

Right to Information Act 2009: An Orientation

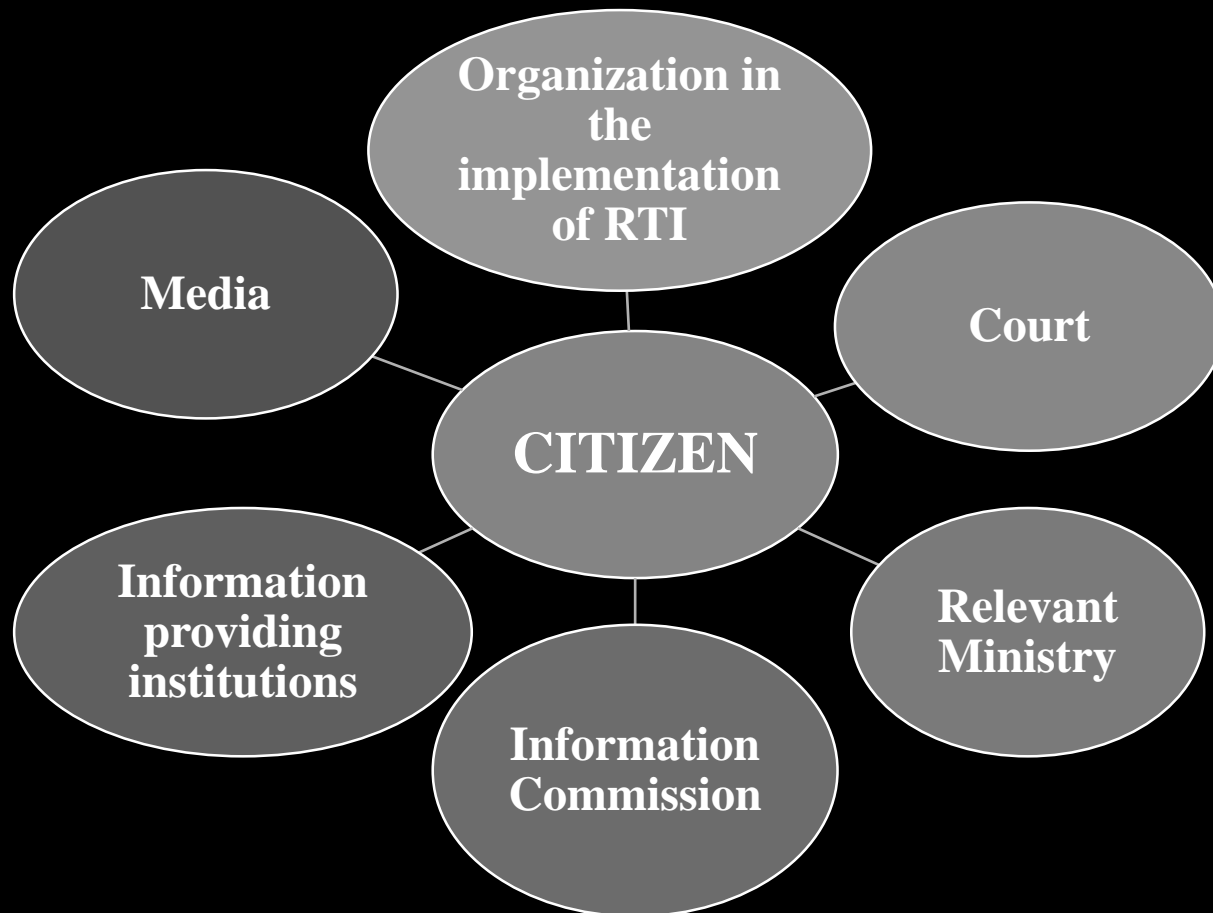
“Everyone has the right to freedom of opinion and expression; this right includes... to seek, receive and impart information and ideas through any media and regardless of frontiers...” Art. 19 of the UDHR.

Why Right to Information (RTI) ACT??

- The freedom of thought, conscience and speech is recognized in the constitution as a fundamental right and the right to information is an inseparable part of it .
- Moreover, Article 7 vests all powers of the Republic to the People. Therefore, people need to know the necessary information for their empowerment.
- It will ensure the transparency and accountability of all public, autonomous and statutory organization and other private organization

Where power is given??

- *Every Citizen has a right to information from the authority and the authority shall on demand from a citizen be bound to provide information. (S.4) subject to exceptions under sections 7 and 9.*



INFORMATION MEANS (S.2)

- According to the Act, information is in relation to an authority's constitution, structure and official activities and includes any: memo, book, design, map, contract, data, log book, order, notification, document, sample letter, report, accounts statement, project proposal, photograph, audio, video, drawing, film, any instrument prepared through electronic process, machine readable documents and any other documentary material regardless of its physical form or characters.
- Information does not include office note sheet or photocopies of note sheets.

Authority & Information Providing Unit (S.2)

- Any organization/ institution constituted under the Constitution of Bangladesh;
- Any Ministry, division or Office constituted under the Rules of Business;
- Any statutory body or institution;
- Any private organization or institution run on government funding;
- Any private organization or institution run on foreign funding;

Cont'd.

- Any organization/ institution that undertake public function in accordance with any contract made on behalf of Bangladesh government;
- Any other organization/ institution as notified by the Government in official gazette;
- Third party connected with information sought, etc.

Duties of Authorities: Preservation and Publication (ss. 5&6)

- Preservation of information, prepare & index all information;
- Publication of information, Report etc. (organizational structure, activities, responsibilities, address, contact No.) and to be available to public at reasonable price;
- No concealment or limits of information;
- Information Commission shall frame instructions to be followed by the authorities for preservation, publishing & publicizing.

Information Commission (IC): Establishment, Composition and Role

- The Chief Information Commissioner is the Chief Executive and 2 other Commissioner of whom one shall be a woman.
- Head Quarters of the IC is based in Dhaka. If needed branch offices may be established in the other parts of the country.
 - Role of Information Commission(Sec-13.5)

Appointment of Designated Officer (DO) (S.10)

- Nomination of DO by the Authority within 60 days from notification of the Act.
- Each authority shall inform IC, the names, designations, address and other contact information of the DO within 15 days from date of appointment.

How to get information: *Modus operandi*

- Apply in Writing or electronically or by e-mail to the DO (Designated Officer);
- Necessary information of Applicant to affix with application;
- The applicant will have to pay reasonable fees as may be prescribed by the DO;
- The Government may in consultation with IC prescribe the application fees.

Duties of DO

- DO shall provide the information within 20 working days from the date of receipt of application.
- In case of more than one “ information providing unit” or authority involved then 30 days.
- In case of rejection of application DO must inform the applicant within 10 days from date of application with reasons for such rejection.
- In case of immense necessities (for instance: life, death or release from prison etc) the information may be given within 24 hours.

Appeal and Appellate Authority

- In case of information providing unit, appellate authority is the administrative head of its immediate office.
- Or otherwise the administrative head of that unit will be the appellate authority.
- If any person is not given information within the time period specified in Section 9 or aggrieved by the decision of DO then he/she can appeal before appellate authority within next 30 days from the date of receiving decision or expiry of time period.
- The appellate authority shall dispose off the matter within 15 days from the date of appeal.

Complaints to IC

- Reasons for complaints include, for example:
 - Non appointment of DO;
 - Refusal to give information;
 - No information is given within specific time frame under the Act;
 - To pay or compelled to be paid fees that is unreasonable;
 - If incomplete, false or misleading information is given;
 - If aggrieved by the decision of Appellate authority.
- The Complaint can be filed within 30 days from the date of getting decision or, as the case may be, if IC is satisfied may extent the time.

Role of IC in Complaints

- Commission has the power to take legal action against the authority or designated officer.
- CIC himself or upon delegation a commissioner may enquire the complaint and prepare report within 30 days from receiving of complaint.
- Due process to be followed.
- The complaint generally to be disposed of within 45 days with maximum extension to 75 days.
- To Impose penalties (See sec. 27).

What is not open? – Section 7

- Publication or providing certain types of information is not mandatory. None of the authorities will be obliged to give the citizens the following information:
- 1) Information- disclosure of which would be a threat to the security, integrity and sovereignty of Bangladesh;
- 2) Information related to any foreign policy, the disclosure of which would lead to harming existing relationships with any foreign state, or international institution or any regional bloc or organization;
- 3) Information received in confidence from a foreign government;

Cont'd

- 4) Information related to commercial or business confidence, copyright or intellectual property right, the disclosure of which would harm the intellectual property rights of any third party;
- 5) Information related to the disclosure of which would either benefit or harm an individual or institution, such as:
 - a) any advance information regarding income tax, customs, VAT and law relating to excise, budget or change in the tax rate;
 - b) any advance information regarding changes related to exchange rate and interest rate ;
 - c) any advance information regarding the management and supervision of financial institutions including banks;

Cont'd

- 6) Information related to the disclosure of which would obstruct the enforcement of law or incite any offence;
- 7) Information related to the disclosure of which would endanger the security of the people or would impede the due judicial process of a pending case;
- 8) Information related to the disclosure of which would harm the privacy of the personal life of an individual;
- 9) Information related to the disclosure of which would endanger the life or physical safety of any person;

Cont'd

- 10) Information given in confidence by a person to help a law enforcement institution;
- 11) Information related to any matter pending in any court of law and which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;
- 12) Information related to any matter which is under investigation whose disclosure might impede the investigation process;

Cont'd

- 13) Information related to the disclosure of which would affect any criminal investigation process and the arrest and prosecution of the offenders;
- 14) Information which, according to law, is liable to be published only for a specified time period;
- 15) Information obtained through technical or scientific experiments which is expedient to be kept secret for strategic and commercial reasons;
- 16) Information related to any purchase processes before it is complete or before any decision is taken regarding the purchase or the processes involved;

Cont'd

- 17) Information whose release may lead to breach of privileges of National Parliament (Jatiya Sansad);
- 18) Information regarding any person which is to be kept in confidence by law;
- 19) Advance information regarding question papers of an examination or the marks obtained;

Cont'd

- 20) Documents including summaries to be placed before the Cabinet or as the case may be, in the meetings of the Council of Advisors and information relating to deliberations and decisions made, provided that the decisions of the Cabinet or the Council of Advisors, the reasons and material basis upon which the decisions were taken shall be made public, provided as per this section, if information is not to be disclosed then the related authority must take prior approval from the Information Commission.

Who are excluded?

- Section 32 and Schedule The following organizations and institutions involved with national security and intelligence as mentioned in the schedule shall not be covered by the RTI Act:
 1. National Security Intelligence (NSI);
 2. Directorate General of Forces Intelligence (DGFI);
 3. Defence Intelligence Units;
 4. Criminal Investigation Department (CID), Bangladesh Police;
 5. Special Security Force (SSF);
 6. Intelligence Cell of the National Board of Revenue;
 7. Special Branch, Bangladesh Police; and
 8. Intelligence Cell of Rapid Action Battalion (RAB)

Cont'd

- The number of institutions mentioned in the list above can be decreased or increased by the Government by amending the schedule in consultation with the Information Commission from time to time by notification published in the government gazette. Information relating to corruption and human rights must be given. If a request for such information is received, then the concerned organization or institution must give the information, subject to the approval of the Information Commission within 30 days from the date of receiving the request.

Challenges in Implementing RTI Act

- Absence of strong political will and commitment;
- Absence of infrastructural and financial development;
- Lesser appointment of DOs;
- Non-development of records management and web based database for all public offices and NGOs;
- Adopting pro-people RTI awareness and its implementation;
- Monitoring the implementation of RTI;
- Change in the attitude of the bureaucracy.

Possible Solutions

- Collaboration with the civil society and media;
- Strategic partnership with media;
- Building RTI friendly information system;
- Reduction of political Abuse of power;
- Accountability of NGO'S.

What ELSE????

It's Your time to think