

Right to information left in the cold - Law minister claims draft law sent to information, but information minister not aware of it

by Shakhawat Liton

The proposed right to information act, an essential and practical anti-corruption measure, has been kept on ice since 2002 while Bangladesh ranked the most corrupt country for the last five consecutive years. The Bangladesh Law Commission in 2002 sent a working paper to the law ministry to formulate the proposed law based on it, recognising citizens' right to information. But the commission is yet to know the fate of the proposal or the law drafting, a commission source said. The Daily Star on Wednesday received three different versions about the status of the bill-preparation process from the authorities directly concerned.

"We have done our duty by sending a draft on the proposed right to information act to the law ministry," Justice Naimuddin Ahmed, who was on the commission when it prepared the working paper, told The Daily Star. "Now, it is for the government to formulate a law." Law, Justice and Parliamentary Affairs Minister Moudud Ahmed on the other hand said his ministry did draft a right to information act based on the commission's working paper and sent it to the information ministry. "The information ministry will now do whatever is necessary, as we have done our part," he said. But Information Minister M Shamsul Islam expressed his ignorance about the draft law sent by the law ministry. "I am not yet aware of it," he told The Daily Star.

In absence of people's right to information, the constitutional guarantee of freedoms of speech and expression of every citizen becomes futile, the law commission observed and lamented that Transparency International has been ranking the country as the most corrupt in the world since 2001. Justice Naimuddin also emphasised the need for such a law to ensure open flow of information to facilitate the fight against corruption, as he said, "Right to information is very essential to combat corruption." In his opinion, people have the right to know any information, except some classified ones. Anti-Corruption Commission (ACC) Chairman Justice Sultan Hossain Khan echoed Naimuddin, saying, "Of course, right to information is very urgent to combat graft." "The Official Secrets Act should be repealed, as it is a major obstacle to transparency and accountability [of the government]," the ACC chair told The Daily Star Wednesday.

Corruption takes root in societies due to lack of government accountability and transparency, and the habit of secrecy eats away at the economic vitality of nations, experts in the field observed.

They pointed out that Bangladesh does not have any law specifically recognising people's right to information, rather several laws have been existing for a couple of hundred years prohibiting that right.

Although the country ratified the International Convention on Civil and Political Rights of 1966 on September 6, 2000, no one knows for certain whether and when a law will be enacted providing the people with access to information.

As a signatory to the convention, Bangladesh is obliged to make available to its citizens all kinds of information except those that are necessary to protect national security and to avoid interference with privacy of citizens. "For the sake of transparency in the democratic process and good governance in our country, public access to information is essential. Again, freedom of information is indispensable for a citizen to bring his grievance before

administrative authorities or the court of law for redress," Bangladesh Law Commission said in its working paper.

"If the general public remain ignorant about the affairs of the state touching on their fate and welfare, it will amount to travesty of democracy," it maintained. A 2003 report of the Commonwealth Human Rights Initiatives (CHRI) pointed out that Bangladesh is one of the 12 Commonwealth countries without a freedom of information law. It also elaborated on "habits of secrecy" that contribute to corruption and leaches away economic lifeblood. The report said the remaining 42 of the 54-member Commonwealth either have specific laws guaranteeing access to information or explicit constitutional guarantees. Giving backgrounds to the culture of secrecy, the CHRI report said, "Colonial authorities, which owed no duty to subject populations, purposefully used secrecy to signal their power and distance. A culture of secrecy permeated government, and systems to keep information from the public became embedded." Although the constitution guarantees freedoms of speech and expression for every citizen, no government of Bangladesh has enacted a law recognising people's right to information, albeit subject to certain reasonable restrictions imposed by law. The constitution also guarantees freedom of press. In absence of people's right to information the constitutional guarantees have become void. "It has been said that the notion of freedom of thought and conscience and of speech, and also the notion of rule of law become nugatory if the public, for the sake of which the state exists, is deprived of access to information," the law commission observed.

There is no statute in force in Bangladesh specifically recognising people's right to information and providing procedure for its implementation. But there are certain prohibitory laws namely -- Section 5 (1) of Official Secrets Act, 1923, Sections 123 and 124 of Evidence Act, 1872, Rules 28 (1) of the Rules of Business, 1996, Rule 19 of Government Servants (Conduct) Rules 1979 and the Oath (affirmation) of Secrecy under the constitution. Considering the existing laws that restrict free flow of information, Bangladesh Law Commission proposed enacting right to information act, empowering the people with access to information. It also proposed punitive actions if any official refuses to provide any individual with required information.