Strengthening Demand Side Capacity: Challenges and Options

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Introduction:
Enactment of the RTI Act, 2009 in Bangladesh is considered as a milestone - a step forward towards upholding the Constitutional pledge of promoting freedom of thought, conscience and speech. Right to information (RTI), was declared as "... a fundamental human right and the touchstone for all freedoms to which the United Nations is consecrated"1 in the 65th plenary meeting of the General Assembly of the UN. It works as a reinforcement in realizing other rights and empowers people with different options, choices and freedom of opinion. If utilized well, it can be a critical tool to ensure transparency of duty bearers in discharging their duties in a way that enables people to receive their entitlements and services from the state. It also allows citizens to seek information from duty bearers and make duty bearers responsible for disseminating important information proactively even when it is not asked for. RTI helps governance system function well, creates an environment that promotes participation of people for policy formulation and participatory governance.

Access to information is essential for democracy as we know, a friendly environment for accessing information promotes democratic practice and culture. RTI can also play a vital role from the development perspective also. Proper utilization of the development budget especially those that are focused on employment generation, infrastructure, social safety net programs etc2 can benefit from free flow of information. In Bangladesh, poor and disadvantaged people become more vulnerable because they face difficulty in getting information about state offered services related to their lives and livelihood. In Bangladesh, RTI can serve as a pivotal entry point to capacitate people with informed choice and opinion to enjoy their basic right to essential services. One can therefore rightfully say that the enactment of the RTI Act in Bangladesh has opened up the door for all people, especially the marginalized and powerless to enjoy their full citizenship rights as stated in our Constitution.

At present more than 95 countries in the world have introduced Right to Information Act, including Bangladesh. RTI Act was initially introduced as an ordinance in the year 2008

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2 In FY 2013 allocation for SSNP is TK 22.751 Core, which is 11.87 percent of total budget and 2.18 percent of GDP.
as a result of civil society movement and advocacy. It was enacted as the RTI Act in January 2009 at the first session of the National Parliament of the present Government. There is no doubt that through enactment of the Act, the government showed commitment and openness towards ensuring peoples access to information.

The enactment of RTI Act created enormous hope for civil society organizations as it was thought that people’s aspiration to receive their basic services would be realized and public institutions and state mechanism would be more responsive towards legitimate demand and needs of people. Experience shows that demand for information not only assists people in realizing their rights but also to makes public institutions accountable making the governance system more people centric.

The RTI Act 2009, in its Preamble states “Whereas all powers of the Republic belong to the people, it is necessary to ensure right to information for the empowerment of the people” This articulation shows that the Act itself has given extreme importance to people to receive information from “authority”.

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3 RTI Act 2009 section 2 (b) has referred a list defining Authority as -
(i) any organization constituted in accordance with the Constitution of the People’s Republic of Bangladesh;
(ii) and ministry, division or office established under the Rules of Business made under article 55(6) of the Constitution of the People’s Republic of Bangladesh;
(iii) any statutory body or institution established by or under any Act;
(iv) any private organisation or institution run by government financing or with aid in grant from the government fund;
(v) any private organisation or institution run by foreign aid in grant;
(vi) 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; or
(vii) any organisation or institution as may be notified in the official Gazette from time to time by the Government;
(c) “officer” shall also include and employee;
(d) “information providing unit” means–
(i) head office, divisional office, regional office, district office or upazila office of any department, directorate or office attached to or under any ministry, division or office of the Government;
(ii) head office, divisional office, regional office, district office or upazila office of an authority;
The Information Commission (IC) was formed on 2 July 2009 as per the RTI Act to oversee and monitor implementation and handle litigation. The Information Commission during this time has taken many initiatives including introducing all legal provisions, orientation of RTI Act with all relevant stakeholders including designated officers, handling complaints and publishing designated officers' list in commission website, organizing meetings with different ministries and field offices, organizing seminar, training and so on and most importantly organizing hearings. Introducing RTI Act in braille for visually impaired is also an innovative initiative from Information commission.

On the other hand, applications for seeking information from authority has been slow and not up to expectations. According to the Annual report 2012 published by the Information Commission in 2012 (January 2012- December 2012), total 16,475 applications were submitted to different govt. and non government institutions. Previous year's (2011) report indicated that a total of 7808 number of applications were submitted by using the prescribed form in different offices. Though there is an increasing trend of filing applications, this number is insignificant considering the population of 150 million where 47 million people are considered poor needing information important for their lives and livelihood. We can therefore assume that supply side has progressed well compared to demand side enthusiasm and motivation in asking for relevant information. It is worth mentioning that if both supply and demand side do not act proactively the Act will remain week and ineffectual. The less the use of the RTI Act by demand side, the less the improvement in quality of life and hence less impact on development initiatives resulting in diminished motivation from the supply side to build capacity and provide information.

This paper is intended to highlight the demand side status in respect to use of RTI Act to exercise people’s rights especially on state offered services and access to resources. To explore this issue, this paper will also throw some light on qualitative results of some good practices of RTI Act. It will further discuss challenges people face to utilize the RTI Act and future scope or options with suggestions in terms of demand side capacity building. This paper is prepared mainly on available documents published by RTI Forum, working experiences of RTI forum member organizations and Information Commission Annual reports. The paper has not focused directly on supply side initiative which has contributory factors to raise capacity of demand side.
2. Theoretical aspect of RTI Act: how access to information is addressed in RTI Act 2009

Background
In 2002, a draft Bill on Right to Information was prepared by the Law Commission, but there was no such reliable information regarding the fate of the said draft bill. There was always a demand from media, academicians, civil society and grassroots organizations for a legal mechanism so that access to information be recognized as a fundamental right in accordance with international practice. By the year 2004, demand for RTI from civil society and media got a concrete shape. Manusher Jonno Foundation a human right based organization played the leading role by facilitating a coalition with its partner and other organizations to bring all right to information related attempts under an umbrella. The main purpose of building such coalition – RTI Forum⁴ was to strengthen the demand in favor of introducing a legal mechanism on RTI. The RTI Forum placed a draft RTI Bill to the Government of the day and as a result of RTI forum’s advocacy initiative the Caretaker Government of Bangladesh published the gazette notification of the RTI Ordinance 2008, on 20 October. In 2009, the newly formed elected government enacted the ordinance as RTI Act in its first parliament session.

Main Features of the RTI Act 2009:
The essence of RTI Act 2009 is derived from the Constitution and the spirit is to promote an environment for free flow of information. The Act itself has stated in its preamble that it will ensure good governance and promote human rights. The act in its introductory part has recognized right to information as an inalienable part of freedom of thought, conscience and speech. It has also highlighted on the importance of information to ensure peoples empowerment. The preamble of the same also elaborates that “if the right to information of the people is ensured, transparency and accountability in all public, autonomous and statutory organizations and in other private institutions run on government or foreign funding shall increase, corruption of the same shall decrease and good governance of the same shall be established”. To ensure access to information, the Act has given a clear guideline on how to collect, store, maintain and provide information. The act has mentioned detail procedure for any citizen, so one can easily seek or demand information from ‘Authority’. The Authority is bound to provide information based on the information request she/he receives.

⁴ Right to Information Forum (RTI Forum) is a wide base network established in July 2008 for the purpose of facilitating RTI works in Bangladesh.
RTI Act, which was notified in the Bangladesh Gazette on Monday, 6 April, 2009 came into force on 29 March 2009 except sections 8, 24 and 25. The Act came into full effect from 1 July 2009. Subject to some exceptions, the Act has referred to three mechanisms in obtaining information. Section 8 refers on how to obtain information. If not accessible by using section 8, one can go for appeal to higher authority as per section 24 and section 25 of the RTI Act has referred to lodge complaints before Information Commission if the RTI application and appeal is denied by respective authority.

According to the act, the government and other institutions using public funds will have to provide people with necessary information within 20 days of applying for it. Information concerning life or death of a person must be given within 24 hours after receiving the request. If any official refuses to provide information, anybody can file appeals with the administrative head of its immediate superior office. An aggrieved person can file complaint to the Information Commission if she/he is denied information from relevant authority.

In Bangladesh, a three-member information commission under Section 15(1) of the Act has been formed. The Act states that the Commission shall be an independent statutory body. The Information Commission has certain duties and responsibilities as mentioned in the Act including handling litigation.

RTI Act 2009, though not as perfect and ideal in nature as it was expected, can, if implemented as per law meets all requisite provisions for obtaining information. The law allows individuals to lodge complaint to an independent administrative body to give remedy to information seekers from denial of information. This independent body should meet certain standards, such as financial authority to work independently, to act as the first port of call for those whose information requests and appeals are denied.

**Why demand side should be capacitated to use the RTI Act**

Rural economy is one of the dominant factors in Bangladesh since majority of the population live in rural areas. Moreover, larger portions of the total labor force are dependent on rural based employment such as agriculture. Most of the development initiatives and safety net programs undertaken by Government are mainly intended to alleviate poverty in the rural areas. Lack of access to basic goods and services, lack of market access and access to employment opportunities also reduces income opportunities. Precisely, in Bangladesh, this situation is still a major impediment towards bringing about qualitative changes in their lives. Poor, marginalized and vulnerable groups in the society are isolated not only in physical terms but also in terms of their
access to employment, financial resources and skills related information. Poor health is
caused by a lack of access to minimum health services and lack of availability of clean
water.

Access to information can help people in innumerable ways for example provision of
information and knowledge on agriculture, education, job and training opportunities,
social safety net programs, health services etc. all these can contribute to improve the
lives and livelihoods of people, especially the vulnerable and marginalized.

**Scope for demand side to promote and practice RTI**

The Union is the lowest tier of our administrative unit. A considerable portion of our
national development budget is spent at this level. If people living in the union could get
the information as regards the detail of work and the allocated fund for the development
works like construction of bridges, culverts, schools, roads or allocation of local medical
center and other development projects at their place, they could make the implementation
authority accountable if they notice or experience any irregularity. By ensuring proper
utilization of fund they can contribute in reducing corruption. Thus, by reducing waste in
public expenditure and ensuring quality and quantity of services, people can be
empowered and improve their livelihood.

Food security is one of the basic requirement for all people. Availability and proper
distribution of agricultural inputs like fertilizers, seeds, pesticides etc. should be ensured
at the farmer’s level even in remote villages. Monitoring this could be effectively done
from the union level. Accountability of this whole process could be best ensured with the
active participation of the stakeholders at the grass root level. That would be possible
only if people could know the detail of government programs by using RTI Act at their
own locality.

Land is the most valuable, tangible property and also the means of production for
millions of people. In Bangladesh land dispute is one of the major causes of conflicts and
clashes. People face untold hardship establishes their land rights due to lengthy court
cases and rampant corruption. RTI Act can help in proper maintaining of land records
and ensuring transparency in record maintenance process by ensuring easy access to the
same.
3. An overview of good practices

Cases in Bangladesh: How demand side holds supply side accountable:

Many NGOs are taking initiatives to raise awareness on RTI Act and facilitate disadvantaged people to file RTI application specially to receive social safety net incentives. Bangladesh government has targeted 59 million poor populations to be covered under various social safety net programs and allocation has been made of 12.02 percent of total budget in fiscal year 2012-13. Taka 1200 crore has been allocated for only Employment Generation program for hard Core Poor (EGPHP) for 42 lacs poor people in FY 2012-13. A recent study\(^5\) shows that major constraint of reaching the poor population under various safety net programs is mis-targeting of population and the reasons behind mis-targeting is political interference, nepotism and financial corruption. The study (Ibid) shows that around 2.67 lac genuine beneficiaries can be included in EGP PHP and around 1.09 lac in VGD if beneficiaries are targeted in a proper manner.

People usually ask the beneficiaries list from the authority by filing RTI application or using RTI and then they cross check it. In cases where people find any anomalies, they challenge the list as they find that appropriate persons have not been selected in the list. In such cases the list has been revised and now it is being prepared in consultation with the community. In some cases people receive their exact allocation by challenging the authority by using the RTI Act. In some cases media is also using it for preparing investigative or fact finding reporting. Encouraging side of such reports are that journalists receive authentic data and information which gives strength to their report. So in most cases they are not challenged. Investigative reporting on issues like pharmaceutical companies, challenging illegal construction work against powerful association like BGMEA\(^6\) created positive results on public interest.

Recently CAB (Consumer’s Association of Bangladesh) – a civil society organization that mainly works to ensure consumers rights in Bangladesh utilized RTI Act. CAB filed application asking for information on the status of constituting Zilla Consumer’s Rights Protection Committee and functionality as the committee is responsible authority to monitor the implementation of Consumers Rights Protection Act 2009. Upon request, the concerned authority constituted Zilla committee and the committee is now functional.

\(^5\) Bangladesh Economic Outlook, Vol. 3, No 01, June 2011Shamunnay
\(^6\) The Bangladesh Garment Manufacturers and Exporters Association (BGMEA) an apex trade body that represents the export oriented woven, knit and sweater garment manufacturers and exporters of the country.
Challenges and Scope:

Almost more than four years have passed after the enactment of RTI Act. A number of civil society organizations, grassroots organizations, media including government have been engaged in various of activities for making RTI meaningful for citizens. Most significant engagements are awareness raising and capacity building of demand side. It was understood that without pro-active exercise of provisions of RTI Act, the common citizens are not going to benefit from it. Thus, these organizations initiated programs for pro-active engagement with citizens for filing application seeking various information related to public interest as well for addressing specific needs. But all these initiatives are concentrated to particular locality and among targeted audiences. Cases mentioned above shows that RTI Act is being utilized in many areas by various actors. But it is also true that all these initiatives are initiated by NGO actors which have impacts and challenges in demand and supply both side.

Challenges:

Lack of Awareness: A survey conducted by RTI forum reveals those 44.2% respondents are not aware of the RTI Act. 59.2% respondents among rest 55.8% respondents (who said about knowing the Act) have sought information to different institutions but only 12.5% (out of 59.2%) respondents used RTI Act for asking information. In identifying the challenges of RTI Act implementation 84.1% respondents mentioned lack of awareness of RTI Act and 84.1 respondents identified lack of publicity as a challenging factor for RTI Act implementation.

Lack of Motivation: Though there are so many cases showing that RTI could be used for different issues, but most were derived from NGO initiates. It is noticed that people are using RTI act but not by their own initiative or motivation. Filing an application cannot be measured with RTI success case, unless the information is used to fulfill requester’s necessity. STEPS, a Manikganj based local NGO undertook a project to motivate and

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8 Ground Realities, Issues and Potentials of RTI Implementation: A Piloting Case of BPATC-MJF Collaboration in Manikganj Manusher Jonno Foundation, October 2011. The findings of the report were shared in a meeting with selected government offices and PATC at BRAC Centre Inn, Mohakhali.
aware target audience to file application under RTI Act. It was found that, community people didn’t show interest to collect information..

**NGO Apathy:** The RTI clearly states that all non governmental organizations are considered “Authority” and obliged to provide information. The Act also makes it mandatory that all such organizations must identify one person as “designated office”, the name of such office should be sent to the Information Commission and the NGOAB. Unfortunately most NGO’s have not complied with this provision of the ACT and lag far behind government in identifying a designated officer. Till June 2013, more than 644 NGOs have appointed 3657 (field and HQ offices) designated officer. This number is frustrating if we consider the number of NGOs operating in Bangladesh with foreign fund.

**Time constraint:** As RTI Act has put a time limit plus it is a lengthy process to receive information even if authority agrees to provide it within stipulated time. It is more time consuming if the requester has to pay fees or if the information connects third party involvement. Rural people feel it a waste of time as information requester has to visit offices more than twice to receive information. For each visit requester has to spend time and money which becomes a double-burden for her/him. We have not identified any cases till now that authority has sent prescribed letter or information to the requesters address. Requesters have to visit government offices not only to file application but also to collect it. It is most difficult for women, old aged people and people with disability.

**Lack of continuity:** People very often lose their patience to track their request. It is seen in some cases that if information is denied people don’t want to go for appeal or complaint though the Act has provisions to address such cases. This sometimes happens as requester does not have enough awareness and familiarity about the Act.

**Insecurity/Whistle Blower protection:** There is a fear factor of the person who ask for information. In Sunamganj district a RTI advocate/animator faced challenges and threat on her way to education institution as she asked for VGD list and included four deserving names in the list by deleting four names that were not entitled or eligible for social safety net program. So instead of getting any protection from the community she was in a vulnerable situation as her opponents were powerful people. So while using RTI Act there should be community mobilization, sensitization and collective effort to face any
kind of undue pressure. NGOs should sensitize supply side also while sensitizing the community.

Institutionalization: It has been noticed that usually public authority don’t want to share or disclose very general types of information like the list of VGD, VGF card holder, allocation of resources under EGPHP(Employment generation for the hardcore poor) program, procedure to obtain any services, medicines in a health clinic, the khas land related information. In many cases, requesters are denied initially, they are given information after showing the Act. So institutionalization of proactive disclosure can lessen the tension between authority and information requester. This may help authority to handle many requests and at the same time. People will feel free to visit government offices to get their required information.

Macro level issues are still ignored: Issues like extra judicial killings, agreement with foreign companies, revenue budget expenditure in infrastructure, tender process etc. are not being address by the Act. Apart from BGMEA, RAJUK-Shahara pariver instances, RTI is not being used in issues having wide and greater impact in society. NGOs are giving more concentration on using the Act on SSN (social safety net) related issues. The larger national issues of bad governance is not being addressed.

Collective pressure gets better result: In some cases Authority discourages people to file any application, because they still prefer to give information informally rather than following the process under the Act. RTI Act gets better result if there is a collective pressure from the community. Nijera Kori mobilized their community people to get control over Khas land through RTI application. More application on one issue gives effective result.

Linking RTI as social accountability tool: Some organizations are using RTI as social accountability tool, for validation of data in structured manner. Use of any social accountability tools like open budget, community score card, public hearing etc cannot proceed without authentic, correct information or data. Free flow of Information or RTI is the precondition of using other social accountability tools. So RTI should be used linking with social accountability concept, in a formal way and maintaining certain process as it is being done in other countries like India and Africa.

Mass mobilization: Civil society organizations, NGOs are very experienced in mobilizing people to exercise people’s rights. Organizations having big coalition, network, wide range of target audience can mobilize people to realize their rights by using RTI Act.
4. Conclusion

The enactment of the RTI Act has brought many positive changes in terms of openness of Government towards sharing of information and is slowly merging out of the culture of secrecy that prevailed previously. Government officers can give information freely, as the Act has given them courage to provide information. Concerned authority has appointed designated officers at most levels of government structures. Authorities are now proactive to set up information desk, displaying citizens' charter, duty rosters, informing about allocation and review of the total Tender process, receiving call from local people even in midnight, answers query and taking actions are notable changes after RTI Act implementation. All these are good practices emerging after enactment of the RTI Act. Authorities who were skeptical to face public hearings are now comfortable as they can now share their limitations too.

Simultaneously, demand side community people can now have the courage to ask for information; and make the authority accountable if they are not happy with their performances and can challenge authority if they are deprived from basic services. In some cases we have found that people can make a phone call to respective authority which they never dare to do before. Despite getting positive results people still are reluctant to use RTI.

Demand side population are the main user of the RTI Act, so this Act will not be effective if more interest is not generated. The main purpose of enactment was to make demand side empowered with information so that they can change their lives in positive way and lessen misuse of resources. Some steps could be taken to make demand side more proactive.

a. Mass campaign: A time bound national massive campaign should be initiated to make people aware about the use and influence of Act. Each sector should participate in this campaign program under the guidance of Information Commission. Media should get involved for long term campaign initiative.

b. Proactive disclosure: The Act has created provision to disclose certain information. The comprehensive list includes almost everything people require to know. Authority should also take immediate measures to disclose information in suo-moto. This attempt will not only lessen the hassle of supply side from managing large number of request, also demand side will feel easy to visit offices.
for information. People will not have to visit repeatedly for information if it is disseminated adequately.

c. **Organize RTI camp**: Civil society organizations mainly RTI Forum member organizations have many positive cases to share with all stakeholders. This may have a multiplier effect on the use and awareness of RTI. RTI Forum could arrange RTI camp where all case stories will be presented in innovative manner.

d. **Facilitate RTI advocates**: Organizations involved in promoting RTI should facilitate to develop RTI advocates like shoibali Mrong. Targeting young generations could be an effective initiative as they are the strong forces as advocates.

Right to information cannot be used as a standalone issue and should be integrated with all initiatives and programs. This requires commitment and understanding from organizations working to realize people’s right. To use RTI effectively there is no other alternative than strengthening the demand side with proper knowledge on use and benefits of RTI Act.

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