public... organisations... shall increase, corruption of the same shall decrease and good governance of the same shall be established.”

Countries that are found to be the least corrupt also have effective RTI regimes in force. Where RTI works well, government offices function more transparently, public servants are more accountable to the people and corruption is kept under check. The preventive role of RTI is thus an important element for an effective anti-corruption strategy, and citizens are allies of the government in this effort.

One of the earliest achievements of the RTI Act 2005 of India was to end corruption in the government rationing system in New Delhi, under which basic food and other essential items of daily consumption are provided to the needy at subsidised prices. People were not getting their items because government-approved dealers claimed they were not getting the goods from the government. Using their RTI, citizens asked the Ministry of Consumer Affairs, Food and Public Distribution for copies of reports that dealers are required to file with them. This revealed that the dealers falsely reported that they had distributed goods to the beneficiaries while actually selling them on the black market. Corrupt dealers lost their licenses and the public gained confidence in the system.

Similar gains have been made in Bangladesh. Concerned citizens have used RTI to obtain information about the selection process of beneficiaries for the government's safety-net programmes, such as vulnerable group feeding, vulnerable group development, old-age, maternity and widow benefits. There were complaints about widespread corruption in the process.

Faced with their RTI applications, the authorities concerned often considered it wiser to provide the applicants the benefits they enquired about, rather than respond in writing. Officials are now aware that if the list of recipients and the names of those who prepared it were disclosed, the irregularities in the process would be discovered, potentially causing serious trouble. Unfortunately, such requests are often made with NGO support, which is not always sustained. Government support to sustain such efforts and sensitise more people about the RTI process, would go a long way to curb corruption in the distribution of essential services.

Similar NGO interventions to promote RTI use have helped to rid corrupt practices in the distribution of scholarship money at government schools. Indigent patients now benefit from free medicine provided by the government from the local health clinics. This was often denied to them till they resorted to RTI requests for the list of free medicines. Many clinics are now voluntarily posting the list of free medicines on their notice boards, thereby closing a window of corruption.

RTI can also help to combat corruption in public institutions by exposing abuse of power by the police, irregularities in the recruitment process of public jobs, and corruption in awarding contracts for public work.

The usefulness of RTI for the PM's mission is limited only by how often and how many of us use it. On an average only 7,000 RTI requests are submitted annually to public offices in Bangladesh, compared to some 6 million in India. The requests are also largely confined to issues of private concern. Unless the law is used by more people, and more to probe transparency and accountability issues on matters of larger public interest, the efficacy of the law will remain limited.

The Prime Minister can help advance this objective by reiterating her commitment to RTI at regular intervals. This will encourage public officials to obey the law, which presently many disregard without any qualm. It will also be useful to publicise that the Prime Minister's Office (PMO) too has to respond to many RTI requests addressed to her. In one instance, it provided an applicant with information on how many people accompanied her each year, between 2010 to 2015, to the UN General Assembly, why so many went, what was their purpose and who paid for their trips. Had it been publicised, it would have encouraged others to emulate.

The PM's vocal support of the law will also help reassure citizens' minds that by asking for sensitive information, they will not face the wrath of concerned officials. There are unfortunate instances of the latter harassing the applicants, and in one case, even setting the police against them and, in another, filing a case. If such fears are removed, more people will use the law, which is important for any systemic change. The Information Commission too will be more confident to apply the law without fear of displeasing the administration. The prime minister's endorsement of an oversight mechanism for the Information Commission itself would also help to set in motion necessary reforms of the Act. It is time for all of us to recognise that RTI can be a formidable tool to advance citizen-government relationship, contribute to better governance and take the fight against corruption forward.

k. (2019, November 15) RTI law: Bridging the gap between promise and practice.

The euphoria accompanying the fall of the Berlin Wall and the end of the Cold War era late last century was followed by an upsurge of democracy in the new republics and a resurgence in nominal democracies. One manifestation of this was the global rush to adopt the Right to Information (RTI) or Freedom of Information (FOI) Act. Out of around 130 countries which have enacted the law so far, a large majority did so in the last three decades. Bangladesh adopted it in 2009.

The ostensive purpose of the law is to establish the right of citizens to access information about the functioning of their governments. By doing so, they are able to monitor the work of public authorities. It is based on the concept that since, in democracy, governments serve as representatives of the people, the latter have the right to obtain almost every information that their governments possess or create. The law is a potent tool for political accountability.

In recent days, however, a growing literature on the subject is progressively turning despondent about the prospects of the law. The growing gap between the promise of RTI/FOI law and its practice in many countries has led scholars to refer to it as “democratic window dressing”. They argue that a key reason for governments to adopt the law is to benefit from the image it provides of democratic governance, rather than a means to introduce more transparent governance.

As Bangladesh commemorates the tenth anniversary of RTI, we are hung up on counting the number of RTI applications rather than their impact.

The Preamble to the Act clearly states that the basic objective of the law is to ensure “peoples’ right to information.” It goes on to underline that through the exercise of this right, two goals are achieved: one, “empowerment of the people” as “owners of all powers of the republic”, and two, increased “transparency and accountability” of all public offices, leading to decreased corruption and increased “good governance”.

The “promise” of the law is thus very clear: if peoples’ right to information is duly exercised, good governance will follow. Just as the goal of vaccinating all children in the country is to reduce preventable infectious diseases, the goal of RTI is more democratic, law-based governance. Information, like vaccination, is only a means to an end.

In Bangladesh, we seem to be focused more on the objective of the law than its goals. Unless we turn it around, we will continue to rejoice over small individual gains here and there—such as obtaining a Vulnerable Group Feeding (VGF) card under the government’s safety-net programmes—and downplay the larger goal of the law, which is ending abuse of power by public officials for private gains. Additionally, our assessment of progress of RTI will remain focused more on numbers of requests made under the law than their impact on governance.

Of course, numbers are very important. Without a sustained flow of RTI requests to public offices, there can be no appreciable impact on governance. But larger numbers can be meaningful only if they lead to achieving the desired goals. For that to happen, RTI applications must have a clear objective of the change envisaged. Mundane, inconsequential RTI requests, which may be meaningful to an individual but are hardly of interest to the public at large, appear to dominate the RTI scene in the country. With such requests, there can be little hope for systemic change.

Everyone involved with the RTI regime in the country—from individuals applying for information, to public officials dealing with them, to the Information Commission mediating disputes between the two sides—must understand the perspective of the bigger picture. We must ask ourselves whether the main impediment to the progress of the law is lack of awareness about the law or lack of familiarity with its goals.

The answer must be both. There is, of course, a tremendous lack of awareness about the law, but there are also those who are aware of it but are reluctant to use it. This is largely because they are not familiar with the promise of the law. If one asked the members of the well-to-do, educated, socially aware and urban professional groups—

who know that the law exists—as to why they don’t use it, they will most likely say that they feel no need to use it because they have other ways of obtaining the information. Obviously, they think that the law is meant to obtain information that people need for personal reasons. The larger public goal of the law is missed on them.

This group of knowledgeable people should be encouraged to use the law as part of their civic responsibility, to monitor the work of public authorities. They must realise that among the three main instruments of accountability available to citizens in a country, namely periodic elections, criminal law and the RTI law, the latter is most easily accessible and readily available to everybody.

We believe that large numbers of our socially and politically conscious compatriots, who are always prepared to stand up for political accountability of the powers that be, would begin using the law in larger numbers if they are familiarised about its inherent power to foster change, decrease abuse of power and contribute to accountable governance. It is not an easy task but not impossible either. We have already seen some of them resorting to the law in recent times with good results. Imagine the likely impact if more of our teachers, lawyers, doctors, engineers, journalists and political workers were to use the law to address governance issues relating to their areas of concern!

To advance the goal, RTI workers in the country would need to change their tactics. Without abandoning their focus on helping ordinary people to use the law for their personal needs, they should also seek to draw in members of the groups mentioned above, including all other social and political elites, to promote the larger goals. They are people with the right background to understand the inner workings of public bodies, their responsibilities, the challenges they face and how best to overcome them. They would know better what sort of information would be useful to unearth anomalies. And if they approach the law in an objective manner, make use of it responsibly, not to rock the system but to change it slowly, they may be able to avoid ruffling feathers. But they must have faith in the system and not be skeptical. Their involvement will help both the demand and supply sides to be engaged in a constructive manner.

As they see more engagement of financially and socially powerful individuals, ordinary RTI applicants may feel more confident to apply for “sensitive” information which may upset public officials who are not used to responding to “audacious” requests from ordinary citizens.

We do not want to see RTI in Bangladesh becoming “democratic window dressing” as in some countries. We have made a good beginning by keeping the law alive for ten years, but we need to take it to greater heights, to take it from promise to practice.

I. (2021, June 15) Finding a balance between official secrecy and citizens’ right to information.

"We see all governments as obscure and invisible," said Sir Francis Bacon, English philosopher and statesman, in 1605. Governments should work behind the scenes, beyond

public view, he felt. And this is how the British Government worked till the dawn of the 21st century, when Britain's Freedom of Information Act (FOIA) was adopted in 2000.

The UK was late to the party, with other western nations having forged ahead with the adoption of FOIAs (Sweden as early as 1766). The US came two centuries later in 1966 and scores of other countries adopted theirs since then, until it became embarrassing for the UK not to follow suit. Political parties extolled the virtues of freedom of information while in opposition, but did little to advance it when in power. Government and the bureaucracy found it hard to abandon their long-held practice of exercising power over the people under a cloak of secrecy. The British public, too, appeared unprepared for change. Journalists seemed to be the only ones clamoring for change.

By the time Tony Blair came to power in 1997, the concept of public interest as the pathway to good governance was firmly set as international standard. Blair found it opportune to embrace the pro-people concept to enhance his popularity. Open government, he argued, would be the solution for many things that were wrong in the British system which was "about 50, 60, 70 years behind the actual feelings and sentiments of the broad majority of people." The Freedom of Information Act would deliver "not just more open but more effective and efficient government."

Why did it take so long for a leading world power to adopt the law? The answer lies in the inherent tension that exists between the intrinsic tendency of governments to hide their activities from the people and the increasing demand of the people to know how their governments work. It manifests all over the world, in countries large or small, old or new, north or south. For Tony Blair, it surfaced soon after the Act came into force. It troubled him so much that in his memoir, *The Journey*, published in 2010, he famously lamented:

"Freedom of Information Act. Three harmless words. I look at those words as I write them and feel like shaking my head 'til it drops off. You idiot. You naive, foolish, irresponsible nincompoop. There is really no description of stupidity, no matter how vivid, that is adequate. I quake at the imbecility of it."

Blair concluded that the adoption of FOIA was one of his greatest mistakes in office. He found it to be a "dangerous act" as it affected government's ability to debate and decide issues in confidence. As opposition leader, he believed that FOIA would "signal a new relationship between government and people: a relationship which sees the public as legitimate stakeholders in the running of the country". This belief was shaken as prime minister when he felt its impact. The law, to him now, was "utterly undermining of sensible government".

Blair justified his sweeping change of mind by the fact that the FOIA was not being used by "the people" but by journalists who used it as a "weapon" against the government. While the Act is now used by people from all walks of life, for a much-harried Tony Blair, hounded by journalists for his role in the disastrous Iraq invasion and other internal issues, the use of the Act to dig up sensitive records on his administration was too much to bear.

Tony Blair's exasperations are relevant for us for two reasons. One, Bangladesh shares a similar governance culture with the UK; and two, Blair's gripes about FOIA exemplified the

inherent conflict between official secrecy and citizens' right to information. The latter came into sharp focus last month through an unfortunate incident involving a senior investigative journalist, Rozina Islam, at a government secretariat in Dhaka.

While indisputably regrettable, the incident has brought Bangladesh's own Right to Information Act (RTIA) sharply into public attention. More articles and comments appeared in the press and more discussions took place in the electronic media on the importance of the Act and its primacy over the Official Secrets Act 1923 than ever before.

If those who were enraged by the Rozina incident turn their efforts towards wielding the RTI law as it was intended, they will do a lasting service to the country.

The progress achieved by RTIA in the country so far has been possible largely due to efforts of many dedicated NGOs and individual activists who have succeeded in promoting the law mainly at the grassroots level and among the semi-urban middle-class population. The results are limited to the basic and mid-level objectives of the RTI pyramid, such as personal needs and lower-level transparency goals.

To reach the top of the pyramid, however, the law must be used for higher-level public interest accountability goals foreseen in the law.

Concerned citizens, particularly those knowledgeable about the inner workings of the government, could play an important role by contesting the official position on the status of specific government records based on law. By doing so, they can help to rein in the innate tendency of public offices to deny information in the name of official secrecy. It is such interactions that help to test the scope of the law and contribute to its maturity.

A good way of doing so in the context of last months' agitations, which included a public demand to scrap the Official Secrecy Act (OSA) 1923, would be to test its validity vis-a-vis RTIA on a given issue. If such an RTI request is denied by an authority under one or more exemption clauses of Section 7 of RTIA, it could be the basis for an internal appeal procedure under the Act. If the appeal fails to obtain disclosure, a complaint could be lodged with the Information Commission (IC). If the latter, too, upholds nondisclosure, its decision could be challenged at the High Court (HC) under its writ jurisdiction. There are instances where the HC has ordered disclosure. Unfortunately, many questionable decisions remain pending before the Court while many others are untested for lack of pursuit.

The RTI process may indeed be lengthy and cumbersome, as many allege, but it is a constructive way to build a law-based society. There are, of course, good reasons for the civil society to seek the scrapping of the OSA, adopted during colonial times, but before that is achieved, RTIA provides a good basis to prevent its abuse.

The Rozina incident is a stark reminder of the inherent tension that exists between official proclivity to do things in an "obscure and invisible" manner and the democratic value of "open and accountable" governance. RTIA provides a unique opportunity for concerned citizens to help establish a balance between the two, by taking the lead to set up a good practice of using the law and paving the way for others to follow.

CHAPTER – 4: ROLE OF GOVERNMENT AND INFORMATION COMMISSION IN ACHIEVING OBJECTIVES OF RTI LAW.

a. (2015, August 16) Are political parties “Public Authority”?

A frequently asked question about RTI law relates to the meaning of the term “authority”. As the Act empowers citizens to query public authorities on matters that concern or aggrieve them, there is an obvious need to understand the concept of authority under the Act.

In popular parlance, “public authority” generally means government offices. Under the RTI Act that meaning has been extended to include some non-governmental authorities as well. In Section 2 (b) of the Act, “authority” has been defined to include: “any organisation *constituted in accordance with the Constitution* of the People's Republic of Bangladesh”; “any *statutory body or institution established by or under any Act*”; “any *private organisation or institution run by government financing or with aid in grant from the government fund*”; “any *private organisation or institution run by foreign aid in grant*”; “any organisation or institution *that undertakes public functions in accordance with any contract made on behalf of the Government* or made with any public organisation or institution”.

In short, any organisation/institution spending public money falls within the definition. Thus, all bodies belonging to three branches of the government – the executive, legislature and judiciary – are covered by the Act. All government ministries and offices related to them including Prime Minister's office, President's office, judiciary and Parliament, are covered. NGOs receiving government (public) funds or foreign donations are equally included. To know if an office is bound by RTI, a simple test is to ask whether it is a constitutional body, a statutory body, or a private organisation receiving government or foreign funds.

All such bodies, except some, are obliged to respond to citizens' RTI queries, on the way they work, abide by the laws, rules and policies or simply provide any information they possess, which are not exempt. This has been discussed in last month's column.

As in any other law, there are, of course, problems of interpretation. This was famously illustrated in a case relating to political parties in India, as highlighted below. Questions relating to applicability of the law to purely private bodies are also germane.

Though the question of political parties has not arisen directly in Bangladesh yet, it was indirectly raised in a case which has gone through the entire RTI process and is presently awaiting hearing in the High Court on a writ petition. The petition was filed following a decision of the Information Commission which aggrieved the complainants. [Complaint Case nos. 97/2013 and 57/2014 at <http://www.infocom.gov.bd/>]

Since the RTI Acts of Bangladesh and India are similar, the Indian case will be illustrative for Bangladesh. Indian RTI Act 2005, under section 2(h), provides for inclusion, as “public authority”, of: “non-Government organisation *substantially financed directly or indirectly* by funds provided by the appropriate Government”. Section 2(b) of the Bangladesh Act says almost the same except it does not contain the qualifier “substantially” before the word “financed”. Otherwise, the key element of government financing is the same.

The Indian case began with RTI applications, dating back to 2010 and 2011, by two Indian activists. They asked six national political parties of India for information relating to their election manifestoes, promises fulfilled, receipts and payments, sources of fund etc. The response of the political parties can be understood from the fact that the matter had to go through the entire RTI process a number of times for more than five years, including various hearings at the Central Information Commission, without resolution yet.

The contested issue was the joint position of political parties claiming they are not covered by RTI as they are private associations of individual citizens. The applicants on the other hand argued, *inter alia*, that since political parties in India are provided with large tracts of land in prime areas of the capital, to build office premises at nominal cost, enjoy huge tax exemptions, issued with costly electoral rolls free of charge etc., they fulfil the criteria of being “substantially financed” by the Government. Other arguments included that as key players in the governance of the country they are bound by transparency and accountability regimes. Examples from other countries were cited.

A full bench of the CIC of India considered the arguments in a landmark decision in June 2013. It had “no hesitation in concluding that (the political parties) have been substantially financed by the Central Government and, therefore, they are held to be public authorities under Section 2(h) of the RTI Act.” It further added that “the role played by (political parties) in our democratic set up and the nature of duties performed by them also point towards their public character, bringing them in the ambit of section 2(h)”.

The political parties rejected the decision and, in an unusual show of unity, closed ranks with the Government and moved for an amendment to the law to exempt political parties from RTI altogether. This was vehemently resisted by the civil society, stalling the bill permanently.

Subsequently, another RTI intervention in early 2015 by the same applicants to enforce the 2013 CIC decision, led the latter to reiterate its position and lament its inability to enforce implementation of the decision because of lacunae in the law. Following this, in July 2015, the Supreme Court of India in response to a PIL filed by a lawyer on behalf of an Indian NGO, asked the Central Government, the Election Commission and the six national parties concerned why they should not be considered as public authorities, accountable and transparent. Short of an amendment, therefore, the Indian political parties are clearly in. [See: Decision no.

CIC/SM/C/2011/001386 & 000838 under Decision of CIC > Full Bench Decision at <http://cic.gov.in.>

The above is an example of interpreting the law to argue inclusion of a body. There are, however, other ways of using RTI against purely private entities. This is usually done through identifying their links with other included authorities like the government. For example, a person who was aggrieved by stale food served in a restaurant, which is privately owned, had asked to see the food inspector's report on the restaurant from the Food Ministry. A Dhaka University student, dissatisfied with sloppy road construction in his locality, asked for a copy of the contract that was awarded by a concerned government body. The road was re-carpeted by the contractor when he was shown that his work did not meet agreed specifications. In India, a RTI activist, angered by frequent road accidents and unable to pursue bus owners, asked Mumbai Police department for information on how many accidents took place in a given period in a particular neighbourhood, how many arrests were made and what actions taken. He learnt that most drivers went free after bribing. The media publicity that followed raised a hue and cry. It is no small matter for individual citizens to combat public harm, caused by any authority, by using RTI in so many different and clever ways. If others did the same, what an outcome that would be for society as a whole!

b. (2016, FEBRUARY 15) RIGHT TO INFORMATION: Welcoming the new CIC.

The government deserves credit for appointing a new Chief Information Commissioner (CIC) within a month after the retirement of his predecessor. India took more than nine months to appoint a new CIC last month, and that too after some public outcry. In Pakistan, Nepal and the Maldives, three other countries in South Asia where Right to Information (RTI) laws are in operation, citizens remain wary of government efforts to stifle the law at any opportunity, including through long delays in appointing or replacing retiring CICs or other commissioners.

Fortunately, the Bangladesh government has of late taken a more positive stance towards RTI. After a reluctant beginning, the government's position changed when promoting RTI was made an integral part of its National Integration Strategy (NIS). Related to this, the Cabinet Division has recently teamed up with the Information Commission of Bangladesh (ICB) and few NGOs to develop a plan to enhance government officials' preparedness to respond to RTI applications in a timely and systematic manner.

It is indeed very encouraging that the RTI triangle, namely the demand side (civil society), the supply side (the government) and the adjudicatory body (the ICB) is so closely knit in Bangladesh. This is unique in the region. It is for citizens now to test the will of the government and mettle of the ICB.

Unfortunately, citizens are yet to rise to the occasion and play a meaningful role to take the law forward. Demands for information are yet to pour into government offices in large numbers to test the system. While in neighbouring India, an estimated

six million RTI applications are made annually to public authorities, in Bangladesh, the average figure is only a fraction of that, perhaps less than one percent. Despite population differences, the gap is enormous. The number is too small to contribute to systemic change.

This must be a matter of serious retrospection for all concerned citizens. While in most other countries, governments are generally reticent to promote the law for fear of its potential to expose their inefficiencies and wrong-doings, in Bangladesh, it is citizens who seem unexcited about it.

Why should it be so? Surely, there is no dearth of citizens' grievances against government institutions.

One might ask if the same people use RTI law to fight corruption in public offices. Surely they know that corruption thrives under conditions of secrecy and a transparency law like RTI can remove the veil of such secrecy. But, most probably they do not. If they did, we would know the results.

As we have said before, often it is not the information itself which is important in RTI. Applications alone can be potent enough to make government officials more circumspect. Let's consider, for example, that some citizens submit RTI applications to public hospitals seeking disclosure of records for procurement of medical items such as needles, bandages, surgical gloves etc. What would be the outcome? The authorities may vacillate for a while but eventually the law will catch up, forcing them to respond. In one country, such an effort led to 50 percent savings of medical costs of the government. The publications of contract bids revealed rampant corruption. Couldn't our citizens make similar efforts to unearth such malpractices?

It is our hope that the new CIC will make it his priority to promote greater use of the law by citizens. Without this, the trainings that public officials received over the years in implementing the law will be meaningless. Eventually the law may fall into disuse and pass into oblivion. That will indeed be a great disaster for the nation.

The fact that the new CIC comes with a non-bureaucratic background, unlike his three predecessors, could be an added advantage at this juncture. Not that beauracrats don't make good commissioners - there are many examples to the contrary. But there are also examples of commissioners, with bureaucratic pasts, who are uneasy to take a firm position against recalcitrant bureaucrats. Citizens expect an even-handed ICB.

Another added advantage for the new CIC is that he comes with vast academic credentials, including as Chairman of the Journalism Department at Dhaka University. This is likely to help him obtain greater cooperation from the media to publicise the values and benefits of RTI more widely. It will also be easier for him to convince them about the tremendous value of RTI for their own profession.

To enhance greater use of the law by citizens, the creation of an image of ICB as a friendly body dedicated to the advancement of people's sovereignty over state power, as foreseen in the Constitution and the RTI Act, would help a great deal. As a scholar, the CIC will understand the need in this regard to further the concept of

principal-agent relationship between citizens and the state. To make this happen, the ICB will have to ensure that its actions and pronouncements promote the notion that public offices exist primarily to serve public interest. Concomitantly, where conflict of interest exists between citizens and the state, citizens' interest should prevail, unless otherwise circumscribed by law.

To earn their confidence, ICB will also have to focus on removing deep-seated cynicism of citizens about the law. People's distrust of government's commitment to openness is so wide spread that it is unlikely to go away easily. A good approach will be to apply the law in such a citizen-friendly manner that they start believing in its relevance for them.

A good first step in this regard would be to remove all impediments citizens face in submitting RTI applications. It is time that the ICB makes it clear once and for all that there is no need for citizens to address their RTI applications to specifically named designated officials (DOs). This will help ordinary citizens avoid the unnecessary hassle to find the names of DOs, which is often an impossible task with discouraging results. Addressing the applications to unnamed DOs should be enough. Unnecessary confusion in this regard over the years have caused untold harm to the advancement of RTI in Bangladesh.

An equally important measure would be to apply the sanctions of the Act to callous and errant public officials who fail to respond to applications or intentionally provide false, incomplete or evasive responses. So far the ICB has penalised only nine such offenders in six years when hundreds had qualified. It will be good to remember that imposition of penalties not only chastises disobedient officials but also encourages citizens to use the law.

It is, therefore, gratifying that in his very first appearance at a complaint hearing of the commission, the new CIC presided over the imposition of a penalty on a police officer who had not only refused to respond to a RTI application but also defied ICB's summons to attend the complaint hearing. Together with a Tk. 5000 fine, the commission recommended administrative action against him.

We congratulate the ICB for this bold action, and wish the CIC success in his new job. We hope he will find it both interesting and rewarding. Citizens expect him to lead the ICB to new heights. He has a supportive government and many activists and NGOs to back him. If we succeed together in putting this most revolutionary law of the land on a firm footing, our dream for transparent and accountable governance in Bangladesh will certainly become a reality in the not too distant future.

c. (2016, August 14) RTI regime needs a shot in the arm: The Information Commission can help.

I can't waste my time responding to RTI queries from riff-raffs and vagabonds," a public official was recently heard saying. Right to Information (RTI) workers throughout the country are familiar with such statements, which reflect the attitudes of many public servants, even seven years after Bangladesh's RTI Act 2009 came into

force. Few are willing to open up public records for scrutiny by the public, which is the basic objective of the law.

A large number of civil servants, bureaucrats and other employees belonging to the three branches of the Government - the executive, judiciary and the legislative - semi-government authorities, entities that run on or enjoy public fund, like schools, colleges and universities, NGOs that receive foreign funding and other agencies covered by the RTI Act, are still unprepared to abide by the transparency requirements of the RTI Act.

As a result, when citizens ask them for such information, they fret and fume and threaten them with unpleasant consequences. Whether they serve at the union, upazila, district or national level, many public officials cannot believe that ordinary people who trembled before them in the past would now dare to ask them for disclosure of information which was out of bounds for them. They get particularly angry with RTI activists and NGO workers who help ordinary citizens to make RTI demands. Officials are unwilling to reconcile with the fact that the days of secretive governance are gone, with the advent of RTI.

A research project recently completed by an NGO on the challenges and prospects of RTI in Bangladesh gives voice to these attitudes. Quotes from officials include:

- "We have lots of work to do at office. If you people add to our burden by asking for unnecessary information, where shall we go? You better withdraw your application or be prepared for trouble."
- "Because of you I have now been summoned to appear before the Information Commission. How could you do that? Don't you know, we could put you in trouble? So please inform the Commission that you got the information now, so both you and I will not have to appear before it."

The research findings also revealed that ordinary citizens avoid exercising their right to information for fear of retaliatory measures by public authorities. Some of their comments include:

- "I am afraid to apply. I may be summoned to the office and threatened with dire consequences simply because I have asked for the information. This has happened to people I know. I would rather starve than make an RTI application."
- "Who will protect me if the authorities file a fake case against me or send the police to arrest me? I know of people who receive telephone calls from concerned officials threatening them to withdraw their RTI applications or face consequences."
- "People are afraid to confront public authorities. In my union, we know that we always get less than our entitlements under the government's safety-net programmes. But I dare not complain or ask, as I am afraid my name may be struck off the beneficiary list altogether."

- "People don't see public authorities as friends. They are afraid to ask them any question. They would rather avoid them. I don't see RTI gaining popularity with ordinary people."

Such opinions go some way towards explaining the slow progress of the RTI Act in the country. The public must have confidence in the efficacy of the law, and public officials a healthy fear of it, if we are to make full use of this right.

The three main players who can do something about this situation are the government, the Information Commission and the civil society. Civil society remains divided because many key NGOs who fall within the ambit of the law are reticent to promote it for fear that it may boomerang on them. Some smaller NGOs have played a sterling role to keep the RTI ball rolling among the marginalised sections of the country, although their efforts to engage the middle and upper classes have largely failed so far.

There are positive signs that the Government of Bangladesh is slowly moving towards greater engagement with the law, not unexpected for a government which adopted the law to fulfill its election pledge. However, the government appears not to have fully discovered yet the value of RTI as an instrument to improve governance and bring citizens closer to it. In fact, in most developing countries, governments tend to see RTI/Freedom of Information laws as unnecessary encumbrances on their use (or abuse) of power. Normally, it is citizens who keep RTI alive.

The Information Commission (IC) has borne the bulk of the responsibility to take the RTI Act forward in the last seven years. For a new entity entrusted with an unknown task, it has made significant contributions to put the law on track. In previous columns, we have written about what more it can do.

Till the time the government comes out fully to play its role and the civil society is engaged to promote the law more vigorously, the IC must take the lead to provide the much needed shot in the arm for the sagging RTI regime. Some simple steps would achieve a great deal.

Together with awareness-building and other stipulated activities, the IC should consider: a) removing procedural difficulties faced by applicants in submitting RTI applications; b) encouraging greater use of the law through more positive interpretation of its provisions; and c) putting the punitive provisions of the law to greater use so that recalcitrant public officials realise that they must respect the law or face penalties.

Towards these objectives, the IC could consider the following:

- 1) Allow applications to unnamed Designated (Information) Officers: Among issues which bother RTI applicants, the requirement to address RTI applications to specifically-named Designated Officers is foremost. This is because, apart from the difficulty in obtaining the names, in many offices the DOs have not been appointed or been changed/transferred or incorrectly named on the website. The

rejection of applications for such mistakes frustrates applicants, leading many to abandon RTI. A significant number of complaints are "discharged" by the IC for this reason. Simply allowing RTI applications to be addressed to unnamed DOs would improve the situation dramatically. Similarly, other reasons for "discharging" about 43 percent of all complaints over the years could also benefit from a more accommodating attitude of the IC.

- 2) Consider registered mail to be definitive proof of receipt: A significant number of RTI applications are lost because the authorities concerned deny having received them, even when dispatched by registered mail. The IC's leniency on the DOs impacts negatively on the applicants. Simply adopting a rule that applications sent by registered mail will be deemed to have been received can remove the problem.
- 3) Hold Designated Officers accountable: In another large number of complaints heard by the IC, the DOs concerned justified their failure to provide information by claiming ignorance about the law. About 78 percent of DOs agreed to provide information only at the prodding of the IC. While the law provides for punitive measures for such failures, the IC has consistently been reticent to impose them. In seven years, only six penalties were imposed on DOs, while hundreds went scot free. As a result, people's trust in the law suffered. Their fear of public officials will reduce significantly if punitive measures foreseen in the law are applied more stringently. However, the fact that DO's are often guided by the views of senior colleagues, against whom no penalty provisions exist, must also be addressed.
- 4) Follow-up of decisions: Applicants are also discouraged when they fail to obtain the information even after IC directives. A better follow-up mechanism can end their gripes.
- 5) Alternative venues for redress: The holding of complaint hearings by the IC at different locations in the country and/or through video conferencing will reduce cost for complainants and remove another impediment to the growth of RTI.

The IC has the ball in its court. If it plays it well, the entire nation will benefit.

d. (2019, March 15) Government starts to nurture the fledgling RTI regime.

In recent weeks, two important government ministers—Law Minister Mr Anisul Huq, and Information Minister Mr Hasan Mahmud—have given vocal support to a fuller implementation of our national Right to Information (RTI) Act. We were encouraged to see this support, given that we've written recently about the bounty that this law provides for our country.

While their statements were not widely reported in the media, mainly because the law draws little public interest, such support from ministers may help influence public perception. This law is a tool to make Prime Minister Sheikh Hasina's policy of "zero tolerance to corruption" a reality. Citizens can play a complementary role to augment the government's efforts to fight corruption.

Every renewal of government's commitment to implement the law would do two things. It would remove citizens' fear about upsetting the government for seeking information

of a probing nature from public offices. And it would alert public officials that the government really wants them to abide by the requirements of the law, without any fear or favour. Without increased RTI requests, the efficacy of the law would largely remain untapped and there is a danger that it may gradually turn into a paper law. An annual figure of 7,000 RTI requests in Bangladesh compared to 60 lakhs in neighbouring India doesn't augur well for our country; given that our performance is better on so many fronts, let us enter some friendly competition on the use of RTI as well.

As stated in our earlier columns, the Prime Minister's Office (PMO) appears to have a good record for responding to citizens' RTI requests. We encourage the PMO to remain equally forthcoming even if requests become more sensitive and probing. The leadership role of the prime minister in this regard would go a long way to set examples for others to emulate.

The law minister spoke at a seminar called “Anti-Corruption Drive and the Success of the Leadership” on February 18. He said: “RTI can ensure free flow of information and can play an important role to bring transparency, ensure accountability and reduce corruption.” He underlined the need for “taking integrated initiatives, including making people more conscious about the right to information law and its full implementation for prevention of corruption.” We sincerely hope that the message would go down well with all public officials.

The information minister for his part spoke at a seminar called “Use of RTI for Investigative Journalism” on March 6. Among other things, he said: “Awami League believes in peoples' power. That's why it welcomes criticism. There can be no pluralistic society without criticism and debate. That is why Awami League adopted the RTI Act in 2009.” This indeed is an indication of strong support for the Act and coming from the information minister himself, whose office plays a key role in implementing the law, it augurs well for the future of RTI in Bangladesh.

What are the next steps both ministers could take? The law requires that the RTI requests are addressed to duly appointed Designated Officers (DOs). Both ministers should ensure that the offices covered by their respective ministries would at least appoint the DOs and make them known through their websites and notice boards. We know that many prospective RTI applicants have to give up their efforts in utter frustration because of non-availability or uncertainty about the names of the DOs. What can citizens do if DOs are not appointed or changes in DOs are not properly communicated? A common gripe of RTI-users against the Information Commission (IC) is the latter's unwillingness to consider complaints if the DOs were not properly addressed in the first place. Let's remove this simple impediment to the application of the law.

Some lawyers have told us that one of their biggest problems is to obtain the names of DOs of legal bodies. They said, for example, that there are no DOs at the Supreme Court, at the Attorney General's office, Metropolitan Magistrate's Court, Nari-Shishu Nirjaton Daman Tribunal, Labour Tribunal—to name just a few. This should not be the case 10 years after adoption of the Act. To whom should citizens send their RTI requests? They would welcome corrective measures from the minister.

As the key government ministry with a specific link to the Information Commission (IC), the Information Ministry could help in another important way. RTI practitioners often express concern about the selection process of the three Information Commissioners who serve as guardians of the law. The law requires a transparent process for their selection, which is overseen by the Information Ministry. A selection committee prescribed by the law has foreseen the inclusion of a judge from the Appellate Division, two MPs chosen by the Speaker (one from the ruling party and the other from opposition), the Cabinet Secretary, and an eminent civil society personality with experience or background in journalism. As the process is not publicised, it is not known whether these requirements are followed. This raises inevitable questions about a preponderance of bureaucrats, with a penchant for adopting bureaucratic positions, among successive Information Commissioners in the last ten years. Transparency in the selection of commissioners appointed to oversee the application of a transparency instrument by citizens must be a basic requirement of the system.

Now for the Information Commission itself. As a guardian of RTI law, which seeks to empower citizens vis a vis the government, it is essential that the commission is perceived as citizen-friendly. This, unfortunately, is not always the case.

In recent months, a number of staff members of the IC have reportedly visited some northern districts where they are said to have enquired about motives of RTI applicants, raising doubts about why and at whose behest they submitted RTI requests. Such questions obviously dampen the spirit of the applicants and even frighten them. It is often forgotten that RTI law provides no scope for asking why a citizen seeks any information which is not prohibited under the law. Citizens seek information as of right and not as favour. Unfortunately such questions are also asked at complaint hearings of the IC.

Another concern often expressed by RTI enthusiasts is the fact that the IC has a stringent policy on allowing observers at its complaint hearings. Citizens who have a legitimate interest in observing how a law adopted for their empowerment is applied in practice are barred from doing so. Such a non-transparent practice doesn't bode well for an agency mandated to oversee a transparency regime. In neighbouring India, where a much larger number of hearing takes place, the proceedings are open to the public except when the commission decides to examine records in confidence.

There are, however, encouraging reports in recent days from RTI applicants in the northern districts that they are receiving relatively better response to their requests than in the past. They have also been given assurances by senior district officials that offices under their jurisdiction would be more forthcoming in responding positively to RTI requests, if permitted under the law. This is indeed a positive development in the face of continuing reluctance of many public officials to live up to their responsibilities under it. Surely a closer interaction between citizens and public authorities can enhance transparency and accountability in governance, strengthen democracy and reduce corruption.

e. (2019, August 16) Is RTI Act becoming popular in Bangladesh?

You are really doing a great job,” said the Designated Officer (DO) of the District Social Welfare Office of Dinajpur. He was talking to a member of the public who had gone to his office to submit a Right to Information (RTI) request. “We, government servants,” he continued, “are paid from the public fund, so we must be accountable to the people. You should spread the word about people’s right to information all over the country. Most people do not know what this law is and how to use it.”

Another DO, the Assistant Commissioner (Land) of Charghat, Rajshahi, told an applicant: “I don’t know what my predecessors did in this office, but I am determined to rid it of its reputation of rampant corruption. You can help me do this. It is very important to bring us face to face with people. I am convinced that the more we learn about the law the more transparent government offices shall be.”

Participants at an RTI seminar in Dhaka on August 1 were both surprised and delighted to learn of such positive attitudes of government officials towards the RTI Act, 2009. Since the law came into force 10 years ago, stories abound of the irreverent and negative attitude of such public officials towards the law. Most felt it would cause them trouble and increase their workload unnecessarily. In comparison, these are happy tidings indeed.

The seminar was organised to disseminate the findings of a just-completed study by two leading NGOs of the country. The project was aimed at promoting RTI among different strata of society, increase its users and to bring them into closer contact with public authorities. In other words, building a bridge between the demand side and the supply side of the RTI regime.

There were, of course, many examples of extremely negative DO attitudes towards RTI applicants. Typical among them is the remark of the DO of “One Home, One Farm” project in Kaliganj Upazila, Satkhira District, who told an RTI applicant: “Why should I give you information, who are you to ask for it?” The Headmaster of Zikra High School, in Rajshahi District, was harsher on an information seeker who had asked for some information on the school. “Who is instigating you to seek such information?” he asked. “Whoever is behind it must be looking to ruin your lives. You may not understand it now, but you will soon.”

RTI users are conversant with such remarks. Government officials seem unable to reconcile with the fact that there is a law now which gives citizens the right to demand from them all non-exempted information at their disposal, without giving any reason. They are unhappy that their earlier power to withhold any pertinent information from the general public has been revoked by the RTI Act. Some still do not know about the law or perhaps do not want to know. To implement RTI under such circumstances is indeed an uphill task.

The project reveals some light at the end of the proverbial tunnel. During the course of the one-year project, around 18,000 RTI applications were submitted to public authorities in four project districts—Rajshahi, Dinajpur, Naogaon and Satkhira. In the

context of the annual average of slightly over 7,000 RTI applications throughout the country, it is remarkable that only two NGOs could generate more than double that figure and that too in a limited area. Around 61 percent of the applications got full or partial responses, perhaps indicating that public authorities are beginning to respond to citizens' RTI requests as routine work. While this augurs well for the future of the regime, it is pertinent to ask if such progress can be sustained without continuous project support in the future and whether citizens would be less fearful to submit RTI requests without help from NGOs.

The report divided the RTI requests into three broad categories: i) those seeking primary information of a personal nature; ii) those seeking institutional accountability; and iii) those seeking transparency.

In the earlier years, RTI requests mostly belonged to the first category. They were made by members of marginalised communities, with assistance from NGOs, seeking to know how the government's safety-net programmes were managed and how they could benefit from them. Findings under the project, however, showed that such applicants and others have upscale their information requests by seeking information on matters relating to institutional accountability and transparency in the work of public bodies. They are increasingly asking for information on such matters as expenditure of local authorities on road-building, bridges, culverts, etc. This must be seen as significant progress.

Concerning, the report reveals that 25 percent of the RTI requests received no response at all; pressure tactics were used to discourage appeals, especially those pertaining to transparency.

An encouraging claim of the report is that around 231 RTI activists emerged in the four project districts during the project period and around 2,200 persons were trained as RTI experts to help others use the law. If only a handful of them exercise their expertise properly, RTI in Bangladesh could be headed for better times.

But not everything was as rosy. The main gripes of many who participated in the project and those attending the seminar, appeared to be directed against the Information Commission (IC). Many felt that the main challenges for RTI users in the country could be minimised if the IC was less bureaucratic and more attentive to their concerns. The key issues identified by them for corrective measures by the IC included the following:

- (i) The requirement to address RTI requests to specifically named Designated Officers (DOs) must be removed. Many requests are rejected or returned simply because DOs could not be identified or were not appointed or changed frequently.
- (ii) The propensity of the IC to grill complainants with personal queries and/or asking for reasons for their requests at complaint hearings is disconcerting.
- (iii) The readiness of the IC to postpone complaint hearings when the DO is absent repeatedly and its disinclination to do so if an ordinary applicant is absent even once is discriminatory.

- (iv) The promises of DOs to provide the requested information only after directive of the IC at complaint hearings are often dishonoured. The IC must find a mechanism to stop this practice.
- (v) It is not uncommon for complainants to receive IC's summons after the date of the hearings when it has already discharged the matter for non-appearance of complainant. This is most discouraging.

Reverting to positive developments, the project also witnessed a successful application of the law by citizens to seek information on hitherto uncharted areas. Participants were encouraged to focus RTI queries on the government's implementation of the Sustainable Development Goals (SDGs) and Five-Year Plans. By asking for progress reports on them, RTI users not only enriched their own knowledge about the government's development works, but also helped public officials to keep abreast of their status. It was thus mutually beneficial to both the demand and supply sides. It helped to minimise the fear factor which deterred citizens from making use of the law in the past.

The positive developments give rise to hope and underline the importance for all the stakeholders—citizens, public authorities and the IC - to work together to overcome the challenges that remain and reap the harvest of this very important law of the land.

f. (2020, October 15) RTI IN BANGLADESH: We need an independent and neutral Information Commission.

From its onset in early 2020, the Covid-19 pandemic has damaged trust in governments. As governments fumbled with different approaches, citizens' distrust of them increased in tandem. Allegations of misinformation, disinformation and lack of information polluted the atmosphere.

The chaos, however, gave hope to transparency enthusiasts that the experience would help governments realise the extraordinary importance of proper information sharing in democratic governance and hence the need for them to pay greater attention to proper implementation of the Right to Information (RTI) Act. Sadly, there was no indication of this in Bangladesh during the observance on September 28 of the International Day for Universal Access to Information. The statements and utterances made at various gatherings and seminars organised for the occasion provided no indication that the three key stakeholders of the RTI regime in the country—citizen groups, the government, and the Information Commission—had drawn lessons from the Covid-19 experience. An important opportunity was lost.

Citizens' groups could have drawn focus on glaring examples of lack of transparency on many aspects of the government's handling of the crisis. Instead, a handful of NGOs involved in promoting RTI stuck to their usual concern about obstacles that citizens regularly encounter in using the law. In their submission at the meeting organised by the Information Commission, where top government officials were present, NGOs demanded remedial measures but lacked vigour and direction. With a law more than a decade old, such deference to public authorities, including the

Information Commission, must come to an end. It's high time citizens considered collective measures, however politely, to seek removal of the impediments they have endured for a long time.

Reports on other activities NGOs organised for the occasion revealed they are still largely focused on awareness-building. However, the law is yet to make an impact on peoples' minds and the little practice that has emerged is limited to a small number. This is evident from the fewer than 8,500 RTI requests recorded annually in the country. As a result, except for a handful of persons who have used the law and, therefore, are aware of the obstacles they must encounter, there are not many who would agitate for remedial measures. In neighbouring India, on the other hand, the RTI law has gained so much traction among the population that when the government simply flagged an intent to amend the law last year, hundreds of agitated citizens took to the streets to thwart the process.

The more polite voicing of concern by the Bangladeshi NGOs was, however, offset by a hard-hitting article which appeared in this newspaper a few days later (October 4, 2020). In that piece, entitled "RTI requests and the reality on the ground", two RTI activists shared their frustrations about the RTI process and their sad experiences with concerned authorities. They cited examples of unfriendly, even negative, gestures by the Information Commission towards complainants who see it to be their last bastion of hope in obtaining information from recalcitrant public officials. There is a general consensus among RTI watchers in the country that the implementation of the law would be greatly helped if the commission could take appropriate measures to deal with citizens' concerns voiced over the years. Establishing a regular dialogue with NGO representatives and RTI enthusiasts and activists will facilitate the process.

The Information Commission, like public authorities generally, tend to see activists as nuisance and brush them off as troublemakers. It is important to remember, however, that activists play a particularly important role in the success of RTI law in many countries. In some, they serve as paid agents to obtain relevant information from public authorities on behalf of their clients. Nothing in the law, including that of Bangladesh, proscribes them from doing so. In the US, the majority of information requests are submitted by paid agents. In Bangladesh too, a significant portion of RTI requests are submitted by activists and by individuals who are helped by NGOs. Just as politicians seek to represent people's concern on governance issues, RTI activists promote the watchdog role of citizens as envisioned in the law.

The importance of activists for the promotion of RTI globally is evident from the existence of activist groups in most countries and of international forums where they exchange views and strategies. In fact, *The Daily Star* article mentioned before was posted on an important website and read by activists from all over the world. Activist groups collect information from such sources to draw their opinion on the implementation of the law in specific countries. These are then reflected in the data that UNESCO has been tasked to gather to measure the implementation of Sustainable Development Goal 16.10—which seeks to assess the efficacy of RTI law in national contexts. The Bangladesh data is expected to be submitted next year.

The government and the people must realise that the RTI Act is not aimed at unearthing corruption but to stop it from happening at all through systemic change. It is clear that such a realisation has not sunk properly in the minds of many.

To make that happen, it is the Information Commission that will have to play the key role. It must undertake serious efforts to remove obstacles identified by citizens so that they feel comfortable to use the law. This should not be difficult if, to begin with, the commission is able to shed its image of being a government body, which it is not. The law clearly states the importance of its impartial role in resolving disputes between citizens demanding information and public authorities refusing to supply them. But an image of impartiality cannot be created if the commission displays greater deference, as many allege, towards government officials in their handling of complaint cases. It cannot be created if the commission continues to send text messages to citizens as Govt. Info. Nor can it be helped by putting advertisements in newspapers where government officials and Information Commissioners share messages with the people side by side on the same page, with no representation of citizen groups. Neutrality should not only be practiced but also seen to be practiced. The RTI Act is a citizen-friendly law which clearly calls for a citizen-friendly Information Commission.

On its part, the government would do well to make its commitment to the law clear to the people, and more particularly to public authorities, on a regular basis. It can do so, inter alia, through a proper selection process of impartial Information Commissioners, as provided in the law. Installing a reward system for officials who discharge their responsibilities under the law properly would help the process. Assuring the commission of full freedom to apply the law, including penalising disobedient public officials, would be of added value. In addition, selecting at least one Commissioner with legal background would help greatly since the application of the law, particularly drafting decisions on complaint cases, which are of a quasi-judicial nature, requires legal acumen.

There can be no better way for the government to instigate beneficial changes in governance through non-revolutionary means than by helping citizens to do so through a seamless use of the RTI Act. It's time the law received the attention it richly deserves from all concerned.

g. (2021, March 15) RTI Act: All three branches of government fall within its ambit.

The deleterious impact of the Covid-19 pandemic on the operations of the Right to Information (RTI) Act has been much discussed in the last one year. We drew attention to it in several of our columns. We also highlighted the positive role it played in enhancing public awareness about the importance of the law during a crisis period. In today's column, we revert to its use in normal times.

Let's look at three examples from neighbouring India, Pakistan, and Sri Lanka—some more recent than others.

The Sri Lankan example stemmed from an RTI request filed by a local journalist, Chamara Sampath, who sought from the secretary general of the Parliament the list

of Members of Parliament (MP) who had submitted Declaration of Assets and Liabilities during the years 2010-2018. The secretary general declined to release them, arguing that they were submitted confidentially by the MPs to the speaker, and he had no access to them. He also felt that the request infringed on the privileges of the Parliament.

On appeal by the journalist to the Right to Information Commission (RTIC) of Sri Lanka, the latter set aside, in a decision last month, the refusal of the secretary general and directed him to release the desired information. It based its decision on the ground that the list of MPs did not amount to personal information or information that infringed parliamentary privilege provision of the RTI Act.

The commission further held that MPs, by taking on a public role, had accepted a higher level of public scrutiny and the requested information would provide the people with crucial insights into compliance of the law by MPs who held elected office and were financed by public funds. As such, there was an overriding public interest in the disclosure of the information.

Equally significant was the RTIC ruling that since the Parliament was a Public Authority under the RTI Act, it is of no consequence whether the requested information was in the hands of the speaker or the secretary general. The latter being the "administrative arm" of Parliament, had "institutional possession" of the information. It is remarkable that unlike many other commissions in the region, the RTIC took a constructive approach to advance the objectives of the law rather than looking for loopholes to deny it.

The example from Pakistan relates to a decision made by the Pakistan Information Commission in an RTI appeal submitted by a citizen, Mukhtar Ahmed Ali. The latter was aggrieved by the demand for proof of his citizenship by the Public Information Officer (PIO) of the National Assembly (NA) of Pakistan to whom the initial RTI request was submitted and which he considered *ultra vires*. In its June 2019 decision, the Commission allowed the appeal and directed all PIOs under the Right of Access to Information (RTAI) Act 2017 of Pakistan not to demand a certified copy of the national identity card, CNIC, of an RTI applicant, as it was not required by the law. It ordered the respondent to provide the requested information within a stipulated period.

It all began when the appellant submitted a RTI application to the PIO of the National Assembly of Pakistan, requesting information on the total sanctioned posts of the NA: the pay scale against different positions; total number of vacancies and dates since they lay vacant; number of staff members who were not regular but engaged on a daily-wage or short-term or long-term basis; total number of female staff members and persons with disabilities, etc. Though the information sought appeared innocuous, the PIO declined to disclose them and looked for a way out. Unfortunately, such a tendency is not too uncommon among PIOs in the region.

It is remarkable, however, that the commission allowed the appeal and held that the RTAI Act 2017 did not require applicants to establish proof of citizenship for making information requests. It underlined that the elected representatives of the people

who had adopted the law had not restricted the right of access to information only to CNIC-holding citizens of Pakistan because they did not want to deny its benefits to members of vulnerable groups who did not have access to CNIC. It further stated that the constitutionally guaranteed fundamental human right of access to information in matters of public importance should be interpreted by public bodies as a right of all citizens of Pakistan and not a privilege extended only to those who can first provide certified copies of their CNICs. A very positive approach indeed!

The Indian example relates to another arm of the government—the judiciary, and more specifically, the Supreme Court of India (SCI). It has emerged as a landmark case in the annals of the RTI Act of India. It underwent a long battle for accountability and transparency waged by an Indian citizen, Mr Subhash Chandra Agarwal, against the Central Public Information Officer (CPIO) of the office of the Chief Justice of India (CJI). The latter had declined to disclose information sought by the applicant some 10 years ago, claiming that the office of CJI did not fall within the purview of the RTI Act. The request included information regarding assets and liabilities of judges.

In a remarkable judgement, delivered on November 13, 2019, the SCI held that the office of CJI was indeed a "public authority" within the ambit of RTI Act. A five-judge constitution bench, headed by the CJI himself, having considered three separate appeals filed by the CPIO, challenging the Delhi High Court verdict of 2010 and that of the Central Information Commission of India (CIC) in the same year, upheld the verdict in three separate but concurring judgments.

"Nobody wants to remain in the state of darkness or keep anybody in the state of darkness," the judgement said, adding that: "The question is drawing a line. In the name of transparency, you can't destroy the institution." The judges also held that while public interest demands accountability, judicial independence was equally sacrosanct. They concluded, however, that bringing the CJI's office within the ambit of RTI Act would not undermine that independence.

The verdict was hailed by RTI activists of India, including former CIC of India, Wajahat Habibullah, who saw it as "the consummation of the implementation of the law and not the initiation of any new process." Former Information Commissioner, Shailesh Gandhi, well-known for his teleological interpretation of the law, lamented that "it took 10 years for the Supreme Court to take this decision". Others found it marking "an advancement of the key right of the people to seek information about public functionaries" and felt that "the judgment had once again reiterated a famous adage that "sunlight is the best disinfectant and therefore transparency in the functioning of all institutions, be it a legislature, executive or even judiciary, is indispensable in a modern democracy."

We hope that RTI users of Bangladesh will find the examples instructive and a source of knowledge and inspiration for public officials from all three branches of the government and for the Information Commission itself. They edify the immense possibilities of the RTI Act to advance good governance, benefitting everybody, and the role each can play to achieve its goals.

CHAPTER – 5: CITIZENS AND CIVIL SOCIETY’S ENGAGEMENT IN TAKING RTI LAW FORWARD.

a. (2016, January 15). Right to Information - A catalyst for change.

Talking to citizen's groups in different parts of the country recently, two things came out clearly. One, there is a slow but steady increase in awareness about the RTI Act, permeating to different strata of society. And two, only a few understand the basic objectives of the law and its underlying philosophy.

Among those who are aware, the disadvantaged and marginalised groups see the RTI Act mainly as a useful instrument to access rightful claims under government's safety-net programmes. The middle and educated classes use the law more for matters of personal interest than for larger issues discussed below. The rest, except for a few, think there are better ways to obtain information from the government and would rather avoid dealing with it.

Such attitudes stem from a lack of understanding of the basic philosophy of transparency laws as they evolved after World War II, which is to serve as a catalyst for change from restrictive to more open government. The Bangladesh RTI Act is similarly geared towards changing the culture of secretive governance inherited from colonial times. The goal is to replace it with more open, responsive, law-based and citizen-friendly rule. In democracy, where citizens are arbiters of all powers of the state, this must be the ideal.

This explains why RTI is often referred to as open records or sunshine law; the former because all government records must be open to citizens as owners of the state while the latter stems from the notion of shining the light of public access on deliberations/meetings/records of the government formerly held behind closed doors. This can be done by opening up government activities to public gaze.

This, however, can only happen through a systemic change in governance. Is the RTI Act 2009 contributing to such change? Is the law being used for more than simply obtaining mundane information from public offices, not easily accessible before? Is the government becoming more sensitive to peoples' concerns? Are government responses more prompt and effective? Are public officials more courteous even to the most ordinary citizen? Is corruption in public offices lessening?

These are, of course, long term goals. The real question perhaps should be: are the seeds of change being sown? For the answer, we scoured through decisions of the Information Commission of Bangladesh (ICB) over the years. The results, unfortunately, are not very encouraging. The country is still in the learning mode in which a demand-side has begun to sprout, however slowly, and the supply-side is painfully becoming used to the fact that it can no longer ignore peoples' demand for

access to government-held records. Systemic change in governance is, therefore, still a far cry.

But there are signs of hope. The examples below may perhaps be seen as the proverbial light at the end of the tunnel. Three of them are taken from ICB decisions. The other, resolved without the latter's involvement, was reported in the press.

RTI exposes corruption and leads to legal redress: This is one of the earlier cases dealt with by ICB in 2010. The Bangladesh Environmental Law Association (BELA) had addressed an RTI application to RAJUK, the city development authority, seeking information on the construction of a high-rise building in a prominent place in Dhaka, known as the BGMEA Tower. It ended up as a complaint case before the ICB, as there was no response to initial application or to subsequent appeal. Even at the complaint stage, RAJUK refused to entertain IC order to release information sought by BELA. This led to the issuance of a legal notice to the chairperson of RAJUK, which finally released the requested information to BELA.

The information revealed that the BGMEA Tower was built on government land without fulfillment of conditions attached and permission from RAJUK. Following this, a case was filed in the High Court where the information was used as evidence of illegal construction of the tower. The court ordered its demolition for violation of several laws. The case raised public awareness, and while the demolition remains blocked by subsequent legal suits, the building stands as a stark reminder of corruption at high levels and the need for public vigilance.

RTI helps implement minimum wage in shrimp processing industry: This 2011 complaint case dealt with by ICB began with an application made by Asad, an employee of an NGO, named SAFE, engaged in monitoring implementation of minimum wage rules for workers in the shrimp processing industry. Through an RTI application to the Designated Officer (DO) of the Department of Labour in Khulna, Asad asked how many shrimp processing plants in the region had implemented the minimum wage rules of the government. He wanted to identify those that didn't implement the rules, for subsequent advocacy efforts. Not getting a response to the initial application and being dissatisfied with partial and incorrect information provided at the appeal stage, Asad complained to ICB. Following several hearings, he obtained an order from ICB directing the Labour Department to provide complete and accurate information. It revealed that not all plants followed the rules and many workers were denied the minimum wage. Since then, the situation changed and the workers reportedly received full entitlements.

RTI unearths illegal occupation of public property leading to eviction order: In this 2014 case, an RTI applicant, Mr. Arup Roy, asked the Designated Officer (DO) of the Bangladesh Water Development Board for information on a large piece of land to learn if the Board had leased it to any person or institution. Not getting any response from the DO or the appeal authority, he complained to ICB. On the day of the complaint hearing, the lawyer of the Board revealed that the land indeed belonged to the Board and was under illegal occupation. The ICB ordered the Board to take necessary measures for eviction of illegal occupants.

RTI uncovers scam and leads to punitive measures against bank officials: This is another 2014 case, widely reported in the press. It centered around efforts of an NGO, Udayankur Sheba Sanghsta (USS), of Nilphamari District in North Bengal. USS is engaged in poverty alleviation activities, inter alia, through peoples' collective self-help efforts. In a monthly group meeting, participants learnt that some fellow members had received gratuitous money, amounting to Tk 1000 each, from the local branch of Sonali Bank. These were apparently "beggar loans," approved under a bank scheme and would not require repayment. The recipients were, however, made to sign a form where one of them saw an amount of Tk 27,000 inscribed on it. As this raised suspicion, the group discussed the matter with other groups to discover that some 111 persons had received similar amounts under a similar manner. Upon further enquiry, they learnt that Sonali Bank had indeed launched a programme called "Swanirbhor (self-reliant) Bangladesh" to provide loans, between Tk 5000 to Tk 30000, to indigent people for income generation activities. The group thus realised that they had become victims of a scam and would be required to repay the large loans they had inadvertently signed for. However, since they were aware of the RTI Act, they made 111 RTI applications to the DO of the concerned branch of the bank. They soon received responses showing that each of them owed between Tk. 10,000 to 30,000 to the bank. The noise and demonstrations that followed resulted in Sonali Bank appointing an investigation committee which unearthed the scam. Thereupon, the Bangladesh Bank issued an order for recovery of the scammed amounts from guilty officials and employees.

Do these examples indicate a beginning of systemic change? We leave it to the readers to ponder upon. But surely real change will come when more citizens use the RTI Act to accelerate the process.

b. (2016, March 15) Right to Information: Impact of High Court ruling.

An important development took place last month regarding the Right to Information (RTI), which is likely to have significant impact on the transparency regime. It concerned a ruling by the High Court Division (HCD) on a decision of the Bangladesh Information Commission (BIC).

The ruling resulted from a writ petition filed by six Bangladeshi citizens who were aggrieved by a decision of BIC on a complaint submitted to it earlier under the RTI Act. The court had two questions before it: one, whether citizens had unfettered access to information held by the Election Commission (EC) on audited annual statements of income and expenditure submitted to it by political parties; and two, whether the desired information was "third party" information which required checking if the parties considered it "secret information" under Section 9(8) of the RTI Act. The petitioners had submitted that the information concerned was public information and thus, required no "third party" clearance. BIC took the opposite view.

After preliminary hearing, HCD issued a Rule Nisi, calling upon BIC to show cause why the said decision should not be declared to have been passed without lawful authority and of no legal effect. The ruling was made absolute on February 18, 2016, which meant the Court found in favour of the petitioners.

Section 9(8) of the RTI Act requires a Designated (Information) Officer of a public authority, dealing with a request for information, to check if the said information "has been supplied by a third party or a third party's interest is involved in it and the third party has considered it as secret information." If so, the DO is required to seek the opinion of the "third party" before acting upon it.

Let us now relate the law to the facts of the case. The six petitioners of the writ are various office-bearers of Shushashoner Jonno Nagorik (SHUJAN), a Bangladeshi NGO which seeks to promote democracy and good governance in the country. A number of them had submitted an RTI application in June 2013 to the Designated Officer (DO) of the EC requesting photocopies of all available audited annual statements of accounts filed by registered political parties with the EC over the years.

In his response, the DO informed the applicants that the information sought were not EC's own information, and should be collected directly from the political parties. Unhappy with this, the applicants preferred an appeal, under Section 24 of the RTI Act, to the Appellate Authority of the EC, which affirmed the decision of the DO.

The applicants then filed a complaint to the BIC under Section 25 of the RTI Act. At its hearing on October 22, 2013, the BIC agreed with the EC position that opinion of the "third-party" was indeed necessary, and asked the applicants to reapply to the EC, specifying names of political parties and the time period for which information was sought. The EC in turn was directed to write to the concerned political parties, seeking their opinion on the request.

Following this and after further back and forth, the applicants were informed by the EC that out of 21 registered political parties, only three, namely Bangladesh Muslim League, Jatiya Somajtantrik Dal (JSD) and Bikalpadhara Bangladesh, had consented to the disclosure of the requested information. The EC was willing to act accordingly.

Being dissatisfied with this response, the applicants submitted a review petition to the BIC stating that its earlier decision laying down a requirement of seeking consent from "third-parties" was incorrect, as the information sought were "public information", which every citizen was entitled to access from the EC under Section 4 of the RTI Act.

BIC responded by saying that as there was no scope for review under the RTI Act, a fresh complaint was necessary. This was submitted, whereby BIC reaffirmed its earlier decision. With all RTI avenues thus exhausted, the complainants filed the writ petition.

RTI enthusiasts, activists and scholars will now have to await the reasons for the court ruling. These will help all concerned, including the BIC, to deal with this and other provisions of the Act that pose problems for interpretations. It may, however, be said in anticipation that a contextual reading of the law by the learned commissioners could perhaps have avoided the need for the writ petition. For, it may be argued that Section 9(8) seeks to safeguard "third party" information only as circumscribed by the objectives of the Act.

It may be noted that secrecy was neither requested by the political parties in their submissions to the EC nor could they have done so. This is because they are required to provide the information under Political Parties Registration Rules, 2008, framed under Article 94 of the Representation of the People Order, 1972. This is patently public information. A positive approach to the application of the law on the part of the EC and the BIC would have shown that the question of secrecy did not arise at all. Moreover, no other provision of the Act had prevented the EC from disclosure of the information.

Two concluding remarks may be pertinent here. The first relates to interpretation of the law. Among many principles of interpretation, one is *noscitur a sociis*, which in English means "a word is known by the company it keeps". Applying that principle, the word "secret" in Section 9(8) of the RTI Act, read in conjunction with other provisions and intent of the Act, which is to replace secretive governance with transparency and accountability, would call for qualified application. It is useful to recall that there is a growing international practice which favours disclosure over secrecy wherever public interest clearly overrides other interests.

The second remark relates to the status of political parties under the RTI Act. Do they not qualify as "public authority"? Shouldn't citizens be able to obtain the information on income and expenditure, or any other information on their work, directly from the political parties, without going via the EC? In our view, the answer to both should be "yes". However, they have not arisen in a RTI case in Bangladesh yet. In India, they have and the result was electrifying.

In the Indian case, two years ago, the Central Information Commission (CIC) ruled that political parties do indeed qualify as "public authority". They based their decision on a liberal interpretation of Section 2(h) of the Indian RTI Act 2005 which includes as public authority any "non-government organisation substantially financed directly or indirectly by funds provided by the appropriate Government". In doing so, they considered submissions describing various support/facilities Indian political parties received, directly or indirectly, from the government. The ruling was challenged in the High Court by the political parties, where it remains pending. [See also our column of August 16, 2015 in this newspaper.] The Bangladesh RTI Act 2009, in Section 2(b) includes as public authority: "any private organisation or institution run by government financing or with aid in grant from the government fund". Would BIC find our political parties to qualify as "public authority" under this section, given the various facilities/concessions they receive from the government? We will have to wait for an RTI application to put the matter to test.

c. (2016, June 15) RTI Act 2009: A powerful tool against poverty.

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 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.

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 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 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 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 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.

d. (2016, September 16) The right to ask for information and the obligation to provide it.

Arunendu works for the Rangamati Hill District Council in the Chittagong Hill Tracts region of Bangladesh. He is known for his dedication and commitment to public service. So his office appointed him the designated official (DO) to deal with Right to Information (RTI) queries from the public.

On receiving RTI applications from journalists and the general public, Arunendu seeks the advice of his seniors in order to prepare the replies. In his own words: "As the Hill Council has to deal with many government departments, in preparing replies to people's RTI applications we need to seek information from several offices. Officials at such offices sometimes say there are objections from the authorities on sharing information." Arunendu, however, does not take 'no' for an answer. "I caution them that if I don't get the information from them and cannot satisfy the people who have asked for them, they would be in trouble too, not only me."

This level of dedication to the RTI act in a public servant is rare. And yet, in order for the RTI Act to succeed, citizens must believe that the law was enacted to promote open governance and public officials must realise that it is meant to be respected or else they may have to face its sanctions.

The two sides involved in implementing the law - citizens who seek information and public officials who provide it - both find it difficult to believe that the government is

serious about opening up its vast reservoir of information to public scrutiny. Citizens, long used to secretive governance, are instinctively sceptical about the sincerity of government's intention to be transparent and accountable. Public officials are equally unconvinced that the government really wants them to disclose information to the people which was previously denied in the past and for which public servants took the oath to secrecy when joining service.

In other words, citizens must feel confident that they may ask public officials for most of the information held by the government without fear or justification. Public officials, on the other hand, must understand that citizens are entitled to obtain such information as of their right and not as of grace. More simply put, citizens are the rights-holders and public officials the service-providers.

There are encouraging signs that we have made a start towards this mindset. This was confirmed at a seminar in Dhaka last month, organised to discuss the findings of a research project on the prospects and challenges of the implementation of the RTI Act in the country.

What was most heart-warming about the seminar was that almost half of the large gathering was composed of government officials. They belonged mostly to the Cabinet Division of the Government, which spearheads the implementation of Government's National Integration Strategy (NIS). An integral part of this strategy is the promotion of people's right to information. In fact, the Cabinet Secretary to the Government, who was the chief guest at the seminar, endorsed many of the recommendations that were made.

As was expected, the research findings indicated that there was still a great deal of hesitation on the part of government officials to play their role under the Act in a robust manner. Many public servants are appalled by RTI applications from people who would tremble even to speak to them in the past.

Such findings were, of course, not very pleasant for many government participants at the seminar. Some claimed that the picture was perhaps not always so negative. They felt that some of their colleagues were slowly but surely opening up to their responsibilities under the law, though their numbers may still be very small. We very much hope that they are right.

We thought it useful, therefore, to focus in our column this month on two positive stories from the government side. They were reported to us by MRDI, an important NGO of the country, dedicated to the promotion of the RTI Act. Both our individual examples are cited from MRDI's report.

Arunendu, our public servant in the Hill Tracts, explains to reluctant officials that if they do not cooperate by providing the requested information under the RTI Act, people could exercise their right to appeal to higher officials or even complain to the Information Commission, which has quasi-judicial power even to penalise them. He thought that as a member of the public, he himself expected certain services from government offices like the one he was serving now: "So I like to create an environment

in the District Council so that people can get access to all the information they require. As there was no provision for people to seek information through formal written procedure before, a culture of providing information has not developed. Now together with the filing of RTI applications, and subsequent appeals that may follow, one can seek legal redress if s/he is not furnished with the information. So for obvious reasons, officials holding the information are now bound to change their mindset and share information with the people. For example, in the past there were no conscious efforts to follow the government rules on recruitment for public jobs through a quota system. There were many instances of job quota violations. Not anymore. Now there is RTI fear. Officials in charge of recruitment can now afford to disregard undue lobbying from high-ups in favour of the candidates of their choices.”

Iqbal is another public official who is engaged in promoting RTI. He worked for the Office of the Comptroller and Auditor General of Bangladesh. According to him: “We’ve assigned designated information officials in all of our subordinate offices. We uploaded RTI-related information on our website. And work is underway to draft a disclosure policy,” says Iqbal. He further notes: “People have a tendency to get information from us informally, verbally. However, one organisation and eight journalists sought information from us through RTI applications over the last one year. Not a single case of appeal was registered against us as we furnished them with the required information on time.”

Such stories give hope. It is important that they are made public as they will certainly help generate people’s confidence in the law. Among suggestions made in this regard at the above seminar, one was to institute an award system by the government, whereby public officials displaying exemplary efforts to make the RTI Act work will be recognised annually and additionally considered for promotion. Another suggestion was to hold Annual RTI conventions, with the participation of all concerned, in which highest personalities of the government would reiterate their support and commitment to the law.

Together with such efforts on the part of the government, if citizens were to wake up to the immense possibilities that the law offers for their empowerment vis a vis the government, the RTI Act may indeed prove to be one of the most powerful laws of the land for change, good governance and progress.

e. Dr. Shamsul Bari, (2017, February 15) Right to Information and the story of a Bokul tree. The Daily Star

“Payer tolaye norom thek loki?

Aste ektu cholna thakurjhee.

Oma eje jhora bokul, noe?

Joistho aste kodin baki bhai?”

This beautiful rhyme by poet Jotindra Mohan Bagchi famously captures the Bengali sentiment for bokul phul, a very small sweet-smelling white flower. The words vividly describe the poignant feelings of a visually impaired woman who is being escorted by her sister-in-law for a walk in the garden. She implores her companion to let her tread

softly over the fallen flowers under her feet and asks if they are indeed bokul phul, heralding the imminent arrival of spring. In fact, the bokul tree (*Mimusops Elengi*) has a hallowed place in the Bengali mind.

Readers may legitimately ask why I am evoking poetry in an RTI column. I would only request their indulgence to allow me to draw upon a personal experience in this regard.

A *bokul* tree stood in front of our house for over 40 years and covered the ground below with sweet-smelling flowers every spring. It was planted by my wife when we built our first house together in the Banani area of Dhaka city. Her love for *bokul* flowers was so deep that she insisted on buying a small *bokul* plant before the ground-breaking ceremony. My father helped her plant it in front of our boundary wall.

From that day in 1974 till early June 2016, our *bokul* tree grew steadily and spread its wide canopy over the sidewalk in front of our house. It provided shade to weary passersby during the day and silently showered the path with flowers during the night. Small girls picked them up every morning and turned them into garlands to give to their loved ones. Since the death of my wife in October 2013, I often watched this beautiful ritual every day and remembered the time when she would play with a handful of *bokul* phul brought to her in the morning during her illness.

But then came the spate of road building and other improvement activities in our neighbourhood, undertaken by the newly installed Dhaka North City Corporation (DNCC) authorities. Streets everywhere were dug up, but people took their suffering in good spirit, hoping for improved traffic soon. I too rejoiced at the prospect of better roads. However, I was soon filled with trepidation when I saw many trees being felled in the process. I shuddered at the thought of losing my *bokul* tree.

I knew that development may require some destruction first, but was hoping that things will happen systematically, based on clear policy, rules and regulations. I hoped that this would be particularly true for trees, many of which had grown big and beautiful over the years, including my wife's *bokul* tree. If the rules were applied evenly, I thought, I should be prepared to accept whatever happened.

But while the trees on some streets were being chopped down ruthlessly, those on other streets were spared. The reason for this distinction was not communicated. In some places, the trees were cut before drains and sidewalks were built on both sides of the street. In other places, the sidewalks were built without felling the trees as the drain pipes were dug into the middle of the road. I was hoping that this would happen on my street too.

To know more, I decided to use the Right to Information Act 2009. I sent an RTI application on May 3, 2016, by registered mail to the Designated Officer (DO) of DNCC asking for a copy of any guidelines being followed for the tree-felling activities in the Banani area and a copy of any specific decision taken in this regard and provided to the contractors, and finally, a copy of rules and regulations for felling of trees anywhere in Dhaka city.

Unfortunately, there was no response within 20 working days, as stipulated in the RTI Act. So, as per law, I appealed to the appellate authority, who happened to be the Mayor of DNCC. He too did not respond within the stipulated 15 working days. I then complained, as per law, to the Information Commission. Two months had passed since my first letter.

Meanwhile, one morning in early June 2016, work men arrived on my street and began sawing down my *bokul* tree. I was told that this was necessary as the side-walk would be built on the drain which could only be dug after removing the trees. I called the mayor right away, who told me that there was nothing he could do as everything was being done on basis of decisions carefully taken.

There was no point in asking whether there were any written records of the decisions, as it was already too late. My *bokul* tree and its companion mahogany tree were gone. However, about seven other trees on my street were spared. These surviving trees stand to this day to my great joy, with the sidewalks hugging them all around. Again, no reason was provided for the distinction.

I immediately sent a second RTI application, asking for the basis of such action. Unfortunately, no reply came within the stipulated period of 20 working days. This time, without making another futile attempt to appeal to the mayor, I sent a second complaint straight to the Information Commission, which promptly applied the rule and rejected the complaint, stating that I should have made an appeal first to the DNCC.

About my first complaint to the Commission, I was called to a hearing on October 24, 2016: more than five months since my initial letter. The DO of the DNCC was present together with his lawyer. Both denied having received my first application or the appeal, though they were sent by registered mail. However, they acknowledged that they had received the second application, for which a response was sent on September 8, 2016. The response contained a copy of an office order from 2008 relating to removal of trees which are affected by storm or are old or dead. The order required the formation of a committee composed of five persons from relevant government offices who would take the necessary decisions. It was accompanied by a circular dated March 7, 2016 relating to removal of trees felled or destroyed by a recent storm “in accordance with traditional practice”.

When the commissioners asked the DO if such a committee was formed, the DO simply said that he did not get any feedback from the concerned department. The Commission then decided to hold another hearing a month later, on November 20, 2016, in which the official from the concerned department would be summoned. However, the latter failed to appear at the hearing and sent only his lawyers. As the matter could not be taken any further, the Commission simply took the decision that the DNCC must respond to my RTI application in writing, even if to say that they had no information to provide.

I got a letter from the DNCC within a few days, basically saying that they had no guidelines for felling of trees and no specific decisions were taken to cut the trees on

my street and no written instructions were given to the contractors for this purpose. The matter ended there in effect.

So, what was the result of my RTI intervention? Nil, I am afraid. My beloved *bokul* tree was gone. The Information Commission was simply focused on process: ensuring that the DNCC responded to my RTI application, even if to say that they had no information to provide. It took no action on the fact that the DNCC failed to respond to my RTI application or the appeal in the first place, even though the law clearly provides for punitive and other measures. The DNCC got away unscathed by denying that it ever received my application or the appeal, even though I produced evidence that they were sent by registered mail.

That the RTI law was enacted primarily to promote transparency and accountability of public offices was lost in the Information Commission decision. As for the DNCC, one wonders if anybody, other than the few officials directly involved in the process, was made aware about the existence of the law and their responsibility under it for transparency and accountability to the public. If it continues like this, can the objectives of RTI ever be achieved?

And finally, will the mystery of why my wife's *bokul* tree got the axe while most of the other trees on my street thankfully remained standing ever be solved?

f. (2017, August 13) RIGHT TO INFORMATION: Disclosure laws should be on citizens' agenda for the next elections.

Pakistani Prime Minister Nawaz Sharif's removal from office was the subject of much attention in Bangladesh and elsewhere. But buried within the story about political turmoil and the future of civilian rule in Pakistan was a story about leaked information and disclosure of assets.

The leaked information belonged to a list of 11.5 million files that were obtained by a German newspaper from the database of a law firm of Panama, which specialised in setting up offshore corporations and accounts for its clients. Based on them, the International Consortium of Investigative Journalists (ICIJ) had released the so-called Panama Papers in early 2016. It followed a year-long investigation which revealed how world leaders, politicians and businesses hide and launder money, evade taxes and finance arms and drug deals.

The Panama Papers had also named 32 Bangladeshi nationals and two Bangladeshi companies. But while the Pakistani public undertook a vigorous campaign to have the Pakistani links investigated, resulting in the downfall of their prime minister, nothing like that happened in Bangladesh. After some initial noise, the matter was left to the Anti-Corruption Commission, which formed a three-member committee to probe the allegations. It has remained with them since then.

This is somewhat uncharacteristic of Bangladeshi civil society. This is the community which fought Pakistani injustice and misrule for 23 years and played a key role in the liberation of Bangladesh in 1971. Since then, our civil society provided support to civilian politics to topple military-led governments and re-establish democratic rule in 1991.

However, it appears to have lost its sting over the years. What is happening in Bangladesh today is, of course, not unique; it is a global trend. There is growing recognition worldwide that the efficacy of street agitations is waning as governments learn new, innovative and more repressive ways to control them. Citizens must, therefore, consider other means, combining individual and collective efforts, to compel governments to fulfil their obligations to the people. And a foremost obligation is to provide good governance through transparent and accountable mechanisms.

It is this realisation that gave rise to a contemporary global trend to promote adoption of legal instruments aimed at open and accountable governments. The specific goal is to remove the veil of secrecy that has traditionally shrouded the work of governments, through “disclosure” of hitherto classified information to the public. This would help citizens to monitor the work of public officials and check abuse of power and plunder of resources.

The above may appear utopian given today's realities. But international experience has shown that over time transparency laws have forced governments to make changes—if an alert citizenry uses those laws.

The primary objective of “disclosure laws”, as they are popularly known, is to fight corruption and promote good governance. Fighting corruption requires a multidisciplinary approach which includes fighting bribery of public officials, elimination of corrupt candidates from contesting elections, combating corruption in fiscal policy, public and private sector governance, etc.

A key mechanism, at the government level, is to set up anti-corruption bodies such as the Anti-Corruption Commission (ACC) of Bangladesh and the Central Bureau of Investigation (CBI) of India. At the non-governmental level, there are institutions like Transparency International Bangladesh (TIB), which is the Bangladeshi branch of Transparency International, dedicated to fighting corruption globally. Disclosure laws complement this process. Some of them specifically empower citizens to play a role.

Laws relating to asset declarations by public officials and members of the government are among the most prominent disclosure laws. These are aimed at preventing conflict of interests or identifying illicit enrichment. Laws for Foreign Exchange Control keep politicians or public officials from holding overseas bank accounts, largely to prevent money laundering. There are similar laws to combat other types of corruption.

In Bangladesh, persons seeking to contest parliamentary elections must declare, under Article 12 of Representation of the People Order (RPO) 1972, their assets and other pertinent particulars when registering their candidature. However, once elected, there is no legal requirement for continuing disclosure. Similarly, Rules 13-17 of Government Servants (Conduct) Rules 1979 require most civil servants to disclose their assets and financial involvements, including those of their spouses and children, at the time of entry into service and annually thereafter. Under the Money Laundering Prevention Act 2009, overseas account holders are barred from transferring any amount of money to that foreign account from his/her earnings in Bangladesh. Such transfer is considered money laundering.

However, while these laws require disclosure only to a public agency and not to the public directly, the Right to Information Act 2009, foremost among disclosure laws, fills the gap. It empowers citizens to seek disclosure of almost all information, except a few categories, held by public authorities. Citizens who wish to play a role in promoting transparency in government work and fight public corruption, could not have a better tool. Use of disclosure laws could be one of the most effective means to strengthen democracy and promote good governance.

It may be argued that some of the information provided under disclosure laws may belong to the “exempt” category under the RTI Act. But this has not been proven yet. The scope and extent of the exemption clauses under Section 7 of the RTI Act is still waiting to be legally tested. For example, if asset and other declarations by government servants or election candidates are claimed to be “exempt information” under the RTI Act on the grounds that they are “private confidential information”, it may be challenged effectively. One argument would be that any information provided by citizens to public authorities under any legal mechanism to promote public interest should be considered public information, and no longer private, and hence disclosable.

A constant endeavour of citizens should, therefore, be to stretch the scope of disclosure laws, through their use, to ensure transparency. If a public authority, including the Information Commission, interprets a legal provision restrictively, the intervention of the judiciary could be sought by arguing the objective test.

Greater civil society attention to such matters would be helpful also to supplement individual efforts. Imagine the likely impact on political parties if a substantial number of citizens start using RTI to seek information disclosed by candidates to the Election Commission under RPO and expose false or untrue claims. Hopefully, more care would be taken not to put up candidates whose honesty and integrity could be questioned.

As the country moves towards general elections next year and the civil society gears up its efforts towards more participatory democracy and open government, they must go for specific commitments from political parties to include in their election manifestos effective measures to strengthen disclosure laws. More particularly, they should insist that the relevant particulars of their candidates in the elections are disclosed in good time for public scrutiny. Citizens should not have to depend upon Panama Paper-type leaks to learn about the wrongdoings of their elected representatives or public servants.

At the same time, civil society leaders and social activists must promote greater public awareness of disclosure laws and the importance of their use by citizens in large numbers. Collective efforts by citizens to exercise their watch-dog role on the government, as foreseen in the RTI Act, may alone be more productive in the long run than street agitations.

g. (2017, October 15) RTI Act: Are users getting smarter?

In July 2016, a man in Comilla asked the local UNO for some information about taxes and markets including the rules for tax collection from sellers in the local market and

whether receipts are provided to taxpayers; whether permission was given to fill the canal adjoining the market, and whether it was leased and to whom; whether measures were undertaken to have the canal recovered from illegal occupiers, and documents on such measures; whether the eateries in the market area are regularly checked to ensure quality of food and, if so, copies of inspection reports.

As usual, the complainant received no response to his Right to Information (RTI) request nor to his appeal. As a result, he complained to the Bangladesh Information Commission (BIC). Shortly thereafter, the complainant was beaten up by assailants, made to sign a blank paper to withdraw his complaint, and threatened with dire consequences unless he apologised to the Union Council Chairman.

The Commission directed the Designated Officer (DO) of the office concerned to provide the requested information to the complainant within the next seven workdays. It further directed him to take necessary legal measures with the help of the UNO and local police head against those found to have been involved in assaulting the complainant, and report back to the Commission. While it is doubtful that the last step took place, certainly the Commission sent a strong message through its directives: public authorities must respond to RTI requests. If only the Commission had imposed a fine on the DO, as has been prescribed in the law, the message would have been even stronger. [For further details, see: complaint no. 04/2017 on the website of BIC: [http://www.infocom.gov.bd/site/view/publications/\(2014-2016\)](http://www.infocom.gov.bd/site/view/publications/(2014-2016))]

The RTI Act is the only law in the country that allows citizens to monitor the work of the government and expose wrongdoings. By seeking appropriate information from the vast reservoir of records held by the government, citizens can reap two broad categories of benefits: those of a personal nature and those that benefit society at large. The latter is brought about by ensuring transparency and accountability in the work of public officials, leading to systemic change over time on how they perform their duties.

Personal benefits accrue largely to the most vulnerable and marginalised in our society. Many of them have submitted RTI requests, asking for information about distribution of benefits under the safety-net programmes of the government. Many received benefits, such as old-age and maternity benefits or vulnerable group feeding cards, simply by asking for details of the beneficiaries' list. These are often enough to alert authorities that even the most downtrodden are now aware of their rights and ready to fight for them. It is a shining example of how RTI can help the government to achieve its objectives and the citizens to obtain their legitimate entitlements from it.

The use of RTI to seek redress for personal grievances is equally popular. RTI has been used by students appearing in various public service examinations to find out if they were fairly treated by the examiners. Whether the desired information is received or not, the applications alone help alert the authorities that their performance is being watched by citizens.

On the broader societal good and ultimately changing the way government relates to the people, there are many examples, too. A student's application to see the relevant documents between a contractor and concerned city authorities led to the contractor

undertaking fresh work to re-carpet a road in the applicant's neighbourhood. RTI requests for the list of medicines to be distributed freely by rural clinics led to such lists being put up on the walls of clinics. In many places, RTI has ended longstanding corrupt practices surrounding the programme.

Recent decisions of the Bangladesh Information Commission indicate how, despite the slow growth of RTI as a tool for social change, there is a growing maturity among users of the law.

In one case (complaint no. 02/2017), the complainant had asked the concerned district authorities whether permission was sought and given to set up markets for sacrificial animals in residential areas for the Eid festival. He asked if specific markets were established legally, and if not, what actions were taken against the persons involved and their outcome. He also wished to receive a copy of the related government policy and rules. He filed the complaint as he did not receive any response to his RTI request nor to his subsequent appeal.

At the BIC hearing, the respondent Designated Officer (DO) promised to provide the desired information. The BIC directed that this should be done within 14 workdays. As in all such RTI cases, it was up to the complainant to decide what to do with the information received. If irregularity or corruption is detected, it is for him or her to pursue the matter, since BIC has no authority in this regard. Whatever the action taken, it is safe to say the case has alerted the concerned authorities that such matters are now being closely observed by citizens. This, in turn, may have a beneficial impact on the administration.

Another recent complaint (no. 03/2017) involved a RTI request to the Prime Minister's Office for information on the number of people who had travelled as part of the PM's team to participate in annual UN General Assembly meetings from 2010 to 2015, the total costs involved and who bore the costs, the specific duties of the participants and all office orders in that regard.

The DO of the Prime Minister's Office duly provided the information relating to numbers but failed to do so on costs and duties of the participants. For the latter, the complainant had appealed, but after getting no response, he complained to the BIC.

At the complaint hearing, the DO explained the reasons for not providing the rest of the information but promised to do so by seeking them from the respective offices and the people concerned. The Commission directed him to do so within 20 working days.

This is a shining example of respect to the law from the highest level of the government and should be an example for other authorities to emulate.

The above cases also highlight the vast gaps that still exist between the promise of the law and the reality surrounding its implementation. However, they also evoke a glimmer of hope. Citizens are fast learning about the power of RTI to force public authorities to change their secretive mindset of the past and accept transparency and accountability as the new norms. The authorities, too, are slowly realising that the days of wanton disregard of citizen's wishes are numbered.

h. 2019, June 15) Let's stand by our lone rangers: The role of RTI activists.

When young Shovon moved to Dhaka from his village not very long ago, he went looking for ponds to bathe in. He discovered quite a few of them, spread all over the city. But he was soon dismayed to learn that ponds and other waterbodies were fast disappearing to make way for development. Fearing the same fate for the remaining ponds, he began looking for those which were in danger, hoping to do something to save them. He has done so since then. The activist in him put him on a relentless mission to help the remaining ponds of Dhaka to survive.

It may not seem obvious, but Shovon is following a long Bengali tradition. Bengal was the bastion for social and political activism during British India. Activists of Bengal led the way for the eventual departure of the British from India. Similar activism during Pakistani times hastened the emergence of Bangladesh.

Democracy thrives best in societies where citizens play an active role to hold in check power and authority. Bangladesh is fortunate to have inherited a rich tradition in this regard.

Activism is, however, context-dependent. What was useful in colonial times may not be so under democracy. The approach deployed against a more democratic and tolerant regime may not fare well under repressive and harsh rule. The current international trend towards greater authoritarianism and control is reflected in Bangladesh as well. The government is better equipped today than before to deal with public dissent. As a result, the methods we used in the past such as blockading, boycotting and the like, appear to be out of place today: the word “hartal” has almost disappeared from our political lexicon.

New approaches for activism are sprouting in this new era. Much has been written about the explosive growth of social media—and the other technological advances of our time—and their role in social change. But let us not ignore a new, albeit low-tech, tool. It too is readily available and full of promise: the Right to Information (RTI) Act 2009.

The adoption of the RTI Act was based on the principle that in a democracy citizen have the right to know how well their government is serving their interest. Citizens may obtain relevant information available with most public bodies to monitor their work and ensure that they perform their tasks honestly and diligently. Activism is thus built into the system.

While the law is yet to be fully understood and used by our citizens, a few who have are already putting it to good use.

People entitled to government's safety net programmes such as vulnerable group feeding, old age and maternity benefits, etc. are being helped by activists to send RTI queries to relevant bodies, seeking information on—for example—who is on the list or how recipients are chosen. Such requests were often enough for them to be called in and told that they are indeed on the list: the authorities would rather give in than have their misdeeds revealed. In some places, it became a practice to post recipient lists on notice boards.

RTI interventions were addressed to public health clinics for information on the list of medicines made available to them by the government for free distribution to the indigent. Where previously the medicines were sold to the intended beneficiaries by corrupt officials, the free medicine lists are now published on notice boards of the clinics.

Similarly, scholarship money meant for school children is now being disbursed in full. Before RTI activists turned their attention to them, they were subjected to unlawful deductions by school authorities. In all these examples, the law helped to bring systemic change for proper implementation of government programmes.

Sadly, there are not enough such stories. RTI activists must jump over many hurdles and through many hoops. They face difficulties and threats from irate public officials or those fearing exposure of their corruption. The Information Commission too is far from helpful. Instead of being pro-active, as envisaged in the law, it is prone to question the intention of the applicant for seeking the information in the first place. It is enough to dampen the spirit of any RTI user.

When Shovon discovered that ponds in Dhaka were being filled up, he informed himself on the law and found that the Natural Waterbodies Conservation Act 2000 made filling of ponds a punishable offence. He then began to contact the Environment Directorate whenever he learnt about any imminent danger to a pond.

In early 2016, Shovon learned that a pond, known as “Pottery Pukur”, in Rayer Bazar area of the city, was being filled up by a Housing Company. He immediately tried to contact the Environment Directorate. He called, wrote and cajoled. His dogged persistence forced the Directorate to finally undertake an on-site investigation, in May 2016. It revealed that “Pottery Pukur” did indeed exist but was now totally filled up, illegally. A Housing Company was preparing to commence construction on the spot.

The Environment Directorate ordered a halt on all further activities on the spot, threatening the Company of legal action in default. It informed the concerned city authorities to undertake necessary measures to bring the pond back to its original state. A fine of more than Tk 14,00,000 was subsequently imposed on the Company and duly levied. But after that nothing happened to indicate that the pond would resurrect. Fearing inaction, Shovon proceeded like a lone ranger, with more phone calls, more letters, more outreach to anyone who could help, including the media. He also resorted to the RTI Act for help.

He found the Information Commission’s role particularly unhelpful and perfunctory. His complaint hearing took place without him, as the Commission refused to change the date despite his formal request for a short postponement due to personal reasons. The Commission heard only the representative of the Environment Directorate and directed him simply to provide the information sought by Shovon. It made no effort to find out about the fate of the pond itself, as clearly anticipated in the RTI Act. The Environment Directorate simply informed Shovon what he already knew. There was nothing to indicate what further action it intended to take on the matter, if at all.

More than three years have passed since Shovon embarked on his mission to save “Pottery Pukur”. He hasn’t given up yet, though he fears retaliation by those disturbed by his intransigence. His efforts with all the concerned authorities have continued, yielding only perfunctory and evasive answers.

Will the matter simply fizzle out? Will our “Pottery Pukurs” continue to be stolen? Will our Shovons be forced to give up their dreams to be useful citizens of the country? Are the days of activism in Bangladesh over? Let us remember the contribution of activists of the past to bring us where we are today. And remember that each age needs its own activists.

i. (2019, October 15) The growing maturity of RTI use in Bangladesh.

Last month, the International Right to Know Day was an occasion for the champions of the Right to Information (RTI) Act in Bangladesh to show how the law helps to strengthen democracy and advance good governance.

Unlike earlier years, the discussions and exchanges this year were more upbeat and hopeful about the future of the law in the country. Despite the hurdles citizens face to use the law, many have been motivated by the painstaking efforts of NGOs to do so to address and redress issues of public concern. Users include people from low-income groups and the educated middle class. There is a noticeable change from the earlier practice of using the law primarily for private needs to invoking it for larger issues of public interest.

From among many examples cited in public discussions and included in reports and publications for the occasion, we have chosen a few to elucidate the development. They demonstrate the growing maturity of the users in invoking the law and the relative increase in the willingness of the authorities to respond.

Some of the most inspiring stories are contained in a publication titled “Magic Happens When Women Carry the RTI Torch.” An NGO called Management and Resource Development Initiative (MRDI) sensitised a group of young women from low-income backgrounds on the RTI law. They managed to hold to account various government agencies responsible for delivering social services to citizens. Their efforts contributed to changes in the way public officials relate to ordinary citizens and improved the quality of services delivered to people in their neighbourhoods. In the process, they had to deal with high officials and face hearings at the Information Commission, which are no mean feat. They have been rightly called brave change-makers of their communities.

Rabia Khatun Shorna is one such change-maker who lives in a low-income neighbourhood of Dhaka. She used RTI to address a variety of issues including prevention of sexual harassment that women face in public places and missing manhole covers in her neighbourhood. She turned them into subjects of RTI applications sent to the relevant authorities.

Shorna’s major gripe was against inappropriate behaviours she faced every day on public transportation, including indecent comments about her body, or even

groping by fellow passengers. She knew it was a common experience of most women and wanted to use RTI to fight it.

Shorna filed an RTI application with Khilgaon Police Station. As she did not get a response, she filed another application with the Ministry of Women and Children Affairs. She asked what they did to protect women in public transportation, since the general welfare of women fell under their responsibility.

When the ministry did not respond, she filed a complaint with the Information Commission. While waiting for a hearing by the Commission, she filed another application on the same issue to the Bangladesh Road Transport Authority (BRTA), responsible for public bus services. She asked what the BRTA did about sexual harassment on public transportation and how many complaints it had received and what actions had been taken to address them.

This time she got an answer. The BRTA informed her that it had no statistics on complaints as none were filed. She did not doubt the veracity of the response because even though sexual harassment is rampant, women are normally reluctant to make formal complaints about them. She was, however, reassured to learn that the BRTA was training drivers to handle such situations. She is convinced that a greater use of RTI mechanism with unwavering determination will improve the situation.

Shorna got better results from her RTI intervention on missing manhole covers on the streets in her neighbourhood. They were either broken or missing, through which sewage would spill on to the streets during rain and on which rickshaws would trip. Initially, she received no help from the Dhaka South City Corporation, as it had not appointed the mandated information officer, and no one else was willing to accept her application. As a result, she complained to the Information Commission, which did the trick. Soon Shorna found that the manhole covers on her streets were repaired and even elevated by a few inches so that rickshaws no longer tripped over them. The examples illustrate the impediments citizens face in applying the law but also its tremendous efficacy, if pursued doggedly.

Another change-maker, Jhorna, used RTI persistently, ignoring rejections and insults, to force Dhaka South City Corporation to spray mosquito insecticide in her neighbourhood regularly. Beauty Akhter of Sonir Beel area filed a similar RTI request; her local authorities sent her a detailed list of names, areas, dates, times and types of insecticide they sprayed in her area. While she saw little action on the ground, she was happy that her application was heeded to and future action could be expected. Her faith in RTI has increased.

The variety in the use of the law is equally encouraging. Lawyers of the Bangladesh Legal Aid and Services Trust (BLAST) used the law to find out the state of compliance of the High Court guidelines and subsequent Education Ministry circular on ending corporal and mental punishment on students in educational institutions. They submitted RTI requests to different field offices of the ministry and received responses indicating that while in many instances the guideline/circular was being duly followed, many shortfalls remained. However, assurances were given that the

gaps would be filled immediately. More such RTI interventions by citizens to different public bodies can advance the implementation of similar government directives and policies.

The plight of Bangladeshi female domestic workers in the Middle Eastern countries was the subject of an RTI intervention by a journalist, Zakir Hossain, in North Bengal, who was sensitised on RTI at a training session jointly conducted by the Research Initiatives Bangladesh (RIB) and The Hunger Project (THP) of Bangladesh. He asked the Ministry of Expatriates' Welfare and Overseas Employment for information on the number of women workers who were victims of torture by their employers overseas and who had to be repatriated, the role the government played in the process, and measures put in place by it for their physical and mental treatment. To his great satisfaction, he received a detailed response from the ministry, including measures with regard to the safety and welfare of the women. Even if not all the measures are fully respected, the fact that peoples' concerns are being registered in the minds of public authorities is a good omen for the future.

The same journalist had asked the Railways Ministry about government plans to introduce double-lane railway tracks in the northern Bengal routes. He was again pleased to receive a detailed answer on the work in progress of all the eight projects undertaken by the government in that regard. If he and others follow up on the response by tracking the work schedule mentioned therein, the real value of RTI will become apparent.

Let us conclude with an encouraging example from the supply side. It relates to an RTI request filed by an activist of the Hunger Project, Biplob Chandra De Kunal, from Dinajpur district, to the office of the Rangpur Divisional Commissioner. He wanted to know the names, designations, emails and mobile numbers of designated Information and Appeal officers of all government departments of Sadar upazila, Dinajpur district. He not only received the information sought but was also invited to the office of the Assistant Divisional Commissioner, Laila Anjuman Banu, who informed him that upon learning about Kunal's application, the Divisional Commissioner had ordered the inclusion of RTI for discussion at the next monthly meeting, where he ordered all the Deputy Commissioners of Rangpur Division to collect information about RTI-related officials of all the government departments in every district of Rangpur Division and send it to his office. This was duly followed. It is a significant achievement and augurs well for the future of RTI in the country.

We say "bravo" to the Divisional Commissioner and hope others will emulate his example. The RTI ball in Bangladesh has been set rolling. It is up to its citizens to keep it moving faster.

j. (2019, December 15) Law needs RTI-defenders.

The global excitement about Right to Information (RTI) appears to be on the wane. Instead of facilitating citizens' role to monitor public work by accessing official documents, governments are resorting to procedural and other hurdles to curtail the reach of the law. RTI enthusiasts and scholars who saw the law as an "impressive

display of policy innovation at a global level”, now see it more as “democratic window dressing.” Secretive governance is striving to return.

Unless citizens appreciate the dangers confronting their RTI regimes seriously, the law is likely to end up as a paper tiger. We must recognise that since the primary objective of the law is to empower citizens against the state, we play the key role to safeguard its operations. We must also remember that governments have a legitimate interest to hide certain information from the public in the larger public interest and hence a normal tendency to resort to secrecy. We must, however, ensure that the limit set by the law is respected.

So, what are the angles through which we can fight a return to secretive governance?

Substantive provisions of the law: A constant tug of war exists in all administrative systems between public authorities and citizens as to what official information citizens must have access to. A basic principle is: “transparency is the rule and secrecy the exception.” Openness, however, varies between states. Where the law does not meet the standards, citizens have the responsibility to strive for them and fight for their safeguard.

RTI laws vary in several respects. One, the ambit of the law is of crucial importance. In most countries, only entities that use public funds are included. Others include private bodies, e.g. businesses and corporations, if they serve public interest and are regulated by public laws and policies. Two, we should be clear as to the definition of the term “information”. Greater clarity makes it easier for citizens to know what to seek. Three, we should understand the status of RTI law over other legislations. Does RTI law prevail over other laws, in case of conflict? Four, the range and extent of the “exemption clause”, which provides for exemptions or exclusions of information from disclosure, is the heart of the law. RTI/FOI laws are best assessed by the limits they set on citizen’s right to access information through exceptions. Bangladesh’s law has one of the longest list of exemptions. Five, the quality and standing of the adjudicatory body, i.e., the Information Commission, the process of selection of its members and the independence it enjoys are of crucial importance.

To rank the quality of RTI/FOI laws globally, the Center for Law and Democracy, a Canadian NGO, has come up with indicators based on the above criteria. Among 122 countries it ranked, South Asian countries fare rather well. Afghanistan’s law tops the list globally, with Sri Lanka in 4th position, India 7th, Maldives 16th, Nepal 21st, Bangladesh 26th and Pakistan 31st.

Bangladesh fared badly largely because of its long list of exemptions. There is clearly a need for improvement here which can be achieved only if more citizens discover the deficiencies through practice and seek their removal. For that to happen, the category of users must include educated and socially aware classes, which is not the case yet in Bangladesh.

Procedural aspects of the law: Even a generous law may be difficult to implement because of unwieldy procedures. Failure to follow them allow public authorities to

reject requests. The law in Bangladesh requires RTI requests to be addressed to specifically named designated information officers. Problems arise frequently when the officer is not appointed or has been transferred and not replaced. Other procedural impediments compound the problem.

Statistics show that our Information Commission disposes off 48 percent of the complaints it receives without any hearing because of various deficiencies in the application process. On the other hand, 38 percent of all applications and complaints are rejected because of procedural lapses. Unless these impediments are removed, the potential of the law cannot be fully achieved.

Adjudicatory mechanism: The responsibility to resolve disputes between citizens and public authorities on the application of RTI law normally bestows upon independent bodies like the Information Commission. To play its role properly, the Commission is required to apply the law in a manner that helps citizens fulfil their responsibilities under the law and to help the government safeguard its legitimate interest to keep certain information under the lid for greater public interest. But often Commissions fail to balance the two.

As seen above, the strict adherence of Bangladesh's Information Commission to cumbersome rules and its penchant for narrow interpretation of the law often frustrate the resolve of the users. By their actions, decisions and pronouncements, Information Commissions normally make their position on the law known to public officials and citizens alike. In Bangladesh, RTI users often complain about the indulgence of the Commission towards recalcitrant public officials and its disinterest to impose the prescribed penalty. From 2010 to 2018, only 1.6 percent of the errant officials have been penalised.

The lack of mechanism to follow-up on the decisions of the Commission can be another matter of serious concern. This is the case in Bangladesh too. Statistics show that in 17 percent of positive decisions of the Information Commission for disclosure, the complainants had to reapply, as the decisions were ignored. Unless social elites and civil society leaders lend their voice, ordinary citizens, who are the main users of the law today, can do very little to change the situation.

Restrictive practices and interpretation of the law: The long list of exemptions from disclosure is not the only factor that diminishes the quality of the law in Bangladesh. An added problem is broader or narrower interpretation, as the case may be, of the exemption clauses and other provisions of the law by public authorities and the Information Commission alike. 35 percent of RTI requests in Bangladesh are denied on the basis of Section 7 of the Act, which contains the exemptions. In some countries, Information Commissions are more likely to accommodate a request than to deny it, if it serves public interest. In many countries, however, the Commissions tend to resort to restrictive practices to deny disclosure.

To avoid such tendencies, some RTI laws provide for a "public interest override" clause. Under this provision, Commissions may side for disclosure if they think that public interest would thereby be served, even if the law may permit denial. Some

laws also provide for a “harm test” which allows disclosure of the requested information if it is unlikely to cause any harm to any protected interest under the law.

Unfortunately the Bangladesh law does not provide for such possibilities. And added to this deficiency, both public officials and the Information Commission are known to use the exemption clauses at ease to deny disclosure.

Role of the judiciary: One way to get some help to ensure proper application of the law would be to seek the help of the judiciary. In a few cases brought to the attention of the Bangladesh High Court, under its writ jurisdiction, the court has generally resorted to a pro-people interpretation of the RTI Act. Unfortunately, here too due to lack of attention from more empowered tiers of society, not many cases are being brought to it or a few that have been lodged are vigorously followed up.

There is a clear need for defenders of RTI law in Bangladesh.

k. (2020, January 15) Engaging citizens to use the RTI law.

Those who read this column regularly are aware of its two recurring themes. First, that the Right to Information (RTI) Act is important not simply because it enables citizens to obtain information from public authorities which they may “need to know” for personal reasons, but, more importantly, because it empowers them with a “right to access” information that sheds light on the way public offices perform their duties and spend public money. By resorting to RTI, citizens convey to public servants that they are keeping an eye on them.

Second, in order to achieve the larger goals of systemic change in governance through RTI, knowledgeable and socially-aware sections of society must be engaged in the process. While ordinary citizens can help keep the RTI machine working through regular interaction with public officials on relatively mundane and private matters, using the law for the greater public good, such as unearthing corruption and exposing misuse of power for private gain, requires better understanding of the intricacies of the governing process and the tactical use of the law. These are normally not something ordinary citizens excel at.

Since the inception of RTI in Bangladesh 10 years ago, ordinary citizens, particularly from underprivileged sections, have successfully used the law to obtain many of their rightful entitlements from government safety-net programmes. The limited use of the law in the country today still revolves around the personal concerns of ordinary individuals.

While this is empowering and important, few in the country appreciate the ability of the law to force disclosures about serious malfeasance by public officials through abuse of power and authority, thereby leading to public outcry.

Ironically, one of the very first RTI interventions in the country led to the disclosure of serious illegality in the construction of the famous BGMEA building, in the heart of Dhaka city, on the Hatirjheel lake. It eventually led to the Supreme Court order to demolish the building. This was possible only because an environmentally-concerned social activist had used the law to obtain the facts. However, since then, very few citizens have used the law for such public good.

One reason for this may be that people simply do not know about it. So, we will cite a few good examples of RTI use from neighbouring India. They show that whatever difficulties citizens may face from obdurate authorities in making use of the law, its strategic use by knowledgeable and determined citizens can expose serious irregularities in governance and pave the way for change.

Amid the wide variety of RTI interventions in India, two broad categories emerge. One shows non-transparent, muddled or shoddy, ill-motivated decision-making that causes public distress, and where authorities hide facts to hoodwink the public. The other reveals serious misdeeds by public officials, including large-scale corruption and abuse of power and authority.

Readers may recall the unprecedented turmoil in India following the sudden announcement by the Indian government on November 9, 2016 ending the legal tender nature of high-value Indian currency notes, which accounted for 86 percent of the total cash in circulation. It rocked the country so hard that the aftereffects still reverberate. More than a hundred people died waiting in serpentine queues to deposit the demonetized notes and at least three bankers succumbed to their fatigue counting old and new cash. Most people thought the price paid was too high, compared to the expected benefits of demonetization that the government listed in its gazette notification.

One RTI request in this debacle was for the minutes of a meeting involving senior officials of the Reserve Bank of India (RBI), held to prepare its advice to the government on the matter. RBI sat on the request for a long time before being compelled by the Central Information Commission, and later by the Supreme Court, to disclose the requested information. The disclosure finally revealed that RBI had expressed clear doubts on the advisability of the decision and the fundamental bases of the government decision. India's principal opposition party, the Indian National Congress, vowed to investigate abnormal flows of funds from foreign tax havens during the demonetization period.

Our second story is about "electoral bonds," introduced by the Indian government two years ago as an election financing scheme. They comprised of interest-free bearer instruments that are available for purchase from the State Bank of India, allowing individuals and domestic companies to present them to political parties of their choice for their use for election purposes. Buyers of the bonds are required to submit their particulars at the time of buying, but the beneficiary political party is not required to reveal the identity of the entity that has given it the bond(s).

An RTI activist asked the Department of Economic Affairs (DEA) for the total number of bond-buyers who had requested that their identities be kept confidential. When no complete response was forthcoming, the activist appealed to the Central Information Commission of India. The latter has, earlier this month, issued "show cause" notices to the DEA, department of financial services, department of revenue and the Election Commission, asking why maximum penalty should not be imposed on them for giving incomplete, misleading and vague responses. The matter is likely to give rise to

serious embarrassment to the government, if and when the information is released. One opposition politician has remarked: "The electoral bond scheme of the Narendra Modi government is a *modus operandi* to receive thousands of crores from big business houses through secret donations."

Our final tale has to do with the independence of the judiciary and adherence to RTI. In response to an RTI request seeking directives of the Supreme Court of India to the Centre and states to appoint Information Commissioners (ICs) without further delay, a bench of the apex Court, which included the new Chief Justice of India, SA Bobde, and two other judges, asked the Centre and states to fill long-standing vacancies of Information Commissioners within three months. It also asked the Centre to upload on the official website names of members of the Search Committee for selection of ICs of the Central Information Commission within two weeks. If only we had similar watchdogs for the law in Bangladesh!

In a major ruling in November 2019, the Supreme Court ruled that the office of the chief justice of India will come under the ambit of the Right to Information Act. Reading out the verdict, Justice Sanjiv Khanna said: "Independence and accountability go hand in hand and that independence of the judiciary cannot be ensured only by denying information." The ruling further added that the independence of the judiciary was not a privilege but a responsibility cast upon the office.

Let the examples here convince our disengaged compatriots that RTI does indeed have teeth and that through its strategic use, the law can be an effective machinery for political accountability and reform. The most telling impacts of RTI in India have been made possible by a few knowledgeable, diehard RTI enthusiasts. It is time our citizens woke up to the tremendous prospects of the law in Bangladesh.

I. (2020, November 15) RTI in Bangladesh Is there light at the end of the tunnel?

Reva Rani of Taraganj Upazila of Rangpur District was determined to bring electricity to her home. But, all her efforts, including payment of "speed money", failed. Then she learnt about the Right to Information (RTI) Act from a group of NGO activists; she applied to the local electricity office for information on the process and cost of obtaining a connection. Her application and subsequent appeal went unanswered, whereupon she filed a complaint to the Information Commission. But before the complaint hearing the local electricity office called her in and gave her the information she sought. She was surprised that the requirements, including cost, were so reasonable. With the information in hand, she sat, along with a few others from the local community, in a dialogue with the electricity office in which the DG was present. The latter reprimanded his staff and ordered that not only Reva Rani, but other local applicants should receive electricity within a week. And they did.

Some readers have scorned our "naivete" to believe that an RTI law can work in a country like ours with its long tradition of secretive governance. Some have expressed doubt that the law has enough bite to make recalcitrant public officials disclose information permissible under the law but "worrisome" for the government. Others

voiced disbelief that the latter is prepared to bare its records to public scrutiny. Some question the readiness of the Information Commission to be an impartial arbiter for dispute resolution.

Sentiments like these inevitably impede progress of the law and dampen hope. This has been a regular lament of this column. But is the situation that hopeless? Is there light at the end of the RTI tunnel? As ardent believers of RTI, we would like to say "yes", and Reva Rani's story is just one reason.

To begin with, the law has survived for more than a decade; there are people, however limited in number, who use it, indicating that a base has been created. This needs to be built upon with care and determination.

By nature, transparency laws are difficult to implement. RTI Acts have not fared well in most of the 130 countries and territories where they exist. Critics allege that majority of the governments adopted the law primarily to enhance their democratic credentials. And most of them are uncomfortable to let it operate freely and ready to muzzle it whenever feasible. We see this during the Covid-19 pandemic.

The good news is that such efforts often fail in the face of resistance from citizen groups. Though such groups are yet to emerge as a force in Bangladesh, there is reason for hope. NGO efforts over the years to promote the law have begun to bear fruit with the slow but steady growth in the number of RTI users and, more particularly, in the increasing sophistication in the use of the law. They have also contributed to greater interaction between citizens and public officials. If the trend continues, more citizens will mobilise to make the law easier to use and to resist any efforts to erode it. Three more examples illustrate this trend.

Inhabitants of the Sadar Upazila of Satkhira District were surprised to find increased water bills from the local municipality without prior notice. An aggrieved group of citizens, sensitised by an NGO on RTI law, submitted an RTI request to the Designated Officer (DO) of the municipality asking to see the official decision on the increase and related information. The very next day the mayor called the applicants to inform them that the increased rate was withdrawn.

After being sensitised by a local NGO about RTI, Mizan of Kaliganj Upazila of Satkhira District decided to invoke the law to find out the officially fixed registration fees for students to sit for the SSC exam. He drafted an RTI request addressed to the headmaster of a local school asking for a copy of the circular sent by the education ministry setting the exam fees. When he went to submit the application, the headmaster denied having received such a circular and declined to receive his application. Mizan then explained the provisions of the RTI Act to him and the likely consequences for disobeying the law. This made the headmaster agree to receive the application. Three days later Mizan got a call to pick up the requested information. Mizan spread the information around, as a result of which guardians were spared the extra amount they had to pay in the past.

Kunal, an RTI activist of Dinajpur District, had submitted an RTI request to the Divisional Commissioner's office of Rangpur seeking particulars of Designated Officers

(DOs) of all public offices of the Sadar Upazila of his district. In due course, he received a response and asked a friend in Rangpur to fetch the information on his behalf. After providing the information to him, the DO took him to the office of the Assistant Divisional Commissioner. The latter informed him that as this was the first RTI request to his office, the Divisional Commissioner had included the subject on the agenda of the monthly meeting with senior officials of his division. At the meeting, he directed the District Commissioners to prepare lists of all DOs of public authorities under their jurisdiction and send them to his office. He also underlined the importance of RTI to them and commended NGO efforts to popularise the law.

Inspiring stories like these are providing much-needed proof about the value of the law to ordinary citizens. Unfortunately, examples of rude behaviour by DOs, turning people away without accepting their RTI requests, also abound. They spread like wildfire and tend to scare prospective users away.

To go forward, we need more positive experiences and fewer negatives. The involvement of NGOs to promote the objectives of the law will have to continue. By working hard to create RTI activists, NGOs have spread the law to a much wider category of users. There has been a significant increase in the variety of subjects/issues on which RTI has been invoked. And the use of the law has also spread geographically in the country.

But since NGO work is largely dependent on external funding, a way must be found to sustain them. To ensure that NGOs are able to continue their critical role in promoting RTI in the country, the government should give serious consideration to utilising their expertise to ensure transparency and accountability in the disbursement of many of its beneficial programmes for citizens.

To minimise negative experiences, a more proactive Information Commission, sensitive to the needs of RTI users, is vital. No other agency has a better understanding of the difficulties citizens face in putting the law to use. It can also do more to bring non-compliant public officials to book.

But ultimately, it is citizens who must do more. They must recognise that RTI is uniquely a peoples' law and, therefore, they must take the lead to ensure its proper functioning. Citizen watchdog groups must keep the system under constant watch, articulate users' concerns, agitate for the removal of impediments they face in applying the law and stay vigilant against any move to restrict it. If that happens, the faint light we see at the end of the RTI tunnel in Bangladesh today will soon shine brighter.

m. (2020, December 15) A clarion call for civil society to make the RTI Act a success.

Most countries of the world have moved in the past 50 years from the age-old practice of government secrecy towards making their work largely accessible by the public through Right to Information (RTI) or Freedom of Information (FOI) legislation. Despite this slow revolution, secrecy in government work remains a deeply entrenched tradition. Even in more mature democracies, governments remain ever

ready to limit the operation of the law whenever possible. We saw this during the ongoing Covid-19 pandemic.

This resistance is not difficult to understand. Governments do not like that their shortcomings or wrongdoings are discovered by citizens. RTI/FOI acts are instruments to make that possible. They arose from citizens' rights movements, to the growth of consumerism, to distrust of the bureaucracy, to the struggle for press freedom, etc. They gave rise to public pressure on governments to adopt the law.

In more recent decades, additional factors have influenced government decisions. Not least, international lenders often tie loans to the recipient governments' adoption of transparency and accountability legislation to fight corruption. In fact, supranational bodies like the Organisation for Economic Co-operation and Development (OECD), the World Bank, and the Council of Europe have promoted the law as an essential component of open and democratic government.

When such laws take shape, countries may be ill-prepared for them: the government may not have the capacity or willingness to apply the law, and citizens may not be equipped to make use of it. Such revolutionary laws require a fundamental change in the mind-set of public authorities to move away from their deep-seated secretive tradition, and in the community at large. As a result, the law remains largely unutilised or underutilised in many countries including Bangladesh.

Countries fare better where the adoption of the law was preceded by a peoples' reform movement, or where the civil society is deeply committed and works unitedly to reap the benefits.

Effective implementation of the law is thus dependent upon a clear understanding by citizens of its objectives and goals and their preparedness to use it. This cannot happen without a serious commitment of civil society groups, such as non-governmental organisations and voluntary agencies/associations working for peoples' welfare in various sectors. They must remember that there are no areas of public life (in which public authorities are engaged) that cannot benefit from the application of the RTI Act. In fact, in Bangladesh, whatever progress has been achieved in implementing the RTI Act so far was possible due largely to the commitment and dedication of many NGOs. There is a need for more.

We call on development workers, professional groups such as doctors' and lawyers' associations, and all those working in other sectors of public life to realise their stake in the law. Not to speak of journalists and media houses, of course. Any area of activity where government and other public bodies are involved, either directly or indirectly, can benefit from their promotional and watchdog role.

We propose a road map for these organisations.

Educate your members, stakeholders, boards and beneficiaries.

Hold workshops, seminars, community dialogues—whatever platforms work for your group. Use these to achieve several goals as outlined below.

Help citizens understand the importance of RTI not only for their personal needs, but also for the good of their neighbourhood, village, town, city and the country at large. Show how RTI can bring about good governance.

Draw attention to the unique and distinctive nature of the law. One: RTI is pre-eminently a peoples' law, enacted to empower people *vis-à-vis* the government and other public authorities. Unlike other laws that are enforced by governments, the RTI Act can only be enforced by citizens. Two: the act provides creative opportunities for citizens to use it for improvement of public services. The more creative and imaginative they are, the more useful can be the outcome of their interventions. Three: the law provides a direct role for citizens to play in the governance of the country, an area which was traditionally the sole preserve of governments. Four: it is a law that governments are most wary of because of its capacity to unearth unpleasant truths about their activities. And five, perhaps most importantly: it is a law which can lead to improved citizen-government relationship and thereby contribute to better governance for the people.

Publicise stories about the use of RTI.

Use interpersonal communication, scholarly publications, the media and social media to talk about the law. We have done that regularly in this column and intend to continue to do so.

Be inspired by others.

We can draw lessons from experience accumulated over the years in our own country. One: the most formidable hurdle for RTI users is their intrinsic disbelief that the government attitude towards official secrecy has changed at all. In fact, it may have even worsened in recent years, as witnessed during the Covid-19 pandemic. Two: what assurances are there that public authorities, confronted with unpleasant information requests, will not retaliate by various means at their disposal? Three: what if they do not respond to the requests, or the independent compliance mechanism of the Information Commission does not do its work? And four: is it worth spending time and money to appear before the Commission for complaint hearings if there is no assurance that the provisions of the law would prevail?

Remember that all such laws go through teething problems. Some of these have begun to fade as both citizens and public officials become accustomed to the law. The need is to accelerate the improvements, which can only happen by using the law more, not less.

As long as the law is not abused to settle private scores and used primarily to make the work of public offices more transparent and accountable, leading to systemic changes, there is reason to be optimistic. Helping citizens to learn to use the RTI Act through seeking information on more innocuous subjects in the beginning has led to improved understanding and better interaction between citizens and public offices.

Civil society groups can play an important role to accelerate the momentum by playing a watchdog role for a seamless operation of the law, and RTI practitioners are available to advise and help, including the present authors.

n. (2021, January 15) How citizen engagement with RTI law is transforming lives.

During the construction work of a regional highway in Dinajpur, local inhabitants were increasingly bothered by the dust it generated. One of them, Mosaddekul Islam, fired by his new-found knowledge of the Right to Information (RTI) Act, asked the concerned public authority what measures were taken to ensure that no harm was caused to the local population by its operation. On receipt of his RTI request, the project engineer immediately directed the construction firm to spray the affected areas with water twice a day, which was promptly done.

This and similar other stories were shared last month among activists and fans of the RTI Act from all over the country. They had gathered for a virtual meeting to find out how the law had fared during the pandemic. It appeared that fear and devastation caused by the pandemic had spurred their appreciation of the tremendous importance of transparency and accountability in governance. Our earlier fears about the negative impact of the crisis on the operation of the law were largely belied.

We were elated not because a larger number of citizens were utilising the law or had become more proficient in seeking pertinent information from public authorities, nor because the latter had become more responsive to peoples' information requests. Nor had the Information Commission become more attentive to removing impediments citizens face in applying the law, or more prone to chastise public officials for disobeying its provisions. We were particularly encouraged by the remarkable growth in citizens' understanding of the value of the law in monitoring the work of public authorities and drawing their attention to peoples' concerns. They had begun to grasp the tremendous transformative power of the law. A few examples will illustrate the point.

RTI application stops embezzlement of public fund

An RTI activist, Mominul, of Taraganj upazila of Rangpur, once discovered that a group of day labourers who were beneficiaries of the government's "40-day Work Programme", meant to help the unemployed during times of employment scarcity, were engaged in earth-filling work under its "Housing Programme" for the homeless. As he knew that there were separate budgets for the two programmes, he suspected that the contractor was perhaps trying to dupe the government by engaging the work programme beneficiaries on the housing programme, thereby embezzling the money allotted for the latter. So, he decided to ask for copies of relevant project documents from the project coordinator's office. Soon after submitting his RTI request, he came to know that the concerned labour force was removed from the earth-filling work under the housing programme and engaged in road construction work elsewhere. As the news spread, peoples' appreciation of the timely RTI intervention by Mominul spread far and wide.

RTI halts illegal money collection by traffic police

RTI activist Marufa Akhtar of Dinajpur town was vexed by the police practice of seizing auto-rickshaws under one pretext or another and releasing them afterwards against payment of a so-called fine without any money receipt. She decided to submit an RTI request to the local police authority seeking to know if there was any rule about not providing money receipts against fines levied and how the money thus collected was accounted for. She was soon informed that the police super had issued orders to stop the practice and that the defaulting police officials would be properly dealt with in the future. The odious practice has reportedly stopped now.

RTI resolves long-standing problem for a local community

RTI activist Nowshad Hossain of Dinajpur came to know that the construction work on a road in Chirirbandar upazila had remained stalled for over 18 months. He decided to submit a RTI request to the upazila authorities asking for information relating to the suspension of the work for such a long time and the expected time for its completion. Within ten days of his submission, local residents were pleasantly surprised to find that the construction work had resumed.

RTI reveals irregularities in purchase of musical instruments

RTI buff Mominul Islam Sarker of Taraganj upazila in Rangpur wanted to find out how many cultural bodies of his area had received government fund designed to promote cultural activities. He submitted an RTI request to the upazila office asking for the list of local clubs which received such funding during the year 2019-2020. On the basis of the response he received, Mominul checked with his local club and discovered that not only was no musical instrument bought with the money, but the fake receipt adduced as evidence of such a purchase was a voucher from the local brick kiln. The news both amused and angered the local population. Mominul subsequently submitted a complaint to the upazila executive.

RTI application stops irregularity in agricultural service

The same Mominul Islam Sarker of Taraganj upazila, now well-known in the area for his RTI activism, submitted an RTI request to the upazila agriculture office asking for the list, with photographs, of local cardholders and recipients of government stimulus packages on agriculture. He received the information in due course. Upon checking the list, he discovered that same pictures appeared on cards of different persons and there were other irregularities as well. So, he followed up with another RTI request seeking reasons for the irregularities and asking to know whether remedial measures were taken. In his response, the designated officer admitted that irregularities were indeed found, and remedial measures already taken. It increased Mominul's faith in RTI, as his earlier efforts to engage the Anti-Corruption Commission (ACC) in this regard had failed.

The examples give us hope about the future of RTI in the country. They demonstrate the progress made in inculcating an awareness among the users that the law can be

invoked for myriad reasons, impacting society and the nation at large, and not for personal needs alone.

To translate the progress into furthering the overall objectives of the law more proficiently, it may be useful for the captains of RTI to unpeel the various components of the concept. Towards that end, we share below our own perceptions of the subject and hope that others in the civil society will do the same.

To us, the RTI law aims to do the following: 1) promote citizens' role in monitoring the work of the government and other public bodies; 2) help citizens share their concerns on specific governance issues with the relevant public authorities through seeking pertinent information on them; 3) assist public authorities to realise that their work is being watched by the people and they may face consequences for any delinquency; 4) create opportunities for public officials to interact with the people and become more people-friendly and law-abiding; 5) change the age-old, "ruler-ruled" mentality in people's mind and make them realise that public officials are not their masters but allies; 6) contribute to systemic change in the way public authorities do their job; 7) inculcate a sense of "citizenship entitlement" among the people and make them feel that they have a say in governance matters, whatever their place in society; and 8) strengthen democracy by facilitating the development of a "whistle-blower" role for citizens to alert the government about irregularities in governance and promote transparency and accountability in public work.

We leave it to the readers to decide how many of these objectives have been achieved through the above examples.

o. (2021, February 15) The widening range of RTI use in Bangladesh.

Jamaluddin of Dinajpur had learnt at a training session that the Right to Information (RTI) Act 2009 of Bangladesh was enacted to provide a legal basis for citizens to exercise their rights as "owners of all powers of the Republic". He reflected for some time on the concept of "legally enforceable ownership" of power by the people and looked for an opportunity to put it to the test. So, when he learnt that a local government official was notorious for his rude behaviour towards subordinates and members of the public, he decided to put a stop to this colonial practice. He submitted an RTI request to the concerned office, where this very government official was the Designated Officer (DO) to deal with such requests. Jamaluddin simply asked to know whether such misbehaviour was permitted under the rules of conduct of government officials. The official did not reply, and Jamaluddin appealed to the higher authority in Dhaka. This obliged the DO to reply, admitting that indeed misbehaviour was not permitted. Since then, the official's behaviour reportedly changed for the better and Jamaluddin emerged as a hero to the public.

RTI empowers citizens to stand up to impolite bureaucratic behaviour

Anowar Hossain, an RTI activist of Dinajpur, led a group of three farmers to the local agriculture office to learn about the procedures for obtaining potato seeds. They were initially refused entry into the office of the senior official, but were eventually permitted when they insisted that they had the right to see him. However, they were

asked to take off their shoes before entering, as their soiled shoes might spoil the carpet on the office floor. Anowar Hossain's immediate reaction was to ask why they were being discriminated against when others in the room had their shoes on. He also asked whether the carpet was bought with the public's or personal money. At this, the official changed his stance and became more accommodating. The story boosted the spirit of RTI enthusiasts and highlighted the concept of peoples' ownership of power in a democracy.

RTI contributes to systemic change in distribution of potato seeds

The same Anowar Hossain of Dinajpur, together with his friend, Shaheen Rasel, submitted an RTI request to the local agriculture office, asking to know about the situation of potato seed stock in the district and the manner of its distribution among farmers. Soon after submission, they found that the seeds are, in practice, distributed through dealers. While this practice is permissible, it is susceptible to abuse. They learnt that the seeds are normally produced or bought at Tk 9 per kg before storage. As the market price of the seeds soared this year, they were sold at Tk 43 per kg to the dealers who in turn sold them to the farmers at Tk 60-70 per kg, that too after mixing them with non-seed potatoes, causing great harm to the farmers. They submitted another RTI request asking why the seeds could not be distributed directly to the farmers, minimising the possibility of malpractice by unscrupulous dealers. To their great delight, the agriculture office decided to sell the seeds directly to the farmers.

RTI prevents irregular levy of school fees

RTI enthusiast Nowshad Hossain of Dinajpur had learnt that local schools were disregarding a government directive not to charge admission fees for promoting students to the next grade, in the context of the Covid-19 pandemic. When he discovered that a local school was charging an exorbitant amount from guardians, including a hefty admission fee, he submitted an RTI request to the office of the District Commissioner (DC) wanting to know what steps were being taken to implement the government directive. Upon receiving the query from the DC's office, the school authority immediately dropped the admission charges from Tk 4,260 to Tk 860 only. What was the potential savings of 2,500 guardians? Tk 1 crore and 10 lakhs.

RTI unearths irregularities in construction of sewerage drains

Mominul Islam of Taraganj sub-district of Rangpur District submitted an RTI request to the project engineer of Local Government Office asking for information, with specific breakdowns and bill vouchers, on the amount of money spent from 2016 to date on specific development activities in his area under the Annual Development Programme. On receiving the information, he discovered that Tk 2 lakhs shown spent on construction of a sewerage drain in his locality during fiscal 2018-19 was fake; no such drain existed. He found that the vouchers shown against the expenditure contained items unrelated to drain construction, such as mini fans, switches, and regulators. While the local community found the information intriguingly funny, Mominul decided to bring the matter to the attention of the Upazila Nirbahi Officer for necessary action.

The stories show how citizens are turning to the RTI Act to exercise their citizenship rights and address issues of public concern relating to governance. This is good for democracy and augurs well for a healthy citizen-government relationship. The law seems to be helping to narrow the traditional divide between the two sides.

The list of issues shared with us by RTI groups on which information requests are being made to public authorities in the country ranges from the environment, climate change, food security, SDGs, administration and public services to government benefits and Covid-19 economic packages. They show that people are focusing more on public interest issues than personal ones. This is indeed the primary objective of the RTI Act, enhancing peoples' role in governance of the country.

The Cabinet Division of the Bangladesh government in May 2018 had set up committees for the Supervision and Observation of the RTI Act at Central, Divisional, District and Upazila levels in the country. The committees, composed of relevant public officials within respective jurisdictions, together with civil society and NGO representatives, have been entrusted to oversee smooth operation of the law to achieve its objectives. We recommend that the minutes of the bi-monthly meetings of the committees be shared regularly with the public. They provide a legal complement to the selection of stories we share here. A close interaction between the Cabinet Division, overseeing the operation of the RTI law, and the RTI community in the country should help advance the objectives of the law.

p. (2021, May 12) RTI in Bangladesh: Narrowing the perception gap between citizens and public authorities.

The Bangladesh Right to Information (RTI) Act 2009 is a unique piece of legislation. Most laws are largely founded on the concept of government responsibility to regulate citizen behaviour, but the RTI law establishes government accountability to its citizens. It seeks to ensure the primacy of citizens over the government. The RTI law is not only unique, but revolutionary.

Such a revolutionary concept takes time to turn into practice and to mature. Both sides—the public and their officials—need a fundamental mindset shift. Public officials, long used to exercising unbridled state power, must give up their instinctive response to resist and learn to accept the new reality. Citizens, the main beneficiaries of the law and as such its best custodians, are unprepared to play the role. There is thus little pressure from them for change.

Like many countries, Bangladesh is going through its RTI teething problems. The law is neither popular with the majority of citizens—the demand side—nor with the majority of public authorities, the supply side. Since citizens were not sufficiently sensitised before adoption of the law, they tend to be skeptical that the necessary changes in official culture will take place. They are at best tepid and at worst indifferent, and unlikely to fight for the law. The few who believe in its potential, doubt whether the system can protect them from the wrath of irate officials who may find their RTI requests bothersome.

The public authorities, on the other hand, see no reason to change their stance. Since the Act was adopted, they have received occasional exhortations from the higher authorities to respect the law but no serious warnings—far less, penalties—for failure to apply it.

Twelve years since the enactment of the RTI law, some public officials are still unaware about the law, though their numbers are dwindling; and many more feel little compulsion to obey it. Caught in such a tenuous situation between both the public and its officials, the Information Commission seems to have taken the position of letting the law find its own course rather than guiding it more purposefully.

A nation with a long tradition of citizen activism for change cannot remain oblivious to the power of this law, though; and glimmers of light give us hope.

Our optimism is based on a few positive albeit faint developments. The number of RTI requests in the country has risen slightly, and more than 90 percent of the 12,000 plus annual RTI applications reportedly receive positive responses.

We have seen how over the years, the RTI has been used to promote transparent disbursement of funds under the government's Safety Net programmes for vulnerable populations. Government scholarship programmes for students have also benefitted. More recently, there is a noticeable trend to use the law for seeking information on tendering processes, pension disbursements, police work, sanitation work, construction projects and the like. The largest users of such requests are still limited to the more disadvantaged, lower-income, and semi-urban population groups, who are being helped by a number of dedicated NGOs. Fortunately for the nation, the latter have continued to promote use of the law under their respective mandates including poverty alleviation, environment and climate change, land rights, gender issues etc.

Hopefully, the use of the law will grow to requests which go beyond personal needs and transparency—requests for easily available open-source information—to actually improve governance by holding officials accountable.

Topping it all are some positive developments on the supply side. In our last column, we referred to government efforts to track implementation of the RTI Act through several committees set up at different levels of the administration. Although not much is known about their outcome, they appear to indicate a trend, however feeble, in the supply side to nudge the law forward.

Similar trends are also reflected in NGO reports. One such report on a meeting in Dinajpur last month, which brought a large number of RTI users and public officials together, is particularly reassuring. A senior official of the district lamented that while government officials were trained and prepared to respond to citizens' RTI requests, the latter appeared unprepared to utilise them fully. He underlined many shortcomings in the applications, including unclear identification of the information sought and procedural mistakes in their submissions, resulting in the rejection of many requests.

Another senior official promised a quick update to his office's outdated website and provided assurances that the names and particulars of Designated Officials, often

very difficult to obtain, would be properly displayed at prominent spots in his office. An Assistant Judge confessed that though many government officers had received training, "they hardly understood the true spirit of the RTI law (and) always looked for opportunity to evade compliance." The district Fisheries' Officer opined that effective implementation of the law required the demand and supply sides to work together and help each other.

Such positive sentiments reveal some light at the end of the tunnel. They also indicate the growing maturity of both the demand and supply sides of the law. This has been possible largely due to increased interaction between them, aided by the efforts of many individual RTI workers and persistent efforts of many NGOs, both to spread awareness about the law and assist users to apply it more efficiently.

The narrowing of the perception gap between citizens and public authorities on RTI is cause for rejoicing. It is time that other citizen groups, particularly those from the more educated and socially aware sections, recognise that the RTI Act has opened a new opportunity for them to play a constructive role in making public offices accountable to citizens. By not playing that role they are, in effect, reneging on their obligations as responsible citizens.

In economic theory, the market price of a product is determined at a point where the forces of supply and demand meet, which is called equilibrium. For the RTI Act to reach such equilibrium, there must be constant and regular interaction between information-providing supply side and information-seeking demand side. This is indeed the ultimate goal of all RTI laws.

q. (2021, July 15) Only 'We, the People' can unleash the full potential of RTI law.

Bangladesh has long been known for the political activism of its citizens, ready to fight for their rights and defend their freedom. The creation of the country in 1971 is a testimony to that. Now -in an age when institutions of representative governance are in fast decline both globally and locally - is the time for us to seize what the Right to Information (RTI) Act 2009 offers as an alternative to continue that tradition.

Our first job is to convince the upper echelons of our society, who have largely ignored the law so far, that without their participation its full potential will remain untapped. Since its adoption 12 years ago, the law has been kept alive mainly by ordinary citizens. With the help of RTI enthusiasts and some committed NGOs, they have demonstrated, however sparsely, the power of the law to initiate positive change in governance. To go beyond and make higher gains, we need the participation and leadership of people who are more knowledgeable about the inner workings of the government and better equipped to understand the intricacies of the law and its use.

RTI law is globally acknowledged as the most effective instrument to promote participatory democracy, where people feel that they are no longer the "ruled" but the "rulers". While it takes time to dismantle a deep-rooted culture of secretive and

opaque governance, experience of other countries shows that it can be done. Hurdles faced in implementing the law can be ironed out over time.

To speed our progress, "We, the people" must rally together and spread the message about the power and promise of RTI law more vigorously. Here is how.

First, remember that the RTI Act is fundamentally different from all other laws because only citizens can initiate its use, not the government. While the government is the executor of other laws - which citizens must abide by - in case of the RTI law, citizens are the executor and the government the responder. The roles have reversed. This point cannot be over-emphasised.

Next: RTI law is aimed at empowering citizens vis-à-vis public authorities. Its primary objective is to promote participatory democracy. People participate in the governance of the country by seeking relevant information from public authorities, thereby reminding them that their work is being monitored. Their requests help to instil in the minds of public servants that people are the real owners of state power. The law is well-titled as a right to know, not a need to know. Citizens do not have to justify their requests to public authorities. There should be no fear, therefore, for the people to use the law. The RTI Act not only recognises their right but also underscores a concurrent responsibility.

The RTI Act states clearly that people's right to information contributes to better governance by promoting transparency and accountability in the work of public authorities, increasing their efficiency, mitigating corruption and advancing good governance. People do so by obtaining relevant information on the work of public authorities which provide a basis to assess their work. They can then use the information to seek corrective measures from the government, if necessary. Through RTI requests, citizens also help to improve the capacity of public officials to deal with their requests, to change their bureaucratic mindset and attitudes, and bring them closer to the people.

As to what kind of information people can seek from the authorities: any information available with public authorities in any form, including records, documents, memos, e-mails, opinions, advice, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form, etc. They are also entitled to ask for inspection of work, documents, records and take certified copies.

A great deal of confusion exists on the definition of public authorities. As a general rule of thumb, the law permits citizens to seek information from all government and other public offices, including NGOs and private entities who benefit from public funds. Even those entities who use no public fund but have a reporting responsibility to the government under any regulatory law are covered indirectly. Private companies are, however, normally outside the purview of the law; but if we ensure strong use of the Act as it is now, there could be a basis for us to seek increase of its scope.

Another important area which deserves particular care from RTI users is the exemption clause of the RTI Act, which blocks citizens' access to certain types of

information. These include information which may prejudicially affect the sovereignty, integrity, security, strategic, scientific or economic interests of the state, its relationship with foreign countries, or incite offence. Some other types of information, including personal information of citizens, are also exempted from disclosure. As many RTI requests are rejected on these grounds, citizens must comprehend the scope of different sub-sections of Section 7 of the RTI Act and be ready to challenge their misuse.

The law requires RTI requests to be submitted in forms specifically designed for this purpose and available from the website of the Information Commission. Requests have to be addressed to the Designated Officer (DO) of the authority concerned, whose particulars should be available directly from the authority or its website. To avoid rejections, citizens must address their request to the right person and describe their requests precisely. Requests are often rejected on procedural grounds. Citizens must remain alert to any abuses and lobby for their mitigation.

RTI requests often go unanswered. The law requires applicants to appeal within 15 days after the expiry of a maximum of 30 working days within which the request should have been answered. If the appeal process is not complied with properly, the request simply "dies". The public servant who did not reply to the original request is let off the hook. So, it is up to citizens to ensure that they follow the requirements of the law diligently.

The Information Commission plays the most critical role in the implementation of RTI in the country, inter alia, by resolving disputes between information-seeking citizens and information-providing public officials. The commission's decisions can either encourage or discourage users. Its decisions on whether or not to penalise derelict public officials for not abiding by the law can have a lasting impact on people's faith in it. Its decisions create precedence with long-lasting effects. Many users are dissatisfied with the commission's decisions but cannot afford to have their legality checked by the High Court through writ petitions. It is imperative for citizens' groups to bear these facts in mind if they want to see an effective RTI regime in the country.

The government too can reap important benefits from the RTI law. It is in the government's interest, therefore, to facilitate its operation. Among other things, it can reassure the Information Commission about its neutral and independent role, ensure impartial selection process of the Commissioners, and equally importantly, encourage public officials to abide by the provisions of the law without fear.

However, even if the government maintains a positive attitude towards the law, it is the people who must be its main custodian. They must remember that no government in the world likes to be controlled by their citizens. It is rare for them to go out of the way to boost RTI. Only people can do that.

CHAPTER – 6: SUSTAINABLE DEVELOPMENT GOALS (SDGS) AND RIGHT TO INFORMATION (RTI)

a. (2016, November 15) RIGHT TO INFORMATION Key to Sustainable Development Goals (SDG).

As we surprised the world with our MDG achievements, we are committed to lead by example again in the case of SDGs,” said Bangladesh Prime Minister Sheikh Hasina at a gathering on the sidelines of the UN General Assembly session in October 2015. It was at that session that 193 member states of the UN and the global civil society adopted the 17 Sustainable Development Goals (SDG) to be achieved by 2030.

One of those goals includes: ensuring public access to all government-held information. In Bangladesh that has already been given a legal basis through adoption of the Right to Information Act 2009. In fact, both SDG and RTI are in sharp focus in contemporary development discourse.

RTI, also known as, Freedom of Information (FOI), has emerged as the fastest growing legislation globally in the last quarter of a century. Before 1990, only 13 countries had RTI/FOI Acts. The number has jumped to 113 now. The importance of RTI for human rights and good governance is now undisputed. Its inclusion, therefore, in SDGs was a logical culmination of that process.

Bangladesh's commitment to SDGs: Following its remarkable success with MDGs, it was natural that Bangladesh will embrace the SDGs with great enthusiasm. It quickly set up an inter-ministerial committee on SDG implementation and monitoring to develop a unified approach. A citizens' platform for co-ordination of civil society efforts was also formed. A great deal of expectation has thus been created for Bangladesh to play a leading role in implementing SDGs.

SDG Goals: The 17 SDGs include: ending poverty, ending hunger, ensuring health and well-being, ensuring inclusive and equitable education for all ages, achieving gender equity, ensuring clean water and sanitation, clean energy, decent work and economic growth, combating climate change and promoting peace, justice and strong institutions.

Right to information is embedded in the last set of goals above as Goal No. 16. Its inclusion reflects the growing recognition by the international community that peace and justice, as well as effective, accountable, inclusive institutions are at the core of sustainable development.

SDG Targets: To unpack the SDGs and bring them under sharper focus, 169 associated targets were identified at the same time. The targets for Goal 16 range from reducing all forms of violence to reducing corruption and bribery and ensuring public access to all information. The last target relates to RTI.

SDG Indicators: Following adoption of the SDGs, the UN had set up an “Inter-Agency and Expert Group on the Development of a Global Indicator Framework.” Among hundreds of indicators identified by it, the one for Target 16.10, with Indicator No. 16.10.2 concerned: “Number of countries that adopt and implement constitutional, statutory and/or policy guarantees for public access to information.”

Unpacking Indicator 16.10.2: It will be the task of national and international monitors now to unpack and further clarify Indicator 16.10.2 and follow them up. At the international level, this has been done by UNESCO, which will serve as a custodian agency responsible for global reporting to the UN on this indicator. Bangladesh monitors will have to develop and follow national indicators, as necessary, guided by UNESCO perspective.

The UNESCO perspective identified three key variables to indicate the state of public access to information in a country. They are: 1) whether a country has constitutional, statutory and/or policy guarantees for public access to information; 2) the extent to which such national guarantees reflect international human rights standards and/or agreements; and 3) the implementation mechanisms in place for such guarantees.

The latter variable includes the following: i) Government efforts to publicly promote the right to information; ii) citizens' awareness of their legal right to seek and receive information and their ability to utilise it effectively; iii) capacity of public institutions to provide information upon request by the public; and iv) independent redress mechanism.

The Task ahead: As Bangladesh already has an RTI Act and has gained significant experience under it for the last seven years, it is better-placed than many other countries to begin work on the above. But given our specificities, additional indicators may have to be developed as we progress towards 2030. The emerging national experience and the increased knowledge of international practice will provide further guidance.

To begin with, we shall have to recognise that our ability to fulfill SDG Goal No. 16 will require far greater efforts from the three key players concerned, namely the government, Information Commission (IC) and citizens, than has been the case so far. We must critically assess the performance of each player and draw lessons from them.

Two points will require particular attention in this regard. First, while the other SDGs would depend primarily on the efforts of the government for their achievement, citizens must play the key role in attaining Goal 16 and Target 16.10. Unless they put the law to use, the government can do very little to take it forward.

Second, as a nation, we need to understand the basic objectives of RTI more fully. Based on what we understood initially, we have not done too badly. We have managed to establish the basic requirements of an RTI regime in the country. We have set up the IC; adopted rules and regulations; engaged in creating awareness about the law; got people to seek RTI-related information, though not very many; sensitised public officials to supply that information, however reluctantly; and got the IC to resolve disputes between the sides.

But these are only basics. There is a need to go beyond this preliminary phase to reach the higher objectives of the law. What we have achieved so far may be called

first degree outcomes, as described in a World Bank study. The study further states: “First-degree outcomes, however, tell us nothing about whether the disclosure of information has led to improved governance or service delivery, or even whether it has supported individual goals. These accountability outcomes, second degree outcomes, are more difficult to trace. . . In the context of development, whether RTI laws contribute to broad socioeconomic change and the goals of poverty reduction or shared prosperity, third degree outcomes, is even more difficult to determine.”

Our 2030 goal should, therefore, be to strive towards achieving the second and third degree outcomes and ensure systemic change in governance. If we can do that, other SDG goals would fall in place more easily. It must be remembered, however, that attaining the all-embracing, overarching, foundational Goal No. 16, would require changes that are extremely difficult to achieve. Peace and justice, accountable and inclusive institutions are intangible and elusive.

It is heartening that the government has committed fully to fulfilling the ambitious vision of the SDGs, following its remarkable success in the MDGs. However, it will require all of us - government and citizens alike- to fulfill the Prime Minister's wish to surprise the world once again in this regard. As far as RTI is concerned, citizens and the IC will have to work closely together to identify the difficulties and challenges, and undertake corrective measures to move ahead.

In the days to come, it is the work of the IC that will be under particular focus of international scrutiny, as it is easier to assess its performance against the provisions of the RTI law and emerging international standards. If it does its job well, with the required support from the government, more citizens would exercise their rights under the law and more public officials made aware of their obligations under it. This, in turn, will contribute to transparent and accountable governance which will be key to achieving the SDGs.

b. (2017, March 15) An accountable government can realize the SDGs.

The Sustainable Development Goals (SDGs) 2030 are reported to be receiving serious attention from the government and civil society in Bangladesh. Bangladesh did very well on the Millennium Development Goals (MDGs). Therefore, the international community's expectations from it on SDGs are very high.

The SDGs include the predictable and critical goals like ending poverty and hunger, ensuring healthy lives, quality education, gender equality, advanced water and sanitation management, affordable energy, sustainable economic growth and full employment. But what is new and more challenging is Goal 16, which seeks to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institution at all levels.”

It is not difficult to understand why experts called Goal 16 the over-arching goal that links all SDGs. Achieving its objectives would necessitate fundamental changes in governance-culture and the mind-set of all concerned.

The targets for Goal 16 include: reduction of all forms of violence and related death rates, abuse of children, sexual violence against women, illegal arms and financial

flows, and corruption and bribery. They also include promotion of rule of law, accountable and transparent institutions and responsive, inclusive and participatory decision making.

The latter objectives have been specified as Target 16.10 which seeks to: “Ensure public access to information and protect fundamental freedoms, in accordance with national and international agreements.”

Why is public access to information, or RTI in short, included as a SDG? The simple answer is: it seeks to promote an open and accountable government, without which attaining the other SDGs would be difficult, if not impossible.

Fortunately, in Bangladesh we have had a RTI Act in place since 2009. But, how has our experience with it been? Does it give us reasons to be hopeful? We need to ask what challenges we face and what to do to overcome them.

To begin with, there must be a clear understanding of the objectives of RTI law. There is a misconception among many that the law simply seeks to facilitate people's access to information that they may need from the government from time to time. It must, therefore, be made clear to all concerned that RTI or Freedom of Information laws all over the world are adopted to enable citizens to oversee the work of their governments and not simply to obtain information for personal needs.

Everyone engaged in promoting, implementing and adjudicating the application of the law must realise this fully. This includes citizens' groups, government bodies and, more importantly, the Information Commission (IC).

Citizen's groups engaged in awareness-building should focus on the usefulness of the law to promote peoples' participation in monitoring the work of public bodies to make them law-abiding and transparent. By doing so, they contribute to good governance, which is essential for sustainable development.

The government, on its part, should convince public officials that it attaches great importance to fully respecting the RTI Act; and that its proper implementation will contribute to good governance, improved government-citizen relationship and, thereby, help implementation of the SDGs.

The role of the IC is, however, most pertinent. For, it is the key mover of the law. For starters, the IC is best placed to remove all procedural hurdles that keep many potential RTI applicants away from making use of the law or to drop out after initial attempts. Secondly, it can make public officials more respectful to the law by imposing sanctions, whenever appropriate, for their reluctance or deliberate failure to abide by it. Thirdly, it can promote greater use of the law by adopting objective-test as basis for interpretation of critical provisions of the law. Fourthly, by its actions and utterances, it can convince citizens that it seeks to promote the application of the law and not restrict it. Fifthly, through appropriate measures it can enhance its reputation as a neutral and independent arbiter of the law. Sixthly, its complaint hearing procedures could be more friendly and less intimidating for ordinary applicants/complainants. And lastly, it can make its hearings open to the public,

particularly to the media, and publicise its role as the foremost purveyor of transparency in the country.

A quick glance at the record of the Information Commission shows that in 2015-16 it received 975 complaints, of which 789 (81 percent) were resolved through hearing of one or both sides and 186 (19 percent) discharged without a hearing. The latter included those discharged due to procedural mistakes, including use of wrong forms or addressing the wrong person. The latter caused many to lose interest.

Data shows that among 1400 complaints decided in the last five years, in some 570 (60 percent) cases the Designated Officers (DOs) agreed to provide information only at the urging of the IC. It indicates continuing unpreparedness of a large number of public officials to respect the law.

A particularly worrying trend is that the complaint hearings of the IC appear to be primarily focused on ensuring that the information-seeker receive a response, with or without the relevant information, rather than on transparency and accountability objectives of the law. In many cases, the IC directs the DOs to provide a response, even if to say there is no information to disclose, with no attention to their glaring failure to respond to an application in the first place. This is no way to advance the goal: accountability of the law.

However, some improvements have been observed in recent years. These include increase in number of RTI applicants from middle and educated classes. The numbers of transparency and accountability-related applications have thereby increased. Such improvements, and the continuing positive outcome of RTI interventions by ordinary citizens relating to Government's safety-net programmes, give reason for hope. In fact, there seems to be a positive systemic change in the distribution of safety-net benefits in areas where people have used RTI to obtain them.

There has also been an increase in the number of sanctions against defaulting officials. Out of some 15 penalties imposed on DOs in the last seven years, 10 were imposed in the last two years. Unlike in earlier periods, compensations were also awarded to some aggrieved applicants/complainants. These will help to drive the message home to recalcitrant public officials that the law is meant to be respected.

The High Court (HC) too has made some positive contributions. In a recent writ petition, the HC ruled against a decision of the IC by declaring that information provided by political parties to the Election Commission, as a legal requirement, are public information and cannot be denied to the public. There are two other positive verdicts from the HC, and a few awaiting hearing.

But perhaps the most heartening development is the response given by the Office of the Prime Minister to a RTI application seeking information on the number of persons accompanying the PM to the United Nations General Assembly session in the last five years, their names and responsibilities and who bore their expenses. The Office provided most of the information sought and the rest are subject to a complaint hearing before the IC in the coming days. This is likely to change public attitude

towards the law and will hopefully serve as an example to other public officials, whatever their level of office, to take RTI applications seriously.

It augurs well for the SDGs and for the onward journey of RTI in the country.

c. (2017, September 15) Putting people at the heart of development.

Later this month, the world will mark the International Day for Universal Access to Information, hitherto known as International Right to Know Day. Like many an international day, its relevance to our lives seems murky. Yet there is no development without people. The Agenda for Sustainable Development Goals (SDGs) 2030, adopted by the UN General Assembly in 2015, underlined the key role of people for their implementation. Among the SDGs is Goal 16, aiming for "accountable and inclusive institutions."

Translating this concept into practice is a challenging task. We have seen it in relation to the implementation of the Right to Information (RTI) Act in our country, as in many others.

The challenge is rooted in people's perception that activities relating to development and governance are the sole prerogative of the state. In the authoritarian tradition inherited from colonial history, state activities are hidden from the people. This created a rigid and secretive attitude in our public officials which is inimical to people's participation in state affairs. The key to success, therefore, lies in changing the mindset both of people and state authorities.

We have emphasised in some earlier columns that without a larger involvement of our citizens in making use of the RTI Act 2009, the objectives of the law cannot be truly advanced. We have similarly underlined the need for our government to invest greater attention on Goal 16, with its targets and indicators, which incorporates the same objective in the SDGs.

Bangladesh has made a good start in setting the SDG ball rolling. The government proclaims its commitment to the goals in all national and international fora. It quickly set up an inter-ministerial committee, under supervision of the Prime Minister's Office, to monitor implementation and report on progress.

Bangladesh became one of the first few countries to participate in the voluntary progress review which took place at the UN last July. In her foreword to the report submitted in this regard, the prime minister reiterated: "We have earned international acclamations for our tremendous success in MDG implementation ... We are committed to redoubling our efforts to achieve SDG targets."

The government has incorporated the key provisions of the SDGs in the 7th Five Year Plan for 2016-2020. It has also drawn up a handbook mapping the responsibilities of different ministries/authorities for implementation of the SDGs and their targets.

Let us be clear: Poverty, hunger, gender discrimination, education, health, water and sanitation, clean energy, decent work and economic growth, climate change and so

on, are normal subjects of a government's development agenda. Goal 16, however, is unfamiliar territory, particularly as it pertains to RTI and guarantees public access to information (indicator 16.10.2). It is not surprising, therefore, that the handbook provides little indication yet on how the government intends to go about it.

Among other things, Goal 16 seeks to "ensure public access to information and protect fundamental freedoms" as, without them, development is incomplete. These objectives are unquantifiable, imperceptible and non-tangible; hence difficult to monitor and assess. National and international efforts have, therefore, been set in motion to develop appropriate tracking methods.

This is where civil society's role comes in. In Bangladesh, a "Citizen's Platform for SDGs" has been set up by a group of individuals "to contribute to the delivery of the SDGs and enhance accountability in the process." Their efforts should include specific attention to the more difficult targets of Goal 16, particularly its indicator 16.10.2, which relates to RTI. NGOs and individuals promoting RTI implementation could give them a helping hand.

At the international level, a network of individuals and activists, from countries where RTI/Freedom of Information (FOI) Acts are in force, is collaborating under the banner of "FOIANet" to develop a common approach to measure progress of indicator 16.10.2 in every country. This network has suggested that at the initial stage, the national groups should focus their efforts on: (i) how much a state is proactively disclosing information to its citizens; (ii) what institutional measures are in place to facilitate implementation of RTI/FOI laws; and (iii) to what extent information requests are made by citizens and responded to by the authorities. The latter action would be based on submitting test requests to a few public authorities in each country. Additional elements would be gradually introduced, as experience is gained and progress made towards 2030.

The exercise has already commenced in many countries. It is expected that the information so compiled by national groups will be collated by UNESCO and reported to the General Assembly annually. A ranking of state performance is likely to emerge. Some national groups expect to release preliminary reports later this month. Bangladesh's should follow soon.

We hope that Citizen's Platform members will soon recognise that success of the SDGs would require more than tracking progress of government undertakings. It would call for concrete measures by citizens, individually and collectively, to promote transparent, accountable and citizen-friendly governance. An effective strategy here would be to generate a sizable number of RTI requests by citizens to public authorities, thereby initiating greater interaction between the two and contributing to changing the colonial mindset of both.

We propose the following "to-do list" for civil society groups engaged in the promotion of SDGs and RTI in the country.

Help increase the number of RTI requests submitted to public authorities annually. Set a target to increase the yearly figure (say, by 20 percent). Last year's Annual Report of the Information Commission recorded only 6,369 requests.

Develop a strategy to attract the middle class to engage in the RTI process. This section of the society, with enormous influence, has largely stayed away either for lack of awareness or trust in its efficacy. If well-known public figures, including members of the Platform, submit RTI requests, it may encourage others.

Lobby with the government to designate a nodal agency to promote the RTI Act. Presently, the Ministry of Information plays a limited role, with the Cabinet Division becoming increasingly engaged. There should be more clarity on the subject.

Devise a mechanism to monitor the work of the Information Commission, provide it with encouragement and moral support to interpret and apply the RTI Act more objectively, and impose sanctions on public officials who deliberately disregard the law. Set a target for annual percentage increase in the number of sanctions imposed. Around 15 penalties have been awarded since the beginning.

Provide civil society input to the selection process of a neutral and objective Information Commission. The selection of the new Chief Information Commissioner due in few months provides an opportunity.

Take heart from the fact that the marginalised communities of the country, who were introduced to RTI by NGOs, have both benefitted from and contributed to establishing a transparent delivery system of the government's safety net programmes through their persistent use of the law. There can be no better example of RTI helping the realisation of SDG objectives of ending poverty, hunger and discrimination.

Finally, we hope that the Inter-Ministerial SDG Monitoring and Implementation Committee will take note of these points and support civil society efforts towards forging closer collaboration between citizens and public authorities. This will advance our SDG objectives and make Bangladesh a role model again.

d. (2021, April 16) Revisiting the role of RTI for sustainable development.

'While other laws allow governments to regulate public life, the RTI Act lets citizens regulate the work of governments themselves.'

We must not forget that we cannot bring good fortune for the people if our characters do not change! By rising above nepotism, corruption and self-deception, all of us have to be engaged in self-criticism, self-restraint, and self-purification."

These are words Bangabandhu used to address the nation on December 25, 1974, underlining his views on good governance. Thirty-five years later, his daughter, Prime Minister Sheikh Hasina, translated them into the Right to Information Act (RTI) 2009.

She quoted them in her own message to the nation, contained in a government document published in October 2012. Entitled "Commitment for Golden Bengal: National Integrity Strategy of Bangladesh", it outlined her government's vision to achieve Bangabandhu's dream of Shonar Bangla.

The importance of good governance for lasting development came into sharp focus during last month's celebrations of the golden jubilee of the independence of Bangladesh and the birth centenary of Bangabandhu. As successive speakers from home and abroad extolled the phenomenal development of the country under her leadership, Prime Minister Hasina reiterated her commitment to the UN's Sustainable Development Goals (SDGs) 2030 to keep the momentum.

Goal 16 of the SDGs underscores the importance of a properly functioning administrative system for sustainable development. Right to information is considered an essential part of it as it empowers people with knowledge to demand services from public authorities and promote accountability on development issues.

But RTI is difficult to implement. While other laws allow governments to regulate public life, the RTI Act lets citizens regulate the work of governments themselves. Obviously, they do not like it and are often unprepared to implement it sincerely. Only citizens can do that.

Certain aspects of the system must, however, be set up by the government. Proper rules and regulations, necessary institutions as well as infrastructure including an independent Information Commission—which are essential for its implementation—can only be established by the government. This was done fairly quickly in Bangladesh.

The government also has to ensure that public authorities comply with the provisions of the law. It cannot function properly unless they abide by its provisions and respect legitimate demands for information from citizens. The impartial role of the Information Commission is also fundamental for fair dispute resolution between the two sides. The government can help by ensuring a transparent selection process of the commissioners.

But for all these to happen, citizens must lead. Their collective efforts to remove all impediments to its use, and ensure due respect for its provisions, keeps the law thriving in many countries. Otherwise, it stumbles.

More importantly, however, citizens must use the law efficiently to realise its full potential. This is not easy, and is acquired through long practice. Most people see RTI as a tool for public accountability. However, there is more to it than that. Scholars have identified two main models based on the nature and extent of information citizens seek from public bodies with public or private goals. Obviously, the use varies between countries. The more advanced a society is, the higher is the level of its RTI use.

The public goal model is indeed based on the accountability concept. Under it, citizens seek information mainly for political mobilisation and oversight of public work. They are normally linked to matters of public interest. Social activists, journalists and political workers are the main seekers of such information. By obtaining information on the performance or decision-making activities of the government, they can, for example, demand better public services and denounce corruption.

The accountability model is, however, only "the tip of the iceberg". The use of RTI for private goals is more the norm. Under this model, people seek information primarily for private/personal goals of a mundane nature, with little potential for publicity or demand-making on behalf of collective goals.

Examples of such use include information for private problems, such as in the business sector (e.g. policies, rules and regulations, tenders, contracts), for personal needs (e.g. government benefits such as Safety Net programmes), for official procedures (e.g. obtaining passport, gun license) etc. While such use is legitimate, it may be asked if they justify investments in costly RTI mechanisms, as much of such information can be obtained by means other than RTI. So why RTI?

We need to answer that question in Bangladesh because private needs are still the main reason for RTI use here. Should we be satisfied with such use? If not, what should be our strategy? Sticking to low-level intervention means that the accountability goal is underutilised and the impact of the law on sustainable development is minimised.

True, the accountability path is more difficult, for two reasons mainly. First, the unhelpful attitude of many public officials who fear negative consequence arising from disclosure; and second, using the law for accountability purposes requires people to be knowledgeable about government procedures. People with such knowledge have so far stayed away from RTI. Unless they are brought in, there will always be a gap in this area. This, in turn, impacts negatively on the availability of enough knowledgeable persons to form pressure groups to make meaningful demands on the authorities for amelioratory measures.

The situation, however, is not hopeless. Despite shortcomings, the law has survived for almost twelve years, albeit somewhat hesitantly. There is a slight increase in the number of annual RTI demands. The latest Annual Report of the Information Commission records around 12,000 requests made in 2019 compared to 7,000 recorded in earlier years. The number, though, is still negligible given the size and political level of the population.

Before we conclude, some reflections on the roles of the three main protagonists may be in order. The government must appreciate that to sustain the pace of development, people's participation in the process is essential. RTI can help to do that. There is clear evidence that RTI interventions by citizens in the delivery of government's Safety Net programmes for disadvantaged groups have yielded positive results. It can be extended to other areas too.

A sure way to boost peoples' participation in the RTI process would be for the government to appoint an RTI enthusiast at the Information Commission. By doing so, the RTI regimes in India, Sri Lanka, and more recently in Pakistan, were patently energised. The same can happen if the Information Commission is encouraged to apply the penalty provisions of the law on defaulting public officials more confidently.

Much has been said already about what citizens can do to advance the law. Perhaps the most important requirement on their part is to have faith in the system. Negative attitudes, however justified, will take us nowhere. The government is not a monolith and

there are many government officials who have shown faith in the law. Others will emerge through practice, because the law benefits everybody.

The website of the Cabinet Division of the Prime Minister's Office, which coordinates implementation of the RTI Act by different ministries, informs us that nine committees/working groups have been set up over the years at different levels of administration to ensure that the progress of RTI is assessed regularly and coordinated properly. This is indeed very encouraging. But citizens must keep tabs on them through RTI.

Another government document deserving citizens' attention is entitled "Connecting Government to Citizens: Implementing Right to Information Act 2009 in Bangladesh: Strategic Plan 2015-2021". Available on the Cabinet Division's website, it provides a clear picture of the government's strategy on RTI. By monitoring implementation, citizens can ensure that the promises are kept. Together we can sustain the momentum of our impressive development record.

CHAPTER – 7: EFFECTIVE USE OF RTI LAW DURING PANDEMIC CRISIS.

a. (2020, April 16) RTI in the time of coronavirus.

The Covid-19 pandemic, sowing misery across the world, has thrown the role of the state into stark relief. No entity but the government can command the resources and the all-of-society coordination essential to respond adequately to this threat. Countries where the people and the government have mutual trust are likely to fare better.

In times of such unprecedented calamity, the most important ingredient for trust building is information sharing. People want correct information about the spread of a mysterious disease that they knew so little about. They want to be assured that their government is handling the situation effectively, that all necessary preparations are in place, that they are getting all the information they need and nothing is being hidden from them.

The immense importance of the dissemination of information that people can trust has been underlined daily over the last three months by the news media. They highlighted the impact of disinformation and misinformation in countries where people distrusted their government.

What strategy should governments, then, follow to reassure the people and allay their concerns during such a crisis? The best guidance is available in the Right to Information (RTI) Act which has been enacted, under different names, in 130 of the 209 countries affected by the emergency.

The RTI Act requires governments, in normal times, to keep their people informed, both proactively and through individual requests, about what they do on their behalf. In times of serious emergencies like the Covid-19 crisis, the responsibility is multiplied manifold. Governments all over the world, including ours, probably never had a responsibility like this to come up with their best public communications skills to help citizens through the pandemic.

Citizens, of course, understand that their government does not have all the information about a new virus and that advice can change according to the latest scientific evidence. They simply like to be taken into confidence by their government, to feel assured that their opinions matter, that their government feels accountable to them, that they will be kept informed of everything they need to know. When citizens feel so empowered, misinformation and politicisation cannot easily take root.

The first thing that people want to know in such a crisis is that their government knows what to do. So a government's tendency is to wait until it has definitive answers. This is not easy to do when the threat is a new virus and knowledge is growing every day. Masks or no masks? How to test and where to get the testing kits?

Are there enough ventilators for patients and protective gears for medical workers? How to provide for extra hospital beds if the need arises? Is there any effective treatment? How quickly can it be developed? The answers to such questions are not easy, and they change as medical science collects more evidence.

To generate public confidence in such an uncertain situation, the RTI law prescribes that governments do two things: communicate what they know and can recommend *at the time*; and listen to their people. "Here is what we know today, and what we do not know. Here is the action to take today in order to protect lives and livelihoods. What are your concerns?"

On the communication aspect, the RTI law provides for "proactive disclosures" by the government of all information of public interest generally and of particular relevance to situations like the present crisis. Section 6(4) of the Bangladeshi Act stipulates that every public authority "shall publish all (...) policies and decisions and shall, if necessary, explain the reasons and causes in support of such policies and decisions."

The law thus requires governments to explain their policies and decisions to their people. As the primary objective of the law is to establish transparency and accountability of all government work to the people, there is an inherent requirement here that governments should be as candid and forthcoming as possible and let people know the reality as it is. There is no scope for hiding or misrepresenting the facts.

Where governments succeed in imparting information in such a manner, they are likely to discover that people are normally willing to listen to them. When governments earn the confidence of the people, the latter is more likely to accept the reality and less likely to panic or spread rumours. They are also more inclined to abide by legitimate curtailment of some of their rights. When they fail, fake news flourishes.

History will record that government-people interaction has seldom been so intense globally as in the last three months. It has gone through ups and downs and much variation between countries. When the crisis is over, it is destined to become an important subject for in-depth studies and research. Combined knowledge from the experiences of different countries and lessons learned from them would be of extreme importance for future generations.

But that will have to wait for some more time. On top of the medical crisis, a socio-economic debacle is looming large on the horizon. It is clearly heading towards becoming a crisis of a much larger magnitude and longer duration. Government-people interaction during this period will increase manifold, as will the need for information sharing.

Most governments have by now announced stimulus packages to revamp their economy, badly ravaged by Covid-19. As disbursements commence, the recipient groups would all be keen to know if the principles of transparency and accountability, enshrined in the RTI Act, are being strictly observed. Is the money reaching the rightful claimants? How would corruption be tackled?

The RTI Acts provide guidance on this as well. It will be important, therefore, for government offices, dealing with the Covid-19 crisis generally and disbursement of stimulus packages in particular, to be acquainted with them. People will surely use the law to seek specific documents. Records must be properly preserved for possible inspection. Section 5 of the RTI Act requires that "every authority shall prepare catalogue and index of all information and preserve it in an appropriate manner."

Record-keeping and cataloguing of information will also help in data collection. They will be of great value for research and government planning in the future. Lessons learned from them in different countries would be of immense value for future generations.

To go about the task more systematically, governments in countries where the RTI/FOI law exists may consider setting up a special mechanism to deal with and coordinate all information-related activities during the crisis. These would include proactive disclosures of all information needs discussed above and those related to individual requests. Specifically, designated officers (DO), foreseen in the law, with necessary workforce, may be entrusted by governments to deal with and respond to Covid-19-related RTI requests online.

Despite the unimaginable damage caused so far by Covid-19 worldwide, one of its most positive outcomes is the close interaction it generated between governments and the people to combat the menace. It provided opportunities to both sides to develop a practice which, if properly nurtured, will be of great value to all nations in the future.

People have reposed trust in their governments during these most trying times, abided by the regulations and restrictions imposed upon them, and made personal sacrifices of an unprecedented nature. Governments must reciprocate by recognising their special need for information with regard to many areas of concern thrown up by the crisis.

Even if the medical crisis comes to an end soon, a long time will lie ahead for nations and the international community as a whole to come out of the doldrums. Continued interaction and cooperation between the people and governments during this crucial time will be of utmost importance.

b. (2020, May 15) RTI/FOI Acts: Another Victim of the Covid-19 Pandemic.

One of the institutional casualties of the global Covid-19 pandemic is people's right to information. The Right to Information (RTI) Act, also known as Freedom of Information (FOI) Act in many countries, hosts the transparency regimes in around 130 out of some 210 countries affected by the pandemic. All of them fell victim to government lockdowns, imposed to fight the menace, making most of them inoperative almost instantly.

The physical closure of most public offices makes it difficult to implement this law. But while alternative arrangements were made for many essential services to

continue, this was not the case for people's right to information. People were not told if they could still submit their RTI/FOI requests and whether they would receive responses. At a time when they needed most to know how their governments were dealing with such a cataclysmic crisis, they had no one to turn to. And at a time when governments needed to be most transparent and accountable to the people, the efficacy of the law was blunted.

As many governments adopted RTI laws more to enhance their democratic credentials than to promote transparent governance, it is not surprising that countries have rushed to take advantage of the disruption caused by the pandemic to muzzle these laws.

There is a message for RTI enthusiasts in this: whatever their commitment, the Covid-19 pandemic has proven the universal inclination of governments to hide unpleasant facts from the public. This is evident from their penchant to deter public scrutiny of their work and muzzle critics who question the veracity of their claims. Controlling or curtailing people's right to information is natural for governments. The RTI community must take this into account to determine future strategy to overcome it.

Public reaction to the secretive stance of governments has varied between countries. The more vociferous reactions came from countries where transparency regimes and/or a democratic culture are of a longer vintage. RTI/FOI groups in these countries came together to voice their concerns and suggest measures to safeguard the institution. They reminded governments about the importance of people's participation in efforts to tackle the grave crisis which is best ensured by giving them access to all critical information.

However, in countries where the RTI regime is yet to take root and the use of the law is limited even in normal times, there seems to be little public concern about the almost total stoppage of all RTI-related processes during the Covid-19 lockdown. In Bangladesh too, while social media and the press abound with comments and questions on government efforts to deal with the pandemic, no noises are heard about the fate of the fledgling RTI regime of the country. The Bangladesh Information Commission went into total lockdown since late March after announcing that there would be no more complaint hearings till further notice. People were not told if and how the RTI regime would operate during the lockdown. There was no government release either about any alternative mechanism for this purpose. It perhaps indicates the low estimation of the law in the eyes of the public, the Information Commission, and the government alike. As the law aims at empowering citizens vis-à-vis the state, there is no point in blaming only the Information Commission or the government for this state of affairs, if citizens do not care about it.

The lockdown similarly affected the situation in the normally more vibrant RTI scene in neighbouring India. However, online applications have now resumed and the Central Information Commission began limited complaint hearings in late April, though State Information Commissions remained largely inactive.

A Canadian access-to-information specialist made the forecast that "overwhelmed FOI units will be months in recovery. And responses to substantial FOI requests related to the Covid-19 crisis are likely a year away."

Lamenting about this sorry state of affairs, Toby Mendel, a leader of the global transparency movement, commented: "We've got, on the one hand, this incredible need for accountability and, on the other hand, the institutions of accountability are operating well below their normal levels."

Harvard University Health-Law Professor I. Glenn Cohen told *The New York Times*: "Public health depends a lot on public trust. If the public feels as though they are being misled or misinformed their willingness to make sacrifices—in this case social distancing—is reduced." He hoped that "perhaps the lasting legacy of the Covid-19 pandemic will be a generational recommitment to restore custody of critical health-and-safety information to its rightful public owners."

Leading transparency and anti-corruption organisations from across Europe have produced a set of ten recommendations on how governments can ensure transparency of emergency procurement carried out during the coronavirus pandemic.

The recommendations recognised that rapid purchase of equipment such as medical supplies was necessary but reminded governments that EU directives required them to keep a written justification for procurements and make them public. While emergency direct procurement was legal, it must be the exception, even during the pandemic, and should be judged on a case-by-case basis. These are good reminders for all governments.

A spokesperson of the European transparency group reminded governments that "the role of civil society watchdogs and investigative journalists is crucial in investigating wrongdoing, and they can be allies of government in fighting corruption, but they cannot do their job without information."

Apart from civil society groups, the International Conference of Information Commissioners (ICIC) reminded governments about their responsibilities during this critical time. They released a statement in mid-April entitled "Access to Information in the context of a global pandemic," in which they recalled that the impact of Covid-19 had brought unprecedented challenges for the society, both nationally and globally, and reminded governments about their responsibilities to deal with them diligently. They recognised that public authorities must make significant decisions affecting public health, civil liberties and people's prosperity, but reminded them simultaneously of the importance of maintaining people's right to access information in all circumstances. Equally importantly, they recognised their own responsibility to take a pragmatic approach, for example around how quickly public bodies respond to information requests.

Signatories to the statement included representatives from most of the Information Commissions of the world, though South Asia was only represented by Punjab (Pakistan) and Nepal. Whatever may be the reason for the absences, there is no denying that we are all faced with a pandemic of enormous destructive force. It requires the combined efforts of all concerned, governments and the people alike, to

fight the menace and to recover from the damage caused by it, both medically and economically. People's participation in the recovery process will be vital for real success. For that, it is essential that people are taken into confidence and given access to all pertinent public information that enhance their trust in the government. Where such trust existed, people were seen to respect government lockdowns more willingly than where that was not the case.

Finally, once the pandemic is over, there will surely be serious stock-taking and national and international audits of how the crisis was handled by governments. Transparency groups will most certainly use the RTI/FOI Acts to assess government accountability. The Information Commission of Canada has rightly warned: "Because it is impossible to implement measures to ensure transparency retroactively, now is the time for government institutions to ensure that appropriate decision-making documentation safeguards and practices are in place."

Despite the setbacks, public sentiments expressed during the crisis raise hopes that RTI/FOI regimes worldwide will rise like the proverbial phoenix from the ashes of the Covid-19 pandemic with greater grit and energy.

c. (2020, June 15) Transparency and accountability of government actions during Covid-19 pandemic.

The Covid-19 pandemic will be recorded as one of the most consequential events in human history. A small part of that history will relate to how governments interacted with their populations in responding to the crisis.

A menace of such magnitude calls for a combined effort of people and their governments. As part of that effort, people need more detailed information on all government efforts to fight the menace. Even ordinary citizens, generally satisfied with the amount of information they receive from their governments in normal times, felt the need to know more about the way their governments dealt with the crisis and spent huge amounts of public funds. How well was the government prepared to fight the menace? Was public fund being spent accountably? Were all decisions based on proper reasoning? Did public interest override other factors in government decisions? What measures were taken to ensure that financial and other assistance for the affected population reached the rightful claimants and the economic stimulus packages were not pilfered?

In normal times, socially alert citizens would seek answers by using the Right to Information (RTI) or Freedom of Information (FOI) Acts to access government records. In the heightened atmosphere of the pandemic, even citizens who are not usually activists realised that critical information was sometimes lacking. It is the "information behind information"—the whys and hows—which are not normally disclosed, that contain the full picture. Covid-19 instilled a general awareness among ordinary people about the importance of such undisclosed information. This is evident from the many gripes, critical write-ups and comments posted/expressed in the media, including the burgeoning social media. The growing unease of governments about them is testimony to their impact.

Unfortunately, however, the lockdowns imposed by governments to contain the virus had also affected the operation of the information regime in many countries, including Bangladesh. RTI/FOI activities came to a stand-still in these countries in the early phases of the lockdowns, making it impossible for the public to access critical government information.

In some countries, as in India, a few die-hard RTI crusaders managed to keep the doors of RTI open, at least virtually. In other countries, many sought to link up online with the global RTI/FOI fraternity to devise strategies to meet the challenges. The pandemic helped them to unite both to safeguard the regimes and strengthen their cooperation with each other for the tasks ahead. The introduction of inconceivably large sums of public money, perhaps the highest ever allocated in the history of the affected nations, to meet the medical and economic exigencies, inevitably raised accountability concerns in the minds of many. For the more RTI-minded population, it was a responsibility they must take seriously.

Transparency regimes are an important tool to keep governments on a leash, particularly during critical times.

In a historic crisis like this, citizens can legitimately ask to see public records on various aspects of government response. Samples of concerns drawn from different countries show a common pattern. They include: copies of all coronavirus-related contingency plans of public entities concerned; data on stockpiles of medical equipment; records of response team meetings; communications among relevant agencies and officials; situation assessment reports at medical facilities; data on testing, infection rates, deaths, etc.; data on supplies of medical equipment; purchasing orders/contracts for equipment, such as ventilators; government agency interactions with private companies; inspection reports on private organisations, such as nursing homes; information on processing of economic aid; public funds appropriated to help mitigate economic effects of the pandemic and much, much more.

Many Covid-19 related RTI/FOI requests were made on above and other concerns to national authorities. A few examples from neighbouring India may help the fledgling RTI community in Bangladesh know how the RTI Act was used to promote transparency and accountability in government work even during the lockdown. They may also be instructive for our Information Commission to appreciate that, with commitment, it is possible to find ways to help people exercise their fundamental right to access government information even in most difficult times.

One of the first Covid-related requests in India was from an RTI applicant questioning the fact that a single firm got a monopoly on the production of Covid-19 testing kits. The applicant asked for the minutes of agency meetings where the testing kit guidelines were developed, the names of companies who sought validation, the letter to the approved company, and a report on the 18 companies that sought validation. The response is not known, but the applicant's concern is clear.

In another case, an RTI applicant from Maharashtra asked for information on the amount of donation received by the Chief Minister's Covid-19 Relief Fund and how was it

spent. The response revealed that during the reporting period the fund received Rs 342 crore of which Rs 23.82 crore had been spent on controlling the virus's spread and Rs 55.20 crore went towards facilitating the journey of migrant workers to their home states. The Information officer furnished details of the deposited and allocated amounts.

In a landmark case, one of India's most prolific RTI activists, Venkatesh Nayak, sought data from the Union Ministry of Labour and Employment on migrant workers who were stranded across the country due to government lockdowns. Not receiving the data, he complained to the Central Information Commission. In its legally binding advisory, the Commission asked the Chief Labour Commissioner to upload on its official website all data it had on migrant workers stranded across the country. This was done soon. The Central Information Commission had also reprimanded the office of the Chief Labour Commissioner for the "callous and non-serious attitude" of its Information Officer.

In a similar complaint by the same activists, the Central Information Commission issued an advisory to the Union Ministry of Health and Family Welfare, to provide the district-wise number of hospitals and healthcare facilities designated as Covid-19 treatment centres on their website. Notably, the Commission dealt with the complaint on an urgent basis, because the applicant had invoked a specific section of the RTI Act 2005, which stipulated that in matters concerning the life and liberty of individuals, an RTI request must be responded to within 48 hours of its receipt. In Bangladesh that period is 24 hours, though it is hardly ever used.

The Covid-19 pandemic has highlighted the immense value of RTI/FOI laws to advance close government-people interaction in difficult times and underlined the importance of transparency and accountability in government work to earn peoples' trust during such times. Experience gained from world-wide government engagements to face the unparalleled challenges it threw up show how such trust, or the lack of it, can affect peoples' response to them. It also provides vital lessons for governments for the critical tasks that lie ahead both to stop further onslaughts of the deadly virus and recover from the terrible damage it caused.

d. (2020, August 17) Trust lost between governments and citizens during Covid-19 pandemic? RTI/FOI can help to retrieve it.

The relationship between governments and the people has been badly affected by the Covid-19 pandemic in many countries. Except in a few countries, people found it difficult to believe the government's information. They saw vast discrepancies between the reality and what they were told. Governments did not trust their citizens to "do the right thing", and imposed measures rather than seeking cooperation. Ultimately, this lack of mutual trust made efforts to contain the virus more difficult.

How did we get here? When the pandemic began earlier in the year, all governments were confronted with an enemy utterly unknown to them. There was no knowledge as to how it will behave and what havoc it may cause. States had to gear up on a war footing. And in doing that, many fumbled.

Governments had to immediately devise ways and find means to contain the deadly enemy. They had to feed the public with information that would console and reassure

them. People looked to governments for guidance and leadership. They wanted to know if they would be safe and healthy in their hands.

Some governments succeeded in carrying the people along, but the majority failed. As government measures to curb the menace failed to work, people began to lose faith in the information they received from public authorities. Populations began to ignore government strictures. Irrate public authorities imposed strict surveillance measures. This further soured government-people relationship.

The buildup of such distrust under circumstances fostered by the crisis is not inevitable. Government measures to contain the pandemic may be categorised into three overlapping phases of activities—response, recovery and revival.

During the response phase, governments had to move fast, and bypass many established procedures which stood in the way. Unfortunately, most governments did not care to explain their actions. As the situation continued like this, peoples' exasperation increased, and the information/trust gap widened. Governments ordered business to close, introduced lockdowns, controlled people's movements, curtailed travel, reallocated economic activities to meet urgent medical needs and clamped down on critics and dissenters. They undertook procurement of medical supplies/equipment and engaged in a spending spree unprecedented in the history of most states. An inevitable result of all these frenzied activities was the emergence of cheats who engaged in profiteering. Governments did or could do little to tame public rage and fight corruption.

While tending to the immediate medical and health needs, governments had to start thinking about recovery needs. This required shifting of focus to economic activities and mitigating the broader impacts of the crisis. They had to consider returning public institutions to their normal mode. Businesses, industries, schools, offices, public transportation, restaurants, sports and other institution of public interest had to be reopened, while the virus continued its rampage. Public perceptions about these differed greatly. In many areas, governments had to move rather swiftly, shortcutting traditional controls, with unilateral executive actions. Such actions raised transparency and accountability concerns.

While most governments are still preoccupied with response and recovery, the reconstruction and rehabilitation process—the revival phase—cannot be left unattended for long. Governments are required to consider long-term improvements to public operations—to ensure preparedness to respond effectively to future health risks of such a magnitude. They will have to revisit the supply chains, reassess the preparedness and capacity of medical facilities, re-evaluate old rules and regulations, allow the spread of technologies that have proven effective during the crisis, such as digitalisation.

The key to recovery of the lost trust will be the ability of governments to take the people along in the difficult tasks that lie ahead.

RTI/FOI Acts can help governments minimise citizen's concerns about their actions. They can make proactive disclosures, as provided under the law, to inform people about measures taken. Many governments did that, some better than others. But more

than that the law also provides for individual rights to obtain information that would go deeper and show whether government functionaries and bodies fulfilled their public responsibilities with diligence, honesty and integrity. Such information is often not susceptible to be proactively disclosed. And since individual use of the law became impossible in most countries because of the pandemic, citizens had no scope to obtain them. If governments are inclined to demonstrate their responsibility of transparency and accountability under the law, there are many ways of doing so. Unfortunately, such a sense of responsibility is lost on most public offices and officials.

Peoples' need for information during the pandemic, as observed in most countries, has actually not been that great. They were limited primarily to areas where they felt uncertain if government decisions to deal with the crisis were based on scientific knowledge, expertise and guidance, with the interest of the people and the nation foremost in mind. Many were interested in information normally contained in minutes of meetings, such as the first meeting of the Task Force, who participated in them, their names and qualifications, the proportion of scientists among them, including social scientists. Others wanted to know who decided on lockdown measures and how, on basis of what scientific data. How economic relief was to be provided to the people? Who were the decision makers? Was the government providing incentives for rapid development of diagnostics, medical equipment, vaccines? What specific measures were taken to stop corruption in the procurement of lifesaving medicine, equipment and other health needs? What measures were taken to stop abuse of government's economic stimulus packages and ensure their fair distribution? Were cabinet ministers taking pay cuts as part of austerity measure of the government? And how the government intends to balance privacy needs with the advantages of digital disease surveillance and tracing.

Looking to the future and recovery, the government can use the RTI principles of transparency and accountability to update the public on its public health improvement plans, and its research and development goals, its investment in social science to prepare better for the trust deficit next time. There are countless questions government can anticipate and provide answers for, without having to be asked through individual RTI applications.

In times of large-scale calamities, like the Covid-19 pandemic, people's fear increases exponentially; and their need to know what their governments are doing to meet the challenge increases commensurately. In such a situation, governments need to be more careful not only to anticipate people's concerns but also be adept in answering/assuaging them. Public leaders must be prepared to communicate clearly, consistently, and constantly with the people. They must remember that citizens are prone to be more cooperative when they understand why they are being asked to do or not to do certain things. A "people-first" approach, supported by genuine data, can foster proper public behaviour and discourage those that are harmful. An important lesson that may be drawn from the Covid-19 experience is that without well-tuned government-people collaboration, large-scale catastrophes cannot be handled effectively.

CHAPTER – 8: USE AND PRACTICE OF RTI LAW/FOI LAW IN OTHER COUNTRIES

a. (2016, May 15) A good law gone to waste? Right to Information Act 2009: The role of media.

Media's power to shape public opinion is succinctly captured in a story from Peru, dating back to the 1990s. Alberto Fujimori was the president of Peru then, but the country was actually run by his Secret Police Chief, Vladimiro Montesinos Torres. Montesinos did so primarily through bribery and corruption. His vast experience had helped him know exactly who among the opposition parties, judiciary and media were the most influential people, and who could be bought with what amount of money. He managed to control them for several years in this manner before his government fell. After the fall, the meticulously-kept diary of Montesinos revealed that he had paid the owner of the most powerful TV station of Peru five times more money in bribes than he had paid to all the opposition politicians together. Such is the power of the media over the state.

We shared this story at a seminar in Dhaka in early May on World Press Freedom Day. The story appeared to be well-received by the audience, most of whom were journalists or budding journalists. But I am not sure if my exhortation for greater engagement of the media with the Right to Information regime had cut much ice with them. I had made two key points. One, the RTI Act is one of the most important laws of the land and deserved support from all citizens, including journalists. And two, the latter would find the law of great value to their job.

On the first point, people will know about a law if the media talk about it. Unfortunately, uptake of the law is still slow. All available records indicate that there is hardly any increase in the number of RTI users over the years: simply because not enough people know about the law. Here is where the media need to be more systematically engaged in promoting RTI. By publicising positive outcomes of RTI interventions in the country, media can nurture the feeble RTI flame.

In many countries, wide publicity of successful RTI stories has helped its growth. A news story or feature showing marginalised communities using RTI to access social safety net programmes would motivate others to use the law. It also shines a spotlight on public officials who dispense the benefits, encouraging them to be more careful in exercising their authority. Fear of public opprobrium is key to changing a corrupt mindset.

Successful RTI interventions follow a pattern that looks like this: RTI application ? disclosure of information ? publicity of information? transparency in the work of public officials? accountability to people. Obtaining information from government offices through RTI cannot be the main goal of the law. To be useful, information

must lead to change in the behaviour of public officials. It is important to understand this basic philosophy of the law.

In the pattern above, the key piece is 'publicity of information'. In countries where RTI has been effective, as in neighbouring India, media has played a key role in spreading its value. That media stories have encouraged more Indian citizens to use the law is evidenced by the fact that more than 5.5 million RTI applications were made by them to different public authorities at the centre and in the states last year alone. Compared to this, the Bangladesh average over the years is around 15,000. This is very discouraging indeed for a nation of 160 million people.

The least that the media can, therefore, do is simply to publicise the results of outstanding RTI interventions gathered from all over the country. Their local correspondents, based in different parts of the country, could be asked to collect and report on them on a regular basis. In some countries, best reports are recognised and rewarded appropriately. This can be done here as well.

On my second point, RTI is a valuable tool for a free and fair press that holds its government accountable. Media can use the law for investigative journalism, as is done in many countries. Investigative reports have brought to light many corrupt and abusive practices of public offices throughout the world, leading to important corrective measures. They have also helped to dig up information that governments normally wish to hide from the public.

Examples from different countries were cited in my paper to show the type of subjects that are normally of interest to the public for investigative journalism. It has been found that well-documented investigative reports, based on information obtained through RTI, are extremely popular with readers/viewers since, among other things, their authenticity is normally beyond reproach.

Topics for investigative journalism depend largely on public interest and national perspectives. In many countries, a compilation of popular RTI-based investigative reports is released annually. Following are a few topics culled from a UK and Scotland compilation:

- * Treatment of soldiers affected by Gulf-War Syndrome and arrangement for their treatment.
- * Number of patients affected by mistreatment in public hospitals and measures taken for their compensation.
- * Efforts made to bring down waiting periods for patients in different government hospitals.
- * Government measures to help public universities overcome financial crisis.
- * Involvement of police forces in crimes and measures taken over the years.
- * [For more topics/stories see: www.cfoi.org.uk/pdf/FOIStories2005.pdf]

RTI-based investigative stories from India are closer to our realities in Bangladesh. One Indian journalist, who is now well-known to the RTI world, is Mr. Syamlal Yadav, Associate Editor of the weekly news magazine India Today. He and his colleagues made

one RTI intervention a day to different offices in India. One popular intervention related to his application to 60 ministries over a period of six months. The responses he received had revealed that in three and a half years, 71 ministers of the Central Government had made foreign trips, covering a total distance which was 256 times the distance to go around the world. The report created such a stir that the then government had to issue letters to all the ministries to stringently follow official rules for foreign and local travels. It led to significant savings in travel costs for the country.

Another outstanding piece of investigative journalism by Mr. Yadav revealed that over 59 million life insurance policies under LIC of India had been permanently closed over a period of seven years because of non-payment of premiums by policy-holders. He then asked to know whether the huge amount of money remaining in their accounts was returned to policy holders. LIC refused to disclose the information claiming secrecy. The Central Information Commission agreed with LIC. This prompted Mr. Yadav to make the information public. Less than a month later, LIC put an advertisement in local newspapers, informing policy holders whose accounts were thus permanently closed that they could revive their policies. This is unique in insurance history.

Such inspiring stories show the immense power of the media in making RTI a nation-wide reality - and the power of RTI to serve the media in the pursuit of truth. Our lawmakers have made an excellent law. But we need our media to help ensure that people know their rights.

b. (2017, January 15) Investigative journalism and the RTI Act

A few years ago, a Mexican journalist learnt from a government press release that 47,515 people were murdered between 2006 and 2012 in the country, with victims and killers reportedly related exclusively to the drug trade.

But the journalist knew from her experience that the victims also included children and fellow journalists. Local police commanders told her that they did not investigate most shootings because the fight against organised crime was the duty of the federal government. Federal law enforcement in turn informed her that they did not always investigate those crimes, as homicide was not included in the federal law on organised crime. She decided to use Mexico's Freedom of Information (FOI) Act to find out.

First, she compiled data from available sources. She examined hundreds of press releases, searching for patterns and clues, as well as names, ages and other information on the victims. She discovered that most of the victims were young and had nothing to do with drugs.

To determine what percentage of the cases had led to arrest and conviction, the journalist filed a series of FOI requests with the judiciary and police. In addition to conviction rates, she wanted to know what the police did to solve murders.

After obtaining and analysing the information, the journalist concluded that nearly all cases had remained unsolved, and only two percent had been investigated.

Subsequent reporting by the journalist and her colleagues revealed that much of the failure to investigate had been deliberate, designed by police and prosecutors working for the drug cartels. The story unveiled a national scandal.

Such is the power of the Right to Information (RTI) Act, as it is known in this country.

Through RTI, citizens today can access the whole gamut of information available with public offices – not just those we need from time to time, but also those that help us monitor the larger trends and use them as a tool to improve the world we live in.

Such an understanding of the RTI law is most important for journalists and others connected with the media. For they would not only pass on the knowledge to the wider public but also prove the efficacy and power of the law through its use in their profession. Unfortunately, in Bangladesh, this is yet to happen.

The interest of journalists in RTI waned soon after the adoption of the RTI Act 2009 in which they had played a supportive role. They soon found that obtaining information under the law takes more time than they can normally wait for, as it may take anywhere between 20 to 75 working days to complete the process.

Such a reaction of the law may be true in the context of the daily work of journalists which involve reporting breaking news. Their objective most often is simply to inform the people.

But journalists also engage in other kind of activities, including investigative reporting, where they must gather information through their own initiatives. They apply themselves in serious research over a period to do a report of this nature. The outcome often results in penetrating or exposing a situation which may lead to systemic change and reform. This is where the RTI law comes in handy.

Before RTI laws were enacted in most countries, the task of journalists in investigative journalism was often fraught with personal danger as it exposed them to dangerous situations or even confrontation with those who would be negatively affected by their reporting. RTI made it easier and, at least, less dangerous, as the information may be sought in writing.

RTI/FOI Acts may expose corruption. In the UK, Members of Parliament are entitled to reimbursement of expenses in maintaining two homes, one in their constituency and one in London. Three journalists applied to the House of Commons under the FOI Act for information about the expense claims of some MPs. They wanted access to full information, not just total amounts, with relevant documentation. The House of Commons authorities denied disclosure on grounds that it would breach the privacy rights of the MPs. On appeal, the FOI Tribunal and the High Court decided for the applicants.

As the authorities prepared to publish a substantial amount of information, it was leaked to the press. Four million separate individual items of information, including some embarrassing facts like the building of a duck house by an MP costing 1,645 British pounds, were made public. As a result: a number of ministers resigned; many

exposed MPs decided not to seek re-election; the MP's expense system was reformed; criminal charges were brought against seven individuals; and there was severe damage to reputation of Parliament and to the public perception of politicians.

Investigative journalism uncovers systemic problems, too. Jerry Melton, an American veteran of the Iraq and Afghanistan war, was found pointing a loaded machine gun at fellow soldiers during an argument. After numerous misdiagnoses, drug treatments, and a stint in a secure psychiatric hospital where he exhibited homicidal tendencies, he was remanded to civilian jail to await court-martial for the gun incident.

On learning this, Dave Philipps, an American journalist in Colorado, who was acquainted with the plight of troubled veterans, visited Melton in the jail. He returned with a feeling that Melton was just another soldier suffering from post-traumatic stress disorder (PTSD) and traumatic brain injuries. But doubts lingered in his mind. When he went back to see Melton, he found the veteran gone. Melton had voluntarily quit the military without facing charges.

The episode got Philipps thinking. He asked himself: "How many vets had quit the Army and lost their benefits in lieu of facing court-martial for fighting, alcohol abuse, insubordination, and other behaviours associated with PTSD and similar injuries?"

Philipps submitted a FOI Act request to the Army seeking data on GIs who were given so-called Chapter 10 discharges for misconduct. He soon received a set of spreadsheets from which he found out that there was a sharp increase in such discharges, with all veterans' benefits forfeited, particularly in relation to combat troops. "Were the troops that were burned out getting kicked out the back door?" he asked himself.

Armed with this information, Philipps interviewed discharged veterans coping with psychological distress, addiction, and anger management. Together with this and the FOI Act data, he was able to establish that "more than 76,000 soldiers have been kicked out of the Army since 2006. They end up in cities large and small across the country, in hospitals and homeless shelters, abandoned trailers and ratty apartments, working in gas fields and at the McDonald's counter."

The result was the 2014 Pulitzer Prize-winning 'Other than Honorable' series about the Army discharging, without veteran's benefits, traumatised and injured soldiers for misconduct.

Closer to home, an Indian journalist, Shyamlal Yadav, sent RTI applications to the Prime Minister's Office, Cabinet Secretariat and 50 other ministries and received details about foreign travel by the ministers. He put the data in Excel sheets and calculated the total distance. It showed that the ministers travelled the distance equivalent to 256 round trips of the globe. The impact was that Prime Minister Manmohan Singh wrote to ministers asking them "to severely curtail expenditure on air travel, particularly foreign travel, except in cases where it is deemed to be absolutely necessary. This economy may be made applicable immediately for your own self and for all senior functionaries in your ministry."

It is hoped that the above stories would encourage our journalists to make similar use of RTI in their efforts to unearth and shed light on the activities of our public bodies. They would do a great service to the nation if they do so and publicise their findings widely. There could be no better way to make the power and benefits of RTI known to a larger audience.

c. (2017, May 15) RIGHT TO INFORMATION ACT- A new breed of truth seekers.

There 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 Shyamlal 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. Shyamlal 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 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. 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. 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 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-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 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. Biplobs must be seen as friends of the system, not adversaries. For RTI is essential for good governance.

d. (2017, June 15) RIGHT TO INFORMATION: Learning from the US's experience.

There are obvious and big differences between the socio-economic and political conditions of Bangladesh and the US and the extent of their Right to Information (RTI) experiences. A good understanding of how the differences affect the operation of the law might help us assess the performance of our own RTI regime more objectively and foresee the course of its future evolution.

The US has recently observed the sixtieth anniversary of FOIA (Freedom of Information Act) and several in-depth studies and assessment reports on the operation of the law have emerged. A quick glance at some of them confirmed that there are distinct differences between the two countries, particularly in two areas: the category of users and the subjects of use.

When FOIA was enacted in the US, it was seen primarily as an instrument for journalists to serve as a government watchdog and promote government accountability. Bangladeshi journalists had a different expectation: They thought their information gathering from government offices will be made easier by this. But the reality was different. Journalists' share of information requests made to public authorities in both countries is rather small.

In the US, FOIA's user base has evolved over the years to encompass a diverse array of organisations, entities, and individuals who use the Act for a wide variety of purposes. They include lawyers, non-profit organisations, academic researchers, hospitals, political committees, hedge funds, government agencies and private individuals.

One study found that the news media made only 7.6 percent of all FOIA requests. It also found commercial businesses to be the biggest users, accounting for 55.7 percent of all requests. This includes "law firms" which alone account for 16.7 percent of requests. Private individuals are the second biggest share with 20.1 percent. The share for non-commercial organisations is 7.5 percent and universities account for 4.5 percent.

Among "news media", the largest user is the *Associated Press*. Others include the *Wall Street Journal*, *Bloomberg* and the *New York Times*. If the first three agencies are excluded, the percentage of FOIA use by news media drops significantly.

The "commercial business" category includes all for-profit entities. This group constitutes 11 percent of all FOIA users. They specialise in financial data and their requests are directed exclusively to the Securities and Exchanges Commission (SEC), which seeks to regulate the capital market. In fact, 79 percent of all requests to SEC, numbering 136,858 in the last one decade, were made by such commercial houses.

The "non-commercial" category includes non-profit NGOs, political committees, government agencies, and the offices of elected officials. Political committees include the three Democratic Political Committees at the national level, which filed 16 times more FOIA requests in recent years than their Republican counterparts. It is interesting to note that the volume of requests made by the political committees is comparable in size to that of the top news outlets.

FOIA use by political committees is a unique feature in the US. Most of the requests from both sides relate to research on opposition candidates. The primary interest is to dig out negative information on the opposition, from presidential candidates to those running for local offices.

The non-profit category includes two investigative organisations dedicated to government accountability (Judicial Watch and Cause of Action), one labour union (The American Federation of Government Employees), an agency advocating for animal rights (PETA), and one that litigates to defend civil liberties (ACLU).

“Universities” include both academic and non-academic entities within a university (e.g. investment office, university hospital, etc.). “Individual” requests are those that were not explicitly requested on behalf of an organisation.

Among universities, George Washington University and University of Illinois are the main users. The former makes far more requests than any other university because it is the home of National Security Archive, “the world's largest non-governmental collection” of declassified US documents. The University of Illinois requests come primarily from the Illinois State Geological Survey, a geological and environmental research institute that is separate from the university's academic departments.

Among the recipients of these requests, the top five are: the SEC (115419), the Department of Defence (30371), the Environmental Protection Agency (20721), the Department of Veterans Affairs (13418), and the Food and Drug Administration (9394).

The Obama administration, in its final year, spent a record USD 36.2 million on legal costs defending its refusal to turn over federal records to FOIA requesters. The number of lawsuits filed by news media in this regard surged during this time. They were led by the *New York Times*, the Centre for Public Integrity and *Associated Press*. The latter settled its 2015 lawsuit against the State Department for not disclosing files about Hillary Clinton's time as Secretary of State. It received USD 150,546 to cover part of its legal fees.

In fact, despite President Obama's pledge that his would be “the most transparent administration in history,” his administration was criticised for censoring FOIA requests. It spent a record USD 478 million answering complaints and lawsuits.

The administration employed 4,263 full-time FOIA employees across more than 100 federal departments and agencies. It released all or parts of records in 91 percent of requests. More than 125,000 sets of data were posted on a government website, data.gov. The president instructed that the US should not withhold or censor government files merely because they might be embarrassing. One government official claimed: “When it comes to our record on transparency, we have a lot to be proud of. And frankly, it sets a standard that future administrations will have to live up to.”

It is difficult to foretell how President Donald Trump's administration will relate to FOIA or other transparency measures. Trump has not expressed any views yet about

transparency. It is known that he required his private-business employees and presidential campaign advisers to sign non-disclosure agreements, barring them from discussing their work. His campaign had barred some mainstream news organisations from campaign rallies and his administration has barred selected media houses from White House press briefings. He also broke with tradition by refusing to disclose his tax returns.

Readers acquainted with this column would easily appreciate the differences between the Bangladesh RTI regime and the US regime above, more particularly those relating to user base and purposes of use.

We can draw some brief conclusions on the differences. One, the influence of socio-economic and political realities on the use of the law is unavoidable. The RTI regime in Bangladesh will surely evolve over time as the country moves up the development ladder.

Two, progress in the implementation of the Sustainable Development Goals will increasingly spur the middle and upper classes to use the RTI mechanism. There would be a need for commercial houses to provide RTI support services to them, as in the US. NGOs/activists could already spearhead the process by adding a commercial window to their existing voluntary services.

Three, as awareness about the multifarious use of the law grows, and commercial houses emerge to assist fee-paying clients, the Information Commission and public offices must be prepared to meet the requirements. Learning from experience of other nations would help. Top government leaders should be prepared to provide direction.

Four, the present user base of RTIA in Bangladesh will continue to be individual-centric till people realise its importance for government oversight. The process of change can be hastened only by concerted efforts of citizen groups and other stakeholders, including the news media.

e. (2018, March 15) How RTI can help elect the best candidates.

Political tension mount in most countries during election year. In Bangladesh, tension has already gripped the people and is likely to intensify before the general elections scheduled for December 2018.

A key factor amidst the excitement is the disagreement between the two main political parties on whether elections should be held under the sitting government or some form of neutral government.

This tension distracts us from the more substantive issues of election such as ensuring that the most qualified candidates are elected to parliament. On that important question, the Right to Information Act (RTI) 2009 can help.

The RTI Act entitles citizens to monitor the work of all public bodies operating under the three branches of government—executive, legislative and judiciary. Citizens can

do this by seeking relevant information on them from the concerned public authorities. Our focus today will be on the legislative branch, i.e. the parliament. We must first understand the diverse roles that MPs play and then go about electing the right person for the job.

According to a study, the task of parliamentarians “can be captured conceptually within four roles. The legislative role includes establishing rules for the ordering of social, political and economic activity and empowering the government to enforce these rules. Financial control includes empowering the executive to collect tax and other revenues, to spend those revenues for specific purposes and to record and report on actual expenditures and achievements. The oversight function includes those parliamentary activities to help make the actions of government transparent to the electorate and holding the executive publicly accountable. Finally, representation includes the less concrete functions of ensuring that citizens' concerns with government are addressed...”

While it is not easy to visualise the above roles of the MPs, voters can certainly relate to them, if they are properly explained. Unfortunately, voter-counselling on selection of candidates is not fully ingrained in our election culture. The RTI Act, however, makes it easier to do so. Civil society and citizen's groups have a golden opportunity to play an effective role here.

In India, an NGO named Satark Nagrik Sangathan (SNS), or Alert Citizens Group, has developed report cards on elected representatives to help people assess their performance in different fora. Using the RTI Act, activists access information from relevant public authorities on how elected representatives have performed in their respective positions. Based on the information received, a report card is established on each of them.

The report card contains objective information on the performance of individual elected representatives. These include the representative's performance in the legislature and its subsidiary committees. Did they attend, what questions and issues did they raise? Did they participate in debates relating to the functioning of the executive branch of government? How did they deliberate on laws under consideration? Did they scrutinise public expenditure? How did they spend the local development fund? What is their educational background; do they have a criminal record?

In Bangladesh, we could develop similar report cards on our MPs. They would provide voters with the required knowledge on candidates seeking their support. RTI could be the basis for obtaining information based on the above criteria on candidates who are seeking re-election and on whom records are available at the Secretariat of the Jatiyo Sangsad. Additionally, it could be used to find out how they spent the Tk 20 crore development fund at their disposal.

For new candidates, where such records are not available, background checks can be made through RTI requests to public authorities who may hold relevant information on them which are disclosable, such as the police and tax authorities as well as local government bodies or other public offices they had served.

The Election Commission (EC) too holds information on candidates under the Representation of the People Order (RPO) 1972. Citizens could check the law to find out what information on the candidates are held by the EC which could be sought through RTI requests. In a related case, in 2016, the High Court had ordered the EC to provide RTI applicants with information they held on political parties under the RPO.

Political parties could themselves be a source of information for the candidates that they nominate. While there is some controversy on whether they fall within the purview of the RTI Act, this could be tested out through RTI requests to them. In India, in a 2013 decision, the Central Information Commission held that political parties are indeed covered by the RTI Act, which they jointly rejected. The matter has remained unresolved since then.

The experience of the United Kingdom, where the Freedom of Information Act (FOI) has been put to effective use for the purposes here, can also provide guidance.

In 2005, a civil society campaigner together with some journalists made FOI requests for details on claims made by MPs for the reimbursement of their travel and accommodation expenses during parliamentary sessions. This was initially denied but on appeal, the Information Commissioner ordered for its disclosure.

Subsequently, the commissioner also ruled in favour of the public's right to know broad details of MP's spending on second homes in London. This resulted in the release of detailed breakdown of expense claims made by several MP's, including the then Prime Minister Gordon Brown and his predecessor, Tony Blair.

At one stage, the House of Commons had appealed the Information Commissioner's pro-disclosure decision to the High Court, but the latter ruled against it. When several fraudulent claims and misappropriations were revealed, a series of high-profile resignations followed.

Public apologies were tendered by Prime Minister Gordon Brown and Conservative Party leader MP David Cameron. The Prime Minister announced the formation of new rules on reimbursements to MPs, including a pledge for external audits to oversee pay and allowances. Soon thereafter, the government passed the Parliamentary Standards Bill, which removed the right of MPs to set their own allowances and established a new Independent Parliamentary Standards Authority to administer the pay and expenses of MPs and investigate alleged breach of the newly formulated rules on parliamentary expense claims and allowances.

The above is a fine testimony of the intrinsic power of the RTI Act, not only to fight corruption, but also to contribute to systemic change in governance. The Bangladesh government and our MPs had the foresight and wisdom to adopt this amazing legislation nine years ago to empower citizens to promote transparency and accountability in the workings of public authorities, including many NGOs. We must put this law to effective use.

It is time that all concerned citizens, who rightly agitate for free and fair elections, learn from the experiences of other countries to use the RTI/FOI Act to ensure election of lawmakers who are qualified for the job and are themselves law abiding.

f. (2018, August 14) RTI Footprints in South Asia: Tapping its potential for public causes.

Our region is well-known for its deep-rooted culture of official secrecy inherited from colonial times. So why the proliferation of a rigorous law that gives citizens a tool to probe their governments and restrain their arbitrary use of power? Nearly all countries in South Asia have now enacted a Right to Information (RTI) Act.

The answer may lie in the fact that the majority of around 115 countries worldwide which have adopted the law so far have done so in little more than two decades following the demise of the Soviet Union and the emergence of newly independent democratic states from its ashes. The world seems to have suddenly discovered the importance of transparent and accountable governance for democracy.

But adopting a law is not the same as using it. This is evident from the extent and nature of the application of the law in the region.

In India, the law got off to a heady start from the beginning, as evidenced by the large number of RTI requests filed with public authorities annually, at both federal and state levels. That has not been the case in other countries, where the number of requests, both in absolute and relative terms, is much smaller. In terms of the nature of RTI requests, except for India and more recently Sri Lanka, the law is used more for personal reasons than for public causes. Unless the latter happens and RTI footprints in a country deepen, the efficacy of the law will be minimal.

Below are a few recent examples from the region showing how the law has been used to obtain strategic information from public offices.

Sri Lanka:

The Airline Pilots Guild of Sri Lanka filed an RTI request to the SriLankan Airlines for all correspondence and information, including profits, losses and damages, related to its entry into a lease agreement with Pakistan International Airlines (PIA) and subsequent termination of that contract; information related to the cancellation of orders for Airbus A350s from another airline; details of salaries, allowances and other benefits of the CEO, the Head of Human Resources and the Chief Commercial Officer.

After the carrier refused the request citing exemptions, the Pilots Guild lodged an appeal with the Right to Information Commission of Sri Lanka. After hearing arguments from both sides, the RTIC ordered SriLankan Airlines to release nearly all the information sought. It was revealed that SriLankan's CEO received a monthly salary of Rs 3.27 million; his flying training cost the national carrier USD 23,568; he received a company-maintained vehicle and driver; and SriLankan Airlines agreed to pay a total of USD 161 million to terminate the lease agreements for four Airbus A350.

India:

As in Bangladesh, prisons in Uttar Pradesh (UP), India, are heavily overcrowded, lodging a much larger number of prisoners than they can accommodate comfortably.

About 60 percent of the prisoners are under trial, many having stayed in jail longer than the prison terms prescribed under the law for their offences.

In response to an RTI query from a member of the National Campaign for People's Right to Information (NCPRI), the Inspector-General (Prisons) of UP admitted that the total number of prisoners lodged in state jails is more than the maximum population of prisoners they can support. His response was used to file a public interest litigation to the Supreme Court, which issued a notice to the Centre and all states giving them five weeks' time to respond. The SC also issued a notice to the National Crime Records Bureau and urged it "to intervene and direct government to frame a policy to grant bail to prisoners facing trial for offences in which punishment ranges between three and seven years."

India:

To find out about the incidence of medical negligence in hospitals in the Gurgaon district near New Delhi, an activist filed an RTI request to the district authorities. The disclosed information revealed that from 2016 to 2017, there were 46 cases of gross medical negligence at private and government hospitals in the area. Inspection reports on both small and large hospitals, filed by the Food and Drugs Department of the Haryana government, revealed various lapses. Another damning report resulting from a different RTI request revealed that over 224 private clinics in the Gurugram district were being operated by charlatans. As a result of the revelations, the Haryana government is considering bringing in a Clinical Establishment Act to address the problem.

Nepal:

Nepal is often crippled by shortages of petroleum products. Waiting for hours in long queues for a small amount of petrol causes hardship to students, office-goers and people from all walks of life. The inability of Nepal Oil Corporation (NOC) to clear debt owed to the Indian Oil Corporation was cited as the reason for the short supply of petroleum products in the country.

However, the statement of the then Supply Minister of Nepal differed with the NOC's claim and exposed that the real reason for the crisis was management, inefficiency and distribution of free coupons by NOC. An activist filed an RTI request seeking the names of free coupon beneficiaries and the criteria for their eligibility. NOC replied that no record was kept of the recipients of free coupons and thus no information was available. On appeal, however, the National Information Commission (NIC) of Nepal ordered NOC to disclose the requested information, which was done. Since then, there has been a complete halt in free coupon distribution.

Pakistan:

In Pakistan, an assistant professor of a government college in Lahore filed an RTI request to the Public Information Officer (PIO) of the Higher Education Department of Punjab under the Punjab Transparency and Right to Information Act 2013. He sought

copies of the probe report made on him by the Directorate of Public Instruction (DPI) of colleges, the summary of the report sent to the Chief Minister and the latter's order on the summary.

Unhappy with the non-cooperation of the PIO and not receiving the requested information, the applicant filed a complaint to the Punjab Information Commission. At the hearing, the Commission told the PIO that he was duty bound under law to provide the requested information, irrespective of the views of his seniors. The information could only be withheld if its disclosure would harm any of the interests mentioned in the law. And as the summary of the report to the CM was already approved, indicating that the deliberative process on the matter was completed, the disclosure of the information would not be premature.

The above are only a few examples of the varied use of RTI in South Asia. Though the law has not lived up to the expectations of its ardent supporters, except perhaps in India and, more recently, Sri Lanka, it is hoped that once the potential of the law is better known, the situation will change.

While citizens are the prime movers of the law, governments can help by inculcating a sense of confidence in—and ensuring protection of—applicants who fear retaliation from those affected by the disclosure of sensitive information. The Information Commission too can play a decisive role by encouraging prospective users through a teleological application of the law.

g. (2018, November 15) The many uses of RTI: Our imagination is the limit.

If liberty means anything at all, it means the right to tell people what they do not want to hear.” A slight tweak of this famous quotation from British writer George Orwell will make it equally appropriate for the right to information: “If the right to information means anything at all, it means the right to ask questions that the powerful may not want you to ask.”

Right to Information (RTI) or Freedom of Information (FOI) laws, which exist in close to 130 countries and territories around the world, cause much consternation among public officials. The law is often used by citizens to expose abuse and misuse of power, which the powerful normally get away with.

But RTI is more than causing unease to government servants, unearthing corruption and revealing government malpractices. The instrument is globally used for more positive goals, such as improving citizen-state relationship, protecting the environment and drawing attention to important national issues. In other words, the law is used for making governments do good things as much as, if not more, it is used for stopping them from doing bad things.

A quick look at RTI/FOI regimes worldwide shows multifarious use of the law. Most information requests go to local governments, and the largest user group is the general public—not journalists or other professionals—as many believe. The majority of people use the law for individual or local-level issues, such as dealing with

road/bridge repairs, awarding government contracts, local crime statistics and government services generally. They serve personal and/or public interest and help promote transparency and accountability in governance.

The law is also used to obtain information of a more general nature, which enrich citizens' knowledge-base and empower them to demand government attention to national issues. Such requests include information on government preparedness to deal with natural disasters, such as, earthquakes and cyclones; protection and utilisation of maritime resources; outbreak of infectious diseases and other health hazards in the country.

In India, a citizen's RTI requests revealed that 14,474 cases of HIV through blood transfusion were reported over a seven year period. The knowledge was used to urge the government to undertake preventive measures.

A more recent RTI intervention by an Indian activist exposed that in the last five years, 10 Indian workers died on average every day in the Gulf countries, many from unnatural causes, including suicides. It highlighted the need for government attention to unfortunate deaths affecting such a large population group who contribute so much to the Indian economy through remittances.

In Sri Lanka, an RTI request by a journalist unearthed that many fishing permits were issued by the government despite warnings by the European Union that the recipients were engaged in illegal fishing practices. The EU eventually banned Sri Lanka's fish imports in 2015, at a high cost to the country.

In Europe, access to environmental information is a major part of information access regimes as mandated by the Council of Europe's access to information convention.

In the UK, the efforts of a FOI campaigner, together with some journalists, to obtain detailed breakdown of travel and accommodation claims made by British MPs, led to scandalous disclosure of excessive claims, including by the then Prime Minister Gordon Brown and his predecessor Tony Blair. These revelations played a role in a subsequent change of law requiring all members of the House of Lords to pay taxes. They also led to the publication of detailed expenses of MP's and other matters of public interest on a regular basis.

In the US, civil rights groups have invoked FOIA to gain access to data on a number of prisoners wrongly convicted and awaiting to receive capital punishment.

In Mexico, the FOI law has been successfully invoked a number of times to open up records of human rights abuses.

There are also instances of the law being used to deal with private bodies that do not fall directly within its purview. In the UK, public concern about restaurant hygiene led to the release of government inspection reports under a FOI request. It showed that no fewer than 20 private restaurants, cafés and supermarkets across Islington failed to meet basic food safety requirements. Some of them were so filthy that inspectors had to order them to cease trading immediately; four faced prosecution after failing

multiple tests and many others forced to make “major improvements” or face legal action. Public concern generated by the revelations led to the creation of www.scoresonthedoors.org.uk which provides citizens with information on food preparation at most of the listed eateries in the UK.

Other examples include RTI requests considered “silly” by the authorities. However, as an observer rightly pointed out: “It is a democratic right (of citizens) to ask and this may mean some silliness—just as voting may mean non-voting or “silly” voting. Like all parts of a democracy, it is messy and unpredictable and can occasionally go wrong. But in its messiness and unpredictability lies its power.”

Taken together, the examples demonstrate the formidable strength of RTI to “empower” citizens, vis-a-vis their governments, and to effect change for the public good. The law underscores the pre-eminence of citizens over the government. It gives meaning to the constitutional provision that all power of the state belongs to the people. Simply by asking for information from public authorities, citizens exercise that power. By accessing the vast reservoir of information available with the government, citizens enrich their own knowledge base, exercise their oversight role on government activities and help it to widen its vision.

On this angle, RTI entitles citizens to ask their government for any information they wish, without giving any reason. Their requests need not even relate to transparency or accountability, which is the ostensive objective of the law. The process itself contributes towards achieving that goal. They do not always have to be substantive or could even be “silly”. But good practice would require that they do take the law more seriously and use it for the multifarious purposes it is globally used for.

Unfortunately, in Bangladesh there is little understanding about the diverse use of the law. A deeply-entrenched belief has taken roots here that the law is meant to be used primarily to fight corruption and abuse of government power. Such a blinkered view has contributed to the largely negative use of the law so far and the resultant mistrust between public officials and citizens. The former resent the motives of the latter and the latter fear possible retaliation by the former. Inevitably, it has impacted negatively on the evolution of the law. It is time we come out of the groove and allow the law to bloom fully. It can only happen when we recognise its immense scope for multifarious application. Our imagination should be the only limit.

In conclusion, it is worth reiterating that the proper use of RTI lie not only in preventing abuse of power and authority but, more importantly, in promoting a more positive use of the law which will contribute to a more knowledgeable and empowered citizenry and improved relationship between citizens and the government. A healthy interaction between the two is key to a robust democracy, good governance and enlightened citizenry.

h. (2019, April 14) Right to Information: What can we learn from Sri Lanka's experience?

Sri Lanka was the last country in South Asia to adopt the Right to Information Act (RTI) in 2017. For many of us who were involved in discussions with our Sri Lankan

counterparts before adoption of the law, it is gratifying to note the progress it has made in these two years. There is much that we can learn from their experience and use in Bangladesh.

Readers will recall that a key concern of RTI watchers in Bangladesh has been how to promote the use of RTI by the middle-class. In the earlier years, marginalised communities could be persuaded to make use of the law, but not so with the middle-class. The former quickly discovered its value to expose malpractices in the distribution of government's safety-net programmes and obtain their rightful claims under them. The latter didn't see similar benefits in the law for themselves. And they felt that the use of the law's broader goals, such as monitoring the work of the government and unearthing arbitrary use of power and authority by public officials, could provoke retribution from authorities.

Can Sri Lanka's experience help us in this regard? A look at how RTI has fared in Sri Lanka in the first two years and what role the educated middle-class played in it would help. Two recent reports/publications by the Sri Lankan Information Commission provided us with some guidance.

The more recent history of Bangladesh and Sri Lanka has much similarity. Bangladesh went through long periods of non-democratic military rule, as did Sri Lanka. A Sri Lankan observer says: "In Sri Lanka, which had undergone prolonged civil and ethnic conflict since the 1970s, where for decades people lived in conflict zones not asking questions and not challenging authority and where a climate of fear persisted beyond the ending of the war in 2009, this (positive) development (relating to RTI) was significant." The law has been taken rather well by all, including the educated middle-class. According to another observer: "The slow transformation of an 'information-closed' culture to an 'information-open' culture is evident in Sri Lanka." How has that been possible?

During the first two years of the law, 1,030 appeals were made to the Information Commission by disgruntled citizens who had made RTI applications to various public offices. Of these, 654 were concluded and decisions made. In the remainder, interim orders were issued by the Commission in most cases, releasing information in stages.

The decisions related to subjects that clearly indicated an educated, comfortable socio-economic context. They ranged from queries about agreements between Sri Lanka and other countries on migrant workers to conclusions of an inquiry into sexual harassment charges against a military officer. To details of salaries and benefits paid out of public funds to state sector/corporate senior executives; to approvals of local authorities given in contrary to law regarding irregular constructions.

It is obvious from the nature of the topics that these RTI requests did not come from marginalised or disadvantaged communities, who need to use the law for basic personal rights rather than the larger social good. They bear the mark of educated middle-class activists or RTI enthusiasts who set out to expose injustice and corruption.

A quick look, on the other hand, at the list of topics for RTI applications obtained from Annual Reports of the Bangladesh Information Commission (BIC) show that the top six topics dominating the complaint cases before the Commission in the last two years are related to: service matters, land-related issues, safety-net programmes, project approval issues, fund allocation and expenditure, tender-related issues and follow up on complaints.

It is clear that they originated mostly from the general public and the marginalised communities. Only a few of them bear the mark of middle-class concerns. What could be the reasons for such differences between the two countries?

Higher rate of literacy in Sri Lanka has perhaps facilitated greater public awareness about the law. But in absolute numbers, Bangladesh too has many highly educated citizens who could be equally enthused by the law. One wonders, therefore, if the real reason is fear of negative reactions from irate public officials, confronted with sensitive information requests. Is there less cause for fear in Sri Lanka?

The Sri Lankan reports show a perceptible willingness on the part of both the government and the Information Commission to make the system work. According to the report of the Commission: “Public Authorities have generally co-operated with the Commission in disclosing information following directives issued in appeals, despite a few government entities obstructing and/or delaying processing information requests of applicants.” The decisions of our Information Commission unfortunately reveal little such inclination on the part of our public officials.

Equally important is the conviction of the Sri Lankan Commission itself to make the law work: “In delivering these rulings, the Commission has endeavoured to maintain a fair balance between the principle of information disclosure for the public interest as emphasised by the Act...We have emphasised the principle of equity between the Public Authority and the appellant while taking into consideration the fact that the greater weight of resources and power lies with the State rather than with an individual citizen.” Note the clear pro-citizen stance.

Another encouraging feature is the way the Sri Lankan Commission has gone about giving its decisions in Appeal cases. Almost all the decisions dissected the facts of the cases most painstakingly and interpreted and applied the laws to them most professionally, as would be done by highest courts of law. Each of them bears the hallmark of the Commission's efforts to apply the law to advance its avowed objectives. For citizens, such painstaking attention to the provisions of the law can only be very reassuring.

On the other hand, research on the records of the Bangladesh Information Commission decisions in complaint cases shows that in the years 2016 and 2017, 95 percent of the decisions were taken on factual observation and only 5 percent cases involved an analysis or interpretation of the law. Hopefully some additional efforts on the part of our Information Commission to explain their decisions, with particular reference to the objectives of the law, will reassure our citizens.

Let us, however, conclude on a more hopeful note. While there are not many high profile RTI cases drawing media headlines in Bangladesh yet—as in Sri Lanka—and while there is much frustration among our RTI-users about the restrictive tendencies of our public authorities and the Information Commission itself, the fact that some 7,000-plus citizens are getting positive responses to their RTI requests annually, however innocuous they may be, must be celebrated. In the words of the Sri Lankan Commission: “While the high-profile challenges are no doubt pivotal to urging a culture of transparency in the country, it is that slow and almost unnoticed empowering of 'the ordinary citizen', giving life to a hitherto mostly empty phrase, 'We, the People'...in the constitutional text that is the notable promise of RTI regimes, happening away from the media spotlight as it were.”

i. (2019, May 15) Combatting bank loan defaults through Right to Information.

Bank loan defaults and their harmful impacts on the economy are not matters of public concern in Bangladesh alone. It has agitated the public mind in neighbouring India for a long time. A recent directive of the Supreme Court of India has some lessons for Bangladesh.

Demand for information on “wilful defaulters” has triggered many Right to Information (RTI) requests to the Reserve Bank of India (RBI) in recent years. The process brought together a large number of RTI activists, bank officials, the Central Information Commission (CIC) and the judiciary to state their respective positions on the matter. As a result, RTI law received a public airing which no other subject could generate in recent years. RTI watchers in Bangladesh should pay close attention. These developments will help us appreciate the many dimensions of the law and its immense capacity to empower citizens to participate in the fight against corruption.

Under Section 35 of the Indian Banking Regulation Act, 1949, the RBI is empowered to conduct annual inspection of all commercial banks, whether public, private or foreign. The central bank undertakes on-site inspections, during which its officials visit the head offices and bank branches to inspect the books. The content of the annual inspection report is discussed with the head of the concerned bank before finalisation. The final report is then shared with the banks to enable them to take corrective steps.

The April 26, 2019 judgement of the Supreme Court of India dealt with three Contempt Petitions filed by RTI activists in relation to their RTI requests to obtain inspection reports of RBI on a number of banks. They had claimed that the top bank showed wilful and deliberate disobedience of the directives issued by the same Court in a 2015 judgement.

The concerned RTI requests were addressed to RBI over the years. In all of them, the central bank had refused to disclose the requested information. In the case of the more prominent of such requests, RTI activists had asked for copies of RBI's inspection reports on ICICI Bank, Axis Bank, HDFC Bank and State Bank of India, starting from April 2011 till date. The requests went through various stages of the RTI

process and finally reached the Supreme Court. The latter, in December 2015, ruled in favour of disclosure and asked the central bank to review its negative policy on the matter, saying “it is duty bound under the law”.

Despite this ruling, the central bank denied the requests, stating that the disclosure of the requested information was exempted under the RTI Act 2005 of India and the Reserve Bank of India Act. It argued that the annual inspection report of the bank contained “fiduciary” information which could not be divulged. Subsequently, RBI issued a policy directive to other banks not to disclose certain information under RTI.

The refusal of RBI and its subsequent policy directive was challenged by the petitioners in the contempt cases, resulting in the latest Supreme Court judgement of April 2019. In it, the court maintained its earlier position and directed RBI to disclose its annual inspection reports on banks, along with the list of wilful defaulters and information related to them under the RTI Act. It gave RBI a final chance to reconsider its stand, adding that “(a)any further violation shall be viewed seriously.”

It all began when RTI requests were made by activists seeking copies of the inspection reports of RBI on several banks. As stated earlier, RBI refused disclosure, arguing that the information fell under the exemption provisions of India’s RTI Act 2005. Similar provisions exist in the RTI Act 2009 of Bangladesh.

The refusal was appealed to the Central Information Commission (CIC) of India. The latter ruled in favour of disclosure and directed the RBI to provide the information sought by the applicants. It may be recalled that CIC had already decided, in a 2011 case, that the public had the right to know how banks were functioning in the country since significant amounts of public funds are kept in banks.

RBI challenged the CIC decision in the cases, leading to the chain of events resulting in the Supreme Court judgment of December 2015. The court observed that there was no “fiduciary relationship” between the RBI and the financial institutions. It added that “RBI has a statutory duty to uphold the interests of the public-at-large, the depositors and the country’s economy and the banking sector (and it) should act with transparency and not hide information that might embarrass the individual banks and that the RBI is duty-bound to comply with the provisions of the RTI Act and disclose the information sought by the Respondents therein.”

On RBI’s argument that the disclosures would hurt the economic interests of the country, the court found it to be “totally misconceived”. It added that “the intent of the Legislature was to make available to the general public such information which had been obtained by the public authorities from private bodies...(and hence) RBI is liable to provide information regarding inspection reports and other documents to the general public.”

The above positions were reiterated by the Supreme Court in its April 2019 judgement, only more forcefully. Its stance was unequivocal.

Irrespective of whether RBI will finally abide by the ruling or seek other alternatives, it must be said that the public airing of the matter has been very useful. It demonstrated

the many ways in which citizens can use RTI to promote transparent and accountable governance. It generated a public discourse on the subject in India which is badly needed in Bangladesh. Such conversations can spread awareness of the law and increase our understanding of how it works. Our legislature has given us a very useful law. It is for us, the citizens, to make good use of it.

j. (2019, July 15) A healthy right-to-information regime is in everyone's best interest.

Funds stolen by political leaders. School supplies siphoned off by a contractor. Ghost workers created to claim benefits. Evidence of government-sanctioned torture. Trees that were meant to be planted but never were... these are just some of the stories unearthed by using Right to Information (RTI) or Freedom of Information (FOI) laws in some 130 countries. These laws oblige governments to disclose information they normally would not. The range of issues that citizens can tackle using RTI laws may surprise many readers.

In our last column, we highlighted the efforts of a young man in Bangladesh who used the RTI Act 2009 to fight the filling-in of public ponds and water bodies owing to the massive urbanisation of Dhaka city.

In India's Jammu and Kashmir, an activist used the RTI act to visit a site where the state claimed trees were being planted to combat deforestation. It turned out that barely 10 percent of the trees were planted and the funds were being embezzled. The revelation led to public outcry and pressure from environmentalists for corrective measures.

In an era where governments claim advances in public health, nearly 17,000 children died from malnutrition in 2015-2016 in the Indian state of Maharashtra, the Bombay High Court was told based on data obtained through RTI queries. The court found the numbers "shocking and disturbing."

A journalist from an investigation team of Bloomberg News used the US FOI Act 1966 to obtain a report from the Federal Department of Agriculture, which revealed that a major Parmesan cheese brand contained no actual Parmesan cheese. The makers were mislabelling their products by filling them with a mixture of other cheeses and cellulose, a common anti-clumping agent made from wood. The president of the company faced a one-year prison term and a fine of USD 100,000.

Another area where RTI laws have been used as a tool to uncover corruption is financial manipulation. An RTI request by a journalist from the *Indian Express* revealed that a Maharashtra minister had purchased land well below market value, just before it was due for acquisition by the Maharashtra Industrial Development Corporation. The objective was to sell the land later at a higher price to the government.

In Malawi, public officials controlling a public works programme connived to create 20 ghost beneficiaries in the hope of sharing the proceeds. The chairperson of a local Community Rights Club submitted an RTI request for a list of the beneficiaries, thereby exposing the fraud.

In another Malawi case, requests for information about contracts to provide school supplies led to investigation that proved they were not delivered. Subsequently, the supplier was forced to reimburse all funds meant for the supplies.

The Access to Information law of Mexico was successfully used to learn that some municipal workers of a particular municipality had two jobs and that a politician's relatives benefitted from the construction of the municipal slaughterhouse and municipal sanitary sewer.

Even high-level shenanigans can be brought into the light using these laws, enabling citizens to witness what goes on behind closed doors. The secrecy surrounding the purchase of US Treasury bonds by Saudi Arabia was ended by a FOI request by Bloomberg News. The response revealed that as of March 2016, Saudi Arabia had stockpiled USD 116.8 billion of US Treasuries. The information had remained one of the biggest mysteries in global finance for four decades, unlike with most other major owners of US debt. This had to do with the sensitivity surrounding US-Saudi relationship. The response to the FOI request also revealed a number of other important information about US foreign debt.

Serious human rights transgressions are not immune to investigation under RTI laws. In response to a FOI Act request filed by the American Civil Liberties Union (ACLU), the US government was obliged to disclose new portions of transcripts from military hearings in 2007, in which "high-value" detainees described being tortured by the CIA at Guantanamo Bay. The importance of the information was described by an ACLU staff attorney as follows: "At a time when some politicians are proposing that the torture programme be resurrected, it's crucial that the American public have access to these first-hand statements, and not only to the self-serving accounts offered by those who authorised the torture."

Even royalty is not spared from the purview of RTI laws. The Supreme Court of England's ruling that Prince Charles' letters to ministers fell within the ambit of the FOI Act of the UK extended the arm of the law to the most sensitive area of the relationship between the Royal Family and the British government. The ruling implied that "advocacy correspondence" from Prince Charles to ministers should be made public. It also represented a fundamental challenge to the use of ministerial veto to block the release of material that the government particularly felt the need to keep secret, after either the information commissioner or the Tribunal has ruled it should be published.

The Court's majority judgment stated that it is a fundamental principle that "a decision of a judicial body should be final and binding and should not be capable of being overturned by a member of the executive." The ministers, therefore, cannot overrule a Tribunal decision that information should be released under FOI just because they disagree with it. Other factors need to be in play, such as the emergence of new considerations.

There are also less serious and more innocuous use of the law. The BBC used the UK FOI law to obtain transcripts of conversations between British Prime Minister John

Major and US President George HW Bush Sr. It showed that the two frequently commiserated with each other and had a close and bantering relationship.

These examples demonstrate the wide range of topics on which RTI/FOI requests have been made throughout the world. In Bangladesh, while NGO efforts and those of a few die-hard RTI activists have kept the RTI ball rolling, its use has been limited and not as creative as it could be. We hope to stimulate the more educated and socially conscious sections of our society to understand the tremendous value and reach of the law, appreciate its importance for society and put it to proper use.

As seen in the examples, not all RTI applications need to deal with corruption, malfeasance or misdeeds of public officials which many in Bangladesh believe to be the main objective of the law. In fact, the law has been used all over the world for obtaining information on larger issues of societal and national interest, which do not necessarily require pointing accusing fingers at anybody. Seeking such information should give no reason to public officials to be afraid of disclosure, which they are when faced with information requests of a sensitive or self-incriminatory nature.

In fact, it is a good strategy for citizens to start their acquaintance with the law by seeking information of a general nature, which would benefit the society at large and at the same time create the practice among public officials to respond to RTI requests more dutifully, which, unfortunately, is not the case today. Once such a relationship is developed, the use of the law could be upscaled to focus more seriously on issues of accountability and transparency.

k. (2019, September 15) RTI: How do we compare with the rest of the world?

With some 130 countries around the world having adopted Right to Information (RTI) laws, we now know a great deal about how citizens use this law in a variety of social, political and economic contexts—in as rich a variety of ways as there are cultures and peoples on this planet.

In the older democracies, where RTI and similar laws have been around for a while, studies show that the focus of the law has now shifted to online availability of most such information. In some countries, national, provincial, and local governments have begun to usher in “open government” mechanisms, making their information available proactively through online platforms. As a result, the requirement of submitting formal RTI requests to concerned public authorities is becoming redundant.

However, where the law is of more recent vintage and formal requests for most information are necessary, studies are focused more on understanding the balance between a citizen’s demand for information and the ability or willingness of public bodies to supply them. These studies try to understand what motivates citizens to use the law and how public officials relate to them. Some studies try to measure if any change is taking place in the traditional secretive mind-set of public officials; others focus on whether the authorities treat people with greater deference and whether citizens are becoming more comfortable in applying the law.

A recent angle examines the effect of growing authoritarianism in many countries on the operation of RTI law. Are public authorities in such countries disregarding or downplaying the law? Are citizens becoming more wary about submitting sensitive RTI requests? Has the fear of retaliatory measures by the authorities increased? In short, how important is democracy for the success of RTI?

Knowing how RTI laws are used worldwide helps us in Bangladesh assess our own progress with the law. We know from the growing literature on the subject that RTI is globally viewed as a tool for citizens to hold public authorities accountable and keep government as transparent as feasible. It is premised upon the view that citizens are the owners of all powers of the state in a democracy and, therefore, public authorities must be accountable to them. Public officials have the responsibility to disclose any information, with few exceptions, that citizens may seek. Most research and advocacy work on RTI seek to answer two questions: what information do citizens seek, and how does this information link to the public interest?

The studies show that the law is used for more reasons than accountability-seeking purposes alone. Many information requests are focused primarily on private and, what some scholars have described as “micro-political goals”, as distinct from what we think of as public interest, or “macro-political” uses of the law.

Under the “public accountability model” citizens, particularly in more stable democratic societies, generally seek information that is useful for political mobilisation and oversight, linked to issues of importance to the larger public. In low-and-middle-income democracies where corruption and inefficiency are widespread, activists, journalists, and political workers use the law primarily to obtain evidence of government performance and decision making. There are case studies showing successful use of information, disclosed under RTI, in campaigns to demand better public services or denounce corruption.

The law is also used to seek non-exempted personal information available with public authorities on candidates seeking election, which may be used to incite the public against them. Demand for publicly relevant information is feeblers in newer or weaker democracies, where a greater share of citizens is not used to democratic politics.

Publicly-relevant information has been described by some to be only the “tip of the iceberg,” with the majority of applications being of a more mundane nature. Under this so-called “iceberg model”, citizens seek information mainly “for private, micro-political goals with little potential for publicity or demand-making on behalf of collective goals and unlinked from issues of public attention.” Such information is largely used to solve private problems, either in the business sector, such as navigating regulations, pursuing government contracts; or for individuals, such as accessing government benefits. While these uses are important, they also are the type of information normally available on government websites. A legitimate question that arises here is why should such information be obtained through the time-consuming RTI process. RTI enthusiasts everywhere must ponder on the question.

From the global perspective, demand for public accountability-generating information is the rule rather than the exception. It also seems that the main obstacle facing many RTI regimes is not demand but supply. There are deficiencies in most situations both in the response of public offices to people's demand for information and in the instruments of dispute resolution between demand and supply sides, such as Information Commissions.

Unfortunately, no serious academic study on the operation of RTI in Bangladesh is known to have been undertaken yet. The law is yet to draw more in-depth attention from academia, the socially alert educated class and civil society in general. Whether it is general apathy towards governance issues, lack of faith in the commitment and preparedness of public authorities towards the law, fear of retaliatory measures by irate recipients of sensitive RTI requests, lack of awareness of the population generally, or a combination of all, the RTI regime in Bangladesh is yet to take off the ground in a meaningful way.

On basis of the models discussed above, we could perhaps say that the "iceberg model" applies to the situation of Bangladesh. Some use of the law has, of course, taken place here over the years. In the earlier years the users were largely from the lowest rungs of our society and rural communities who were motivated by NGOs to use the law to obtain benefits under government programmes. In more recent years, a small number of people from the middle class and some RTI activists have sought to use the law for limited public interest issues. At this rate, the law may continue to limp forward but the basic objective of the law, which is to establish people's oversight on the performance of public bodies, cannot be achieved.

For RTI to succeed truly in Bangladesh, motivated and educated social and political advocates must pick up the baton. Equally importantly, the Information Commission must play the shepherding role provided to it under the law. Having gained the middle-income country status recently, Bangladesh should now be able to prove itself to be a country where citizens feel encouraged and motivated to use RTI to advance "public, macro-political goals". The government has made a formal commitment to make that happen under Goal 16 of the UN sponsored SDGs, only citizens can provide the proof.

I. (2020, February 15) Using the right to information to improve the country The American example.

How has the global use of Right to Information (RTI) laws brought about important new developments and catalysed change? The Freedom of Information Act (FOIA) regime in the US is the perfect example to illustrate this story.

The US—the "leader of the free world" —did not enact the FOIA until 1966, a full two centuries after the first such law was enacted in Sweden in 1766. This lag speaks volumes about the general fear of authorities of the law's inherent power to expose government misdeeds and abuse of power.

After the Second World War, when the US and the Soviet Union emerged as superpowers, one outcome was increased government secrecy. So in the early 1950s,

when President Eisenhower fired several thousand federal employees suspected of being communists, demands for records associated with the dismissals arose. In response, the administration claimed official secrecy. Proponents of transparency argued that such a "trend toward government secrecy could end in a dictatorship".

The public debate that followed for over a decade led to the adoption of the FOIA in 1966 by a reluctant President Johnson. However, unlike the broader reach of the law in countries like Bangladesh, only the records of federal executive branch agencies and departments were subjected to FOIA. The law did not apply to the Congress, the Federal Courts, the President and his immediate staff and the Vice President. This was changed subsequently under the Presidential Records Act of 1978, whereby the public can now access most presidential records through the FOIA, five to twelve years after a President exits the White House. The FOIA also does not apply to state governments; each state has its own transparency laws.

The FOIA makes only nine exemptions that enable federal agencies to withhold records—in cases where doing so would be harmful to national security or foreign policy, personal privacy, confidential business information, law enforcement records, and a few other interests. Comparatively, the Bangladesh RTI law lists twenty exemptions.

Since 1966, the American law has had its ups and down through different administrations and a series of amendments, starting in 1974 in the aftermath of the Watergate scandal involving President Richard M. Nixon. In 1996, the passing of the Electronic Freedom of Information Act Amendments (E-FOIA) brought important improvements. Further improvements were made during the fiftieth anniversary of the adoption of the law, when President Obama signed the FOIA Improvement Act of 2016.

The most notable change has been an exemption for information about the "deliberative process" of government agencies, such as memorandums, drafts and letters. It was one of the most frequently abused provisions over the decades and was often invoked indefinitely. The new law says that it can be used to withhold information for only 25 years, which means, for example, that the "deliberative process" of President Ronald Reagan's administration and those before it, previously exempted, should now become open. The Bangladesh law prohibits disclosure of such information permanently.

Another important improvement is that the new law enshrines the presumption of openness. In other words, the default position of government should be to disclose, not withhold. Information may be withheld only if it is "reasonably foreseen" that disclosure would harm an interest protected by a FOIA exemption. This is far from the law and practice in Bangladesh.

Over the past 50 years, the FOIA has been put to use in the US across a range of issues related to government misconduct, waste and mismanagement, privacy rights of citizens, questionable decisions on national security, threats to food safety, public

health and the environment. A few examples of these cases are—a product labelled "parmesan cheese" had no parmesan at all; the FBI carried out surveillance on dozens of well-known African-American writers for five decades; the Environmental Protection Agency knew paper mills were discharging a toxic substance, dioxin, into rivers; recovery efforts after Hurricane Katrina in 2005 were marred by wasteful government spending; the cost-driven decisions by administrators in Michigan not to add corrosion controls to the water supply caused lead poisoning in children; and government audits showed widespread billing mistakes, primarily overcharging, in the Medicare Advantage programme.

Recent FOIA requests have sought records concerning the Customs and Border Protection Department's use of facial recognition to implement a biometric entry/exit program at airports and other ports of entry. Requests have also included records related to the Department of Homeland Security's assessment and expansion of a system for monitoring media representatives. The current president's tax records and those of his business entities have also been sought. Requests have pertained to records related to investigations of Russian interference in the 2016 presidential elections, to the Inspector General's report concerning surveillance of Muslims and persons of Arab descent by the New York police department in collaboration with the CIA, and about the monitoring of news organisations and social media services by the Department of Homeland Security.

We hope these examples will spur civil society in Bangladesh to consider putting the RTI Act 2009 to similar use. Of course, the differences in the circumstances between the two countries and the provisions of the two laws may not permit seeking the same kind of information, but even apparently deniable requests can be made submissible by careful crafting. The ostensive purpose of the law is to advance interaction between citizens and public bodies to promote democracy and good governance. Requested information may or may not always be disclosed, but by asking for them, citizens play an important role in making their concerns known. Unless the law is put to use for a varied range of governance issues, its full potential will never be realised.

m. (2020, March 15) RIGHT TO INFORMATION: Learning from the UK's experience.

Our last column was focused on the multifarious use of the Freedom of Information Act (FOIA) in the United States. Following that exercise and some positive feedback from readers, we focus today on the use of FOIA in the United Kingdom. We hope that the vast range of use of the law in different countries would help our citizens to explore newer and more effective ways of putting it to use.

To get a flavour of the public perspective about the law in the UK, let us recall the famous lament of former Prime Minister Tony Blair, during whose term of office the FOI Act of the UK was adopted in 2004, but who was soon disenchanted about it. The law was so frequently invoked by journalists to unearth unpleasant facts about his administration that in his memoirs he castigated himself as a "naive, foolish, irresponsible nincompoop" for having agreed to its enactment.

Over the last 15 years, FOIA has been widely used by journalists and the British people generally to obtain information which would have otherwise remained unknown to them. They led to disclosure of facts that caused much embarrassment and loss of face for British politicians. The most important of them was the scandal over expenses that erupted in 2009 leading to prison terms for five Labour MPs and two Conservative peers, numerous resignations and retirements, as well as repayment of significant sums of money. The most scandalous of the claims was one which revealed that one MP had tried to claim 1,645 pounds for a floating duck house in the garden-pond at his constituency home. Since then, there has been a tug of war between government ministers and civil society activists on whether the law should be emasculated or strengthened.

A most transformative feature of the sensational disclosures on the MPs, which were accompanied by a lengthy legal battle, was that the House of Commons authorities were forced to collate millions of invoices, receipts, letters and other documents relating to the MPs' expense claims going back over several years and to create a new parliamentary pay and expenses system. Observers have called it "a reputational disaster for Parliament and the political class generally." *The Daily Telegraph* ran stories on what they called "highly embarrassing, greedy, unjustifiable and sometimes criminal behaviour by politicians."

It should be underlined, however, that RTI/FOI stories need not always be of a sensational nature. A survey of FOIA stories from the UK indicated use of the law for following issues: domestic abuse, gross expenditure, wrongdoing, spying, child abuse, cybercrime, dodgy landlords, inflated bonuses, spurious expense claims, etc. In other words, FOIA is used to obtain information on a wide range of issues of public interest which may or may not lead to corrective measures but which alert public officials about the interest of the public to know how government offices work and may lead to systemic change. Here are a few examples:

Ambulance delays

A survey of FOIA disclosures in 2013 revealed that some patients taken by ambulance to accident and emergency departments were kept waiting in the vehicle for much longer than the recommended 15 minutes, several hours in some cases.

Unanswered 101 calls

Hundreds of thousands of phone calls to the 101 non-emergency police number have gone unanswered annually. The data for a nine-month period covering English and Welsh police forces showed nearly half a million calls were unanswered. They raised legitimate questions about whether public services are being performed properly.

Restaurant hygiene

Refusal by a public official of Bridgend Council in South Wales to provide a copy of a food hygiene inspection report for a local hotel to a FOIA applicant and its subsequent overrule by the Information Commissioner established a precedent for such reports to

be made proactively available in the public domain. Now food hygiene ratings for hundreds of thousands of restaurants, cafes and shops are routinely made public.

Metropolitan Police defaulting on non-serious crimes

A FOIA response revealed that the UK's biggest police force had a tendency to stop responding to some less serious crimes. Offences such as vandalism, vehicle crime and fuel theft will not be pursued if the cost of the damage or amount taken is less than 50 pounds.

Some other disclosures

Around 49,000 people demanded compensation for damage caused to their vehicles by worn-out roads. Some Tory MPs took millions of pounds in housing benefits. More than 3,000 police officers were investigated for alleged brutality and most remained on the beat. Prime Minister Gordon Brown claimed 732-pound pen cartridges on expenses. Over 8,200 racism allegations were made against 8,000 Metropolitan Police officers since 2000. Reported child sexual abuse had risen 60 percent in four years. Security guards were used to restrain dementia patients in hospitals. A third of all burglaries in England and Wales were committed by children. More than 500,000 home care visits lasted less than five minutes. Rising numbers of hospital patients were so fed up that they discharged themselves. Hospitals were forced to call in rat catchers every week after Prime Minister David Cameron axed 2,000 cleaners.

The examples will hopefully help the readers to appreciate the large scope of FOI/RTI use. Over the last 10 years in Bangladesh, the RTI Act 2009 has been utilised by our citizens, albeit very scarcely, mainly for personal-level use and to some extent for neighbourhood or group benefits. That the law is actually meant to keep the government offices dealing with matters of larger public interests under watch is largely lost on our citizens.

We have seen successful use of the law to ensure that government services, like safety-net programmes for the indigent, scholarship for students, etc. reach the legitimate beneficiaries and not siphoned off by corrupt officials. The law has also been used to check if local bridges and culverts were properly built and contractors chosen through proper tendering, and if unfair means or favour was used in assessing answer papers of public service examinees. However, there is a clear dearth of attention to matters affecting the entire nation.

The picture in neighbouring India is much different, however. There, the RTI Act has recently been used to unearth sensitive information about the government's controversial demonetisation decision, to ask for information relating to the government's decision on the Citizenship Amendment Act or abrogation of Section 370 of the Indian Constitution affecting the special status of Jammu and Kashmir or curbing the internet transmission in the state. We need to ponder why such examples are lacking in Bangladesh.

It is indeed legitimate for citizens to cry foul against government action or inaction, but how about our own failure to use the law to seek government accountability? The

law makes citizens responsible to dig deeper into the allegations they have against government offices by seeking relevant information on them. If the response to their RTI requests is unsatisfactory, they can at least seek recourse under the law. This may not lead to solve many problems but solving even a few, as we have witnessed on a few occasions, may pave the way for the future. The demolition order of the BGMEA building is a good example to prove the efficacy of the RTI Act.

More importantly perhaps, a greater use of the law by citizens is likely to develop an interaction between them and public officials, which is largely absent now. If it happens in a bigger way, it will be a big boost for democracy. Promotion of responsible and accountable governance requires alert and responsible citizens.

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