
Country Paper

Bangladesh

How RTI Act 2009 Evolved in Bangladesh

Shaheen Anam

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For more information and other documents related to the workshop:

Contact: rtiworkshop@gmail.com

Web: <http://rtiworkshop.pbworks.com>

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Introduction:

The Right to Information Act 2009 was passed in the first session of Parliament on March 29, 2009. It was a ground breaking decision on the part of the present government and paved the way for all citizens to get information from public authority as a right. In so doing Bangladesh joined 75 countries in the world with RTI regimes.

The rationale for the law is clearly stated in the preamble “The right to information shall ensure that transparency and accountability in all public, autonomous and statutory organizations and in private organizations run on government or foreign funding shall increase, corruption shall decrease and good governance shall be established. It is expedient and necessary to make provisions for ensuring transparency and accountability.”

The law was passed through the efforts and effective lobbying and advocacy of many civil society organizations, academia, media, researchers, legal experts etc. It was not preceded by a grass root level awareness and mobilization as in India. However, there is now a concerted effort to disseminate the law and its use so that people at the grass root level are able to use it for their benefit.

Background:

The demand for a law on Freedom of Information was first articulated by the Press Council in 1982 as a response to curtailment of Press Freedom under a dictatorial regime. After that a number of civil society organizations started to have discussions on the necessity of adopting a RTI regime in Bangladesh. Notable among those was a seminar organized by ASK and CHRI in 1998, initiatives by MMC, Nagorik Uddog etc. The Law Commission prepared a working paper on RTI in 2002. As news of the governance and development aspects of RTI and its popularity among ordinary citizens grew, Manusher Jonno Foundation which supports human rights and governance, started to strategize on creating a demand for the law. Working with more than 100 partner organizations, MJF realized that transparency and accountability of public institutions was essential if the poor and marginalized people were to get better services. MJF work with partners also demonstrated that the poor are deprived in multiple ways because of lack of information. Looking at examples of other countries where RTI regimes have changed the outlook of public institutions, MJF with others embarked on a mission to facilitate the enactment of the RTI law by first commissioning a study to assess the general perception of RTI in

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² The author is the Executive Director of Manusher Jonno Foundation. Web: www.manusher.org

Bangladesh and to identify the different actors involved. The rapid assessment report³ revealed that the existing perception about RTI was more related to freedom of information with respect to the media than right to information as a governance or development tool. Though the constitution⁴ of Bangladesh has recognized freedom of expression, there was a common notion that Right to Information is only related to freedom of media. Moreover, state rules and regulations do not consider and recognize the idea of right to information as a development tool. The main reason behind this is the “culture of secrecy” which prevails in every sphere of the governance system of the state. The working paper on RTI prepared by the Law Commission lacked enough consultation and ownership. Efforts to trace its status resulted in a blank as we found that it was lost between the Information and Law Ministry.

How RTI evolved in Bangladesh:

MJF took several strategies involving different stakeholders. One of them was coordinating the setting up 3 Core Groups such as the Law Drafting Core Group, Policy Advocacy Core Group and Awareness/Capacity Building Core Group. Eminent persons and experts were members of these Core Groups and included legal experts, academics, NGO’s, media personalities, researchers etc. These Core groups had their own terms of references and worked accordingly. This was effective in broadening the support base and raised a concerted demand for the RTI law.

Drafting RTI Law

The Law Core group comprised of noted legal experts such as Shahdeen Malik, Sultana Kamal, Shamsul Bari, Asif Nazrul, Tanjibul Alam and Elena Khan. They provided inputs, feedback and reviewed the draft several times while Tanjibul Alam drafted the law. RTI laws from India, South Africa, Canada, UK were consulted during the process. National and Regional consultations were held where the draft was shared and comments received. Organizations such as Article 19 and CHRI provided feedback, comments and recommendations. It is important to note that the Working Paper of the Law Commission was taken as a basis for the draft. The draft was formally presented to the Law Advisor of the Care Taker government in 2007.

Process of Awareness Raising and Capacity Building:

In 2005 MJF contacted CHRI to provide technical assistance and assist in catalyzing RTI in Bangladesh. A two days regional conference was organized jointly with CHRI in December 2005. A partnership between CHRI and MJF resulted in a series of meetings, trainings and other capacity building initiatives. Meanwhile the demand for RTI started to be made in various forums by different groups including media, research groups, academia, NGO’s, etc. A process of knowledge building was started through developing various communications materials, theme song on RTI and commissioning research. MJF partner organizations plus other networks were actively involved in this process.

³ Situational Analysis of Right to Information in Bangladesh: A Rapid Assessment, 2005 Manusher Jonno Foundation

⁴ Article 39, Bangladesh Constitution

Identifying Act/Law and other policy procedure which have access provision:

MJF commissioned another study in June 2007 to examine the existing laws, policy and mechanisms to assess how those provisions recognizes, directly or indirectly, peoples' right to access information. This study was undertaken with the aim to benefit people by informing them of provisions that already exists but is not being utilized. The study revealed that some significant provisions and judgment already exists which complement access to information however few people know about these.

Networking and Alliance building with different Stakeholders including media

The core groups on Policy Advocacy and Mass Mobilization also initiated a series of activities such as writing articles, holding TV Talk shows, orienting NGO's, local journalists, policy makers etc. Journalists were sent on cross visits to India to learn from their experience. Government officials also went on a cross learning tour to Mexico. Besides, through regional and international networking, alliances were built with national and local partners for issue based mobilization on RTI such as TIB, PET, BEI, SUPRO, SANAK, Article 19, CHRI (India), MKSS (India). Eminent personalities were approached to act as champions for the law. They also started to lobby and advocate for enactment of the RTI law.

Engaging Government

In March, 2007 the Law Core group submitted the draft law to the Law, Justice and Parliamentary Affairs and Information Advisor for its review and consideration. Members of the Core Groups met with the Law Advisor several times as follow up.

In December 2007, the Chief Advisor of the Care Taker Government in a MJF organized seminar announced officially that RTI will be enacted as an Ordinance and instructed the Information Ministry to prepare the draft law and take assistance from the draft submitted by the civil society. The Ministry of Information (MOI) formed a working group to draft and finalize the law and MJF representative was officially part of the working group. Before finalization the MOI organized a national seminar in March 2008 to share the draft and put it up on the Web site for comments. This is one among very few initiatives of Bangladesh Government where they opened up their policy for public comments. This was very well received by people in general and many gave inputs and comments. Mr. Wajahat Habib Ullah Chief Information Commissioner of India was invited in March 19, 2008 by the government to share his views and opinion on the draft. He had meetings with politicians, business professionals, media and civil society representatives

The Council of Advisors approved the ordinance on 20th September 2008. In October 2008, it was passed as an Ordinance by the President on 20th October 2008.

During this period constant dialogue and consultations were held between relevant civil society members, the Information Ministry and the Chief Advisor's office. Though there were many champions within government who worked with us to make it into a progressive law, there were also several attempts to dilute the draft and add provisions that would curtail people's access to information.

Formation of RTI Forum

A Right to Information or RTI Forum was set up with MJF as the Secretariat. The RTI Forum is composed of 40 organizations and individuals with the objective of creating demand for the enactment of the RTI Ordinance and later to monitor its implementation. The RTI Forum has organized a number of events collectively such as the International Right to Know day in September 2008, the International Conference on RTI in May 2009 plus publishing communications materials.

Engaging Political Parties:

Civil society groups were aware that political parties need to be engaged if the law was to be passed in Parliament once an elected government came to power. With this view a series of consultations and meetings were held with members of the main political parties. Attempts were made to have RTI included in their party manifestos prior to the National Elections. All this was done to build their ownership to the issue and the draft law. An important seminar was held on 31 August, 2008 titled 'RTI: Commitment of Political parties in which all the main political parties participated. One of the Political parties did include RTI in its party manifesto.

Legislation of the RTI Act 2009:

After the General Elections of December 2008 the RTI Forum again started to lobby with Parliamentarians for the enactment of RTI law. The Law Minister, Information Minister and several MP's were met individually to press for its enactment. During the Care taker government a total of 154 Ordinances were passed. A number of expert groups were set up to review the Ordinances and make recommendations to a special Parliamentary Committee. MJF was invited as a member of the review committee of the parliamentary standing committee to make comments and recommendations on the Act. Again the RTI Forum lobbied with the expert groups and the special committee. Each member was met separately and spoken to. Members of the RTI Forum held discussions and recommended certain changes in the law.

Finally on March 20th it was approved in the Cabinet and on the 29th it was passed in Parliament. It maybe mentioned that the law was passed in the very first session of Parliament. The law was passed with the following changes recommended by the special committee.

- The law has included the provision of supremacy of this Act in case of contradiction with other laws in disclosing information.
- Government nominated person involved in journalism profession or citizen involved in mass communication was included in the selection committee of Information Commission.
- The exemption list for restricting information is quite longer, though provision has been made for providing information within 24 hours in case of human rights violation (arrest and bail) and information related with life and death.

- Other minor change was made in case of quorum formation of Information Commission meeting.

Limitations:

Though the list of exemption is long and civil society groups are critical about it, there is scope to make strong advocacy to make it more focused and specific during implementation.

It was expected that Information Commission will be given enough authority in deciding about staff capacity, number and budget but government will provide final approval on these. Rank and salary of Chief Information Commissioner and Information Commissioners will be decided by the government.

Conclusion:

Though the RTI Act, 2009 has not fully incorporated all international best practices, yet compared to many countries it is a progressive law. Its true value will come with implementation of the law when citizens start to use it. There are huge challenges which the following paper from Bangladesh will elaborate upon. There is a need for wide dissemination of the provisions of the law and most importantly for people to understand in very simple language how they can use it for their benefit. Unless people start to request information, we will not know whether the law is working or not. For that to happen we need to have massive campaigns and mobilization. Civil society organizations and the Information Commission has already embarked on awareness raising campaigns and dissemination.

While it is true that the demand for the RTI Act did not start from the grass root level as in India, there is every reason to believe that the Act can be effectively used in Bangladesh by ordinary citizens to bring about positive changes in their lives. This will happen when Public Authority, including NGO's are aware, sensitive, open and develop the capacity to respond.

In enactment of the RTI Law Bangladesh has made a strong statement to the world that it is committed to establishing transparency and accountability in public institutions. This commitment will be tested only with proper implementation of the law.