

RIGHT TO INFORMATION

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RIGHT TO INFORMATION

- MEANING OF RIGHT TO INFORMATION
- CONSTITUTION AND RIGHT TO INFORMATION

CONSTITUTION & RTI

- Article 7 (1) : All powers in the Republic belong to the people ...
- Article 11: Democracy and human rights and “effective participation by the people through their elected representatives in administration at all level shall be ensured.”

CONSTITUTION & RTI

- Article 39: Freedom of thought and conscience, is guaranteed.
- The right of every citizen to freedom of speech and expression and the freedom of press are guaranteed.

ACCESS TO INFO. & CURRENT LEGAL STRUCTURE

- Only to a certain class of people;
- General people (with/without positive duty of dissemination);
- Specific restrictions on disclosure of information

RESTRICTED ACCESS

- Article 76: the Standing Committee of Parliament has the power to require a Ministry to furnish relevant information;
- Article 145A: The President shall cause all treaties with foreign countries to be laid before Parliament.

RESTRICTED ACCESS

- All procedural laws provides for access to information to an aggrieved person to seek redress against the decision;
- Code of Civil Procedure, Criminal Procedure Code, Artharin Adalat Court Act, Income Tax Ordinance, Customs Act, Labour Act, SAT Act

GENERAL ACCESS

- S-76 Evidence Act – Duty upon a public officer to supply a copy of the “public documents”;
- S-74 : “Public Document” (1) documents forming the act or records of the acts (i) of the sovereign authority, (ii) of official bodies and tribunals, (iii) of public officers, legislative and executive and (2) public records kept in Bangladesh of private documents.

GENERAL ACCESS

- R-9 Public Procurement Rules – Maintenance of documents and records regarding public procurement and duty upon CPTU to issue guidance note for ensuring dissemination of information about contract award to the general public.

GENERAL ACCESS

- Articles 44A to 44CC: Requirement to provide information on wealth and expenditure by Parliament candidates;
- Article 44D (1) : Open to inspection by any person;
- Article 44D(2) Returning office to supply copies of any statement, return or document kept under clause (1).

GENERAL ACCESS

- Article 141: Annual Report with cases in which PSC's advice was not accepted and reasons;
- S-31 (3) Tax Ombudsman Act : Publication of Annual Report and to be opened for public access;
- S-190 Companies Act : Copy of Balance Sheet to be filed with Registrar;
- S-191 CA: Rights of members to copies of Accounts and Reports.

GENERAL ACCESS

- Rule 15 : Environment Conservation Rules : DOE to supply information and data on quality of water, hazardous wastes and quality of air

Laws Restricting Access to Information

- S-5(1) – Official Secrets Act, 1923
- S-123 & 124 – Evidence Act, 1872
- Rule 28(1) – Rules of Business, 1996
- Rule 19 – Government Servants (Conduct) Rules, 1979
- Oaths (Affirmation) of Secrecy

ACCESS TO INFORMATION

- Access to information has been recognised by the Supreme Court as part of the fundamental right to freedom of expression in a judgment of the High Court Division (*Advocate Abdul Momen Chowdhury vs. Election Commission*).

Consultation Paper by Law Comm.

- Law Commission published a Consultation Paper on Right to Information in 2002.
- Not much progress;
- Uncertain Status;
- Subsequent developments;
- Revision of the scheme of the Paper.

Draft Right to Information Bill

- Objectives includes:
 - (a) Participatory Democracy;
 - (b) Securing Freedom of Expression;
 - (c) Transparency in Administration;
 - (d) Empowerment of People

Scheme of the Draft RTI Bill

- VI Chapters
- 28 Sections
- Chapter I – Short Title & Definitions
- Chapter II – Right to Information, Publication of Information by Public Authority, Duties of Information Officer, Procedure for Access to Information, Procedure for Providing Information.

Draft RTI Bill

- Chapter III – Exemption from Disclosure of Information; Rejection of Information; Partial Access to Information; Public Interest Disclosure;
- Chapter IV – Information Commission; Terms of Office of Chief Information Commissioner and other Commissioners; Salaries and Allowances; Employees;

Draft RTI Bill

- Chapter IV – Removal of Information Commissioners;
- Chapter V – Powers and Functions of the Commission; Examination of Record; Appeal.
- Chapter VI – Penalty; Right of Legal Representation; Limitation Act; Recovery of Penalty and Compensation; Duties of Govt.

Main Features

- Definition of Information – Extensive;
- Public Authority – Inclusive;
- Right to Information – Wide;
- S-3 : recognition of right to information and requirement to maintain records;
- S-4 Publication of Information by Public Authority;

Main Features

- S-6 Procedure for Access to Information :
Formal and Information, through any means, no need to give reason, acknowledgment of receipt of request.
- S-7 Procedure for providing information, must be supplied within 30 days of receipt of request or reject with specific reason;

Main Features

- S-8 Exemption from Disclosure of Information includes info. on state security etc.
- S-10-11 Partial access and public interest disclosure;

Main Features

- S-12 Information Commission – Selection Committee; Retirement Age – 65;
- S-14 & 16 Remuneration and Removal;
- S-17 Functions of the Commission includes receiving of complaints and inquiry on information;
- S-19 Appeal

Main Features

- Penalty – Maximum 25 thousand taka; disciplinary action against the officer.
- Positive duties of Govt. to cooperate.

Main Features

- Primacy of the RTI Act over the Official Secrets Act;
- Positive Requirements of dissemination of information on each entity;

Thank You

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