

**Compliance of the provisions of RTI Act, 2009 by NGOs in
Bangladesh: A case-study of BRAC**

A Dissertation

By

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MAGD Batch-5

ID NO. 13372010

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Institute of Governance Studies

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Approved as to style and content

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DECLARATION

I hereby declare that this dissertation entitled “Compliance of the provisions of RTI Act, 2009 by NGOs in Bangladesh: A case-study of BRAC” is the result of my own research, under the supervision of Dr. Rizwan Khair, Director, IGS, BRAC University

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I further declare that this paper has not been submitted in part or in full previously for any degree or diploma either in this university or any other university.



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List of Abbreviations

UNESCO	United Nations Educational, Scientific and Cultural Organization
FOI	Freedom of Information
RTI	Right to Information
RTIA	Right to Information Act
IC	Information Commission
MJF	Manusher Jonno Foundation
ICCPR	International Covenant on Civil and Political Rights
UDHR	United Nations Declaration of Human Rights
USAID	United States Association for Investment and Development
GO	Government Organization
NGO	Non- Government Organization
EU	European Union
SUPRO	<i>Sushasoner Jonno Proshason</i>
SANAK	<i>Socheton Nagorik Committee</i>
MOI	Ministry of Information
CALS	Centre for Applied Legal Studies

Abstract

Right to Information was first recognized by United Nations General Assembly through its Resolution adopted in 1946 and was stated as so, “Freedom of information is a fundamental human right and the touchstone of all the freedoms to which the United Nations is consecrated.” Article 19 of United Nations Declaration of Human Rights (UDHR) likewise recognizes right to information. In the same way Article 19 of International Covenant on Civil and Political rights (ICCPR) has guaranteed right to information .These documents safeguarded right to information as integral part of freedom of expression. Same trend was followed in different regions

The Press Commission in Bangladesh first raised the demand for disclosure of information in 1983 and made some recommendations. Demand for RTI from civil society and media got a concrete shape by the year 2004. Manusher Jonno Foundation facilitated forming a coalition named the RTI Forum. The RTI Forum placed a draft RTI Bill to the Caretaker Government of Bangladesh and the Government published the gazette notification of the RTI Ordinance 2008, on 20 October. The newly formed elected government enacted the ordinance as RTI Act through notification in the Gazette on 6 April, 2009. The Act enables establishment of an unprecedented regime of right to information for the citizens of the country. It overrides the Official Secrets Act 1923 and similar laws and rules like the Evidence Act 1872, Rules of Business 1996, Government Service (Conduct) Rules 1979, and the oath (affirmation) of secrecy.

Implementation of RTIA 2009 is apparently poor and so there is little progress in terms of fulfillment of the objectives of the law. In the context the present study aimed to discover the factors responsible for poor compliance of the law and find out remedial measures. For this study some government offices located in greater Rajshahi division were chosen. During research curiosity was to assess the perceived understanding and use of the law by the citizens, to get a clear picture of the constraints that the supply-side is suffering from and the requisite initiatives the government, the Information Commission and the administrative authority should undertake to sensitize the citizens in seeking pertinent information. There are some recommendations in line with the research outcomes for due consideration of the concerned authority.

Compliance of RTI Act, 2009 in Bangladesh: A Study of Rajshahi Division

Chapter One

Introduction

1.1 Background of the study

Information is power and the spirit of democracy. The right to information is considered as a fundamental human right. Right to Information is also known as the freedom of information or the right to know. In a modern democracy, good governance is essential. Among the chief characteristics of good governance are transparency and accountability, elements that can be best ensured only when information is available abundantly and as speedily as possible (Right to Information: P Kharel 2001, The Rising Nepal)

People can ask for process, status and result of activities of their interest under the provisions of RTI Act. Extensive use of this Act by the citizens helps create a situation where procedural and financial transparency of public administration is ensured and people's participation in the decision-making process and governance is enhanced.

Right to Information was first recognized by United Nations General Assembly through its Resolution adopted in 1946 and was stated as the foundation/origin for promoting overall human rights. The statement goes so, "Freedom of information is a fundamental human right and the touchstone of all the freedoms to which the United Nations is consecrated." Article 19 of United Nations Declaration of Human Rights (UDHR) likewise recognizes right to information. Right to seek, receive and impart information without interference and regardless of frontiers is guaranteed in the said provision. In the same way Article 19 of International Covenant on Civil and Political rights (ICCPR) has guaranteed right to information. These documents safeguarded right to information as integral part of freedom of expression. Same trend was followed in different regions. Article 19 of the European Convention on Human Rights Article 13 of the American Convention on Human Rights and Article 9 of African Charter on Human and People's Rights recognized right to information as a part of freedom of expression. (Mira Lamichhane Right to Information and It's Practices in Nepal)

The President of Bangladesh gave assent to Right to Information Act on 5 April, 2009 and the Act was notified in the Gazette on 6 April, 2009. All provisions of the Act have come into force on 20 October 2008 excepting for sections 8, 24, 25 which came into effect from 1 July 2009. Since its enactment, the RTI Act 2009 has emerged as one of the most significant legislations enacted by the Parliament of Bangladesh. The Act enables establishment of an unprecedented regime of right to information for the citizens of the country. It overrides the Official Secrets Act 1923 and similar laws and rules. The Act seeks to establish that “transparency is the norm and secrecy is an exception in the functional disposition of every public authority. It aims to ensure maximum openness and transparency in the machinery and functioning of the government at all levels.

Before the RTI Act 2009, disclosure of government information in Bangladesh was governed by a law enacted during the British rule, the Official Secrets Act of 1889 which was amended in 1923. This law secures information related to security of the State, sovereignty of the country and friendly relations with foreign states, and contains provisions which prohibit disclosure of non-classified information. The Evidence Act 1872, Rules of Business 1996, Government Service (Conduct) Rules 1979, and the oath (affirmation) of secrecy under the constitution imposed further restrictions on government officials in disclosing information to the public. The disclosure in Bangladesh was, therefore, restricted by the aforementioned laws despite Article 39 of the Constitution of Bangladesh which guarantees freedom of thought, conscience and of speech to every citizen. The same Article has recognized the freedom of the Press. The RTI Act 2009 has the freedom to override any existing law creating impediments in providing information. (USAID, Information Commission, PROGATI July 2012:4)

The Press Commission in Bangladesh first raised the demand for disclosure of information in 1983 and made some recommendations. 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. However, there was always a demand from media, academicians, civil society organizations and grassroots organizations for a legal mechanism so that access to information is recognized as a fundamental right in accordance with international practice. Demand for RTI from civil society and media got a concrete shape by the year 2004. Manusher Jonno Foundation- a human right based organization played the leading role by facilitating a coalition with its partners and other organizations to bring all rights to

information related attempts under an umbrella. The main purpose of building such coalition – RTI Forum 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. Anam, 2013)

1.2 Statement of the problem

RTI Act is an instrument that puts all public, autonomous and private organizations in a legal binding to impart information to citizens and it is intended that through this process transparency and accountability of GO-NGO offices is ensured, corruption is reduced, good governance is established and the people are empowered. (The Preamble of RTI Act 2009). There are enormous examples both from home and abroad that proper implementation of the law could successfully redress the grievances of the people and work as an effective means to restore the rights they deserved. Quite logically our good intentions and expectations is to have this law fully operative. But the prevailing situation is contrary to our dreams. As of today there is widespread perception both from the officials entrusted with the responsibilities of information-delivery and the citizens who are information-recipients that the implementation of the law remains to a dissatisfactory level. There remain some challenges that hinder the process of implementation. We would like to point out here the challenges found out in the survey conducted by The Information Rights Forum. The challenges include lack of adequate publicity, lack of will of the authorities in providing information, a culture of secrecy, lack of citizens' demand for information, lack of institutional preparation, , inactivity of non-government organizations, lack of technical preparations , lack of media interest, frustration over limitation of the law and others.

In the survey most of the respondents (75.3per cent) talked about lack of adequate publicity, followed by ignorance about the law (73.5 percent), lack of will of the authorities in providing information (44.7per cent), a culture of secrecy (38.1per cent), lack of citizens' demand for information (33.5per cent), lack of institutional preparation (30.7per cent), inactivity of non-government organizations (22.8per cent), lack of technical preparations (20.5per cent), lack of media interest (16.3per cent), frustration over limitation of the law (13per cent) and others (13.5per cent).

During this survey the respondents gave some recommendations to overcome the aforesaid challenges. The recommendations are preparing information, creating infrastructure for information exchange, increasing public awareness and demand for information, structuralize enforcement of law and creating alternative ways of collecting information.

Referring to the first annual report of Information Commission, in 2010, the survey-report mentions some challenges namely increasing public awareness on RTI Act, applying digital system for preservation of information, managing information as per catalogues and indexes, creating a culture of self-driven disclosure of information, appointing authorized officers and taking initiatives necessary for increasing their skills, creating a culture of giving information in the secrecy loving bureaucracy, incorporating the RTI Act in the mainstream and monitoring its implementation. (Iqbal, 2012)

In the context our concern is to investigate the prevalence of existing challenges (including the aforesaid ones) in some selected public offices located in greater Rajshahi division. Through this study we intend to update the list of challenges/barriers of implementation of the law as experienced by the officials and the people of the area so that the barriers could subsequently be eradicated with the intervention of the appropriate authority. As a result we could hopefully get a better regime of RTI Act conducive for achieving targeted goals.

1.3 Significance of the Research

Knowledge is true organ of sight, not the eyes (Panchantantra 5th century). When data is digitized it became information. And when better level of understanding adds value to that information it became knowledge. We are now living in the information age. And the world is moving towards knowledge age. We want to be a knowledgeable citizenry by using information as a resource just like land, labour & capital. For achieving the vision 2021 we need to ensure the proper use of that organ (knowledge) by effective implementation of the Right to Information Act-2009. The global scenario of the Right to Information Act, the international principles of the RTI and as well as the experience from India in implementing RTI, can guide the Government to move in the right way. So it is a challenge for the present governments to translate the intent of information laws into real, uncompromised access to information. Passing a Right to Information Act is the first step towards establishing good governance and ensuring an accountability regime in governmental institutions. The

government has made all the initial steps to make the Act as a functional one. (Barristers, Advocates @ Legal Consultants, March 6, 2013)

Right to Information Act allow individuals and groups to understand the policies and actions of the government as an indicator of the growing recognition of the importance of the citizen's access to information as a catalyst for strengthening democracy, promoting human rights and good governance. International funding institutions are including the ratification of such an Act as a condition for funding, so Bangladesh not only to make itself receptive to donor advice but for ensuring effective governance has passed the Right to Information bill 2008 on 29 March 2009. The official statement of the RTI (Right to Information) Act-2009 is to make provisions for ensuring free flow of information and the people's RTI. Following the enactment of Act, governments must adequately implement the laws; otherwise, it becomes simply a "check the box" exercise. Thus, appropriate emphasis must be given to the implementation of the law, which requires action both from the supply side and the demand side of the Act (Kadery, 2009)

The free flow of information and ideas lies at the heart of the very notion of democracy and is crucial to effective respect for human rights. Democracy demands that individuals are able to participate effectively in decision making and assess the performance of their government. This participation depends on access to a variety of information held by public bodies. This can be for instance information on the laws or rights applicable in a country, or about the state of the economy, social systems, and other matters of public concern such as the use of public funds. Freedom of information thus contributes to government openness and accountability, and represents an important instrument to prevent and combat corruption. It can also help increase government efficiency and responsiveness, along with civic trust. Indeed, one of the most effective ways of addressing poor governance is through open, informed debate. Although the right to information is not a substitute for good governance, it both supports and aids its implementation.

For all the above, freedom of information contributes to enhanced empowerment and equality of all social groups, including women and indigenous peoples. Furthermore, it is linked with well-functioning markets, improvements in investment climates and effectiveness of development aid. Thus, there is a growing recognition of its relevance to socio-economic development. (Communication and Information, UNESCO).

The importance of making use of RTI Act for the cause of establishing transparency and accountability in administration was expressed in the speech delivered by Honorable Prime Minister of present government and continued governmental support for people's right to information was promised.

“The enactment of the Right to Information Act is an epoch-making incident in the history of Bangladesh...it will greatly help establish accountability and transparency in every sphere of society and the administration...the government will continue to work to safeguard the peoples’ right to information.” (Sheikh Hasina, Prime Minister of Bangladesh)

With a positive view in mind our present study aims at discovering the factors responsible for compliance of RTI Act, 2009 and how possibly they could be removed. This has been a praiseworthy job on the part of the democratic government to enact this law and constitute an independent information commission to oversee and enforce its implementation exercising the commission's lawful authority. However, until and unless we can properly implement the law, it remains merely a dream to ensure transparency and accountability in every sphere of administration, curtail corruption in the public work and development activities, empower the people who are supposed to hold all powers in a democracy, establish democratic values and good governance in the society. Mere enacting a law cannot be an achievement in a true sense. We must rather consistently engage ourselves in research and through other effectual means to make the law fully compliant by all the stakeholders in the process. Likewise, we want to unearth the reasons responsible for poor compliance of RTI Act in our study. While conducting research it is of vital importance to detect the loopholes and limitations of the law, to get a clear picture of the resource and other constraints that the supply-side is suffering from and the requisite initiatives the government, the Information Commission, the media and the civil society organizations should undertake to sensitize the citizens for creating enthusiasm in them regarding seeking pertinent information. On the basis of conducted research we would like to put some suggestions /recommendations for consideration of the authority. This cannot be overemphasized that continued discussion, debate, seminar, symposium, workshop, critique and research on 'RTI Act and its implementation' would one day bring about full benefits we desire.

1.4 Objectives of the research

The objectives of this research are,

- 1) To ascertain the present status of compliance of the RTI Act 2009.
- 2) To ascertain the reasons behind the gaps,
- 3) To make suggestions/ recommendations to improve the existing scenario.

1.5 Research Questions/Hypotheses

There are two main queries on the basis of perceived assumptions. The queries are,

- 1) Why compliance of RTI Act is presumably so poor?
- 2) Whether there are some practical/genuine problems that slow down the implementation process.

1.6 Limitations of the Research

The objective of any research work is to uncover the truth. To this end, researchers primarily need to spend substantial amount of time and efforts. Furthermore, they need to have adequate primary and secondary data as required for elaborate judgment of the probable findings. In our case inadequacy of time in comparison to volume of work is a shortcoming. Non-availability of secondary data as because of newness of the law could be another impediment for quality research work. Most citizens i.e. the service-seekers could be unaware of the provisions of the said law and therefore could fail to respond relevantly or cover all the queries presented to them during collecting data on prepared questionnaires. For the convenience and ease of data collection more or less known public offices within the study area were chosen keeping in mind the time-frame ascertained by the course authority for submission of the research-paper. At the same time the sample size is relatively small because of which the outcome of the study might not be representative of the whole scenario.

1.7 Methodology

Methodology is a system of methods used in a particular area of study or activity (Oxford Dictionary). The definition of research methodology is the process used to collect data and other types of information for use in making business decisions. Examples of this type of methodology include interviews, surveys, and research of publications. All of these types include the use of present and historical information (www.businessdictionary.com). In our case we adopted the methods of content analysis and survey. We collected data from sources like selected public offices, internet, publications of different civil society organizations, website of Information Commission,, previous research works, sharing ideas with colleagues working in the civil service, taking ideas from researchers, following class materials on research methodology and following guidance of the Supervisor of the research work. Our study area is greater Rajshahi division consisting of 16 districts. For proper implementation of RTI Act, information-providers (the Supply side) and information-seekers (the demand side) play the most important role. Accordingly 3 different set of Questionnaires were prepared--- one for Head of the office, one for Designated Information Officer and the third one for information-seeker. Through questionnaires data were collected from 20 public offices and 30 information-seekers.

1.8 Chapter Outline

The content of the whole research-work is accommodated in 5 chapters. The chapters are chronologically are 1) Introduction, 2) Review of the Literature on Right to Information Act, 3) Analysis of Data, 4) Findings of the Research, and finally 5) Recommendations and Conclusion.

Chapter Two

Review of the Literature on Right to Information Act

2.1 Introduction

Right to Information is used interchangeably with Freedom of Information (FOI) or Access to Information or Right to Know. The word information is derived from Latin *informare* meaning "give form to". The origin of the word thus connotes imposing a structure upon some indeterminate mass. Allan & Selander (1985) have analyzed as to the use of the word in Swedish language and found the similar meaning as widely accepted. Most people tend to think of information as separate little bundles of "facts". In the Oxford definition of the word it refers both to knowledge and communication.

Knowledge communicated concerning some particular fact, subject or event; that of which one is apprised or told; intelligence, news.

The way the word information is used can refer to both "facts" in themselves and the transmission of the facts. (Karl-Erik Sveiby, 1994)

There is adequate literature originated from home and abroad on Right to Information Act. Views on Right to Information, its evolution and its gradual adoption as law globally, good practices of this law in different countries, how it relates to human rights, recognition of its importance in international treaties, the main provisions of RTI Act 2009 enacted in Bangladesh was thoroughly studied with a view to develop a general understanding about different aspects of right to information and in-depth /clear understanding about limitations, restrictions, lapses and effectiveness of RTI Act 2009 and main determinants that affect implementation of RTI Act 2009. Thus a conceptual- framework required for conducting the proposed study was gained. The literature reviewed for this study named determinants affecting implementation of RTI Act 2009 which include sufficient publicity of the law, awareness of information-seekers, patience of information-seekers to continue with the whole process, culture of secrecy, training of Designated Officers, data preservation system, allocation of budget for publicity and training, Internet connectivity of offices, logistical constraints, co-operation of Third Party, Cost and Time, Independence and capacity of

Information Commission, role of watchdog bodies like Civil Society Organizations and the Media, political will of the government. Majority of these variables are obligatory to comply by concerned offices as per the directives of the RTI Act and any willful negligence thereof is subject to fine and departmental actions. In our research we would like to investigate the status of the authority in terms of their preparedness and capacity to serve, proactive attitude to disseminate information, willingness to formally follow the procedures as laid down in the law and how much cooperation and encouragement they are receiving from superior authority and Information Commission to minimize their practical inadequacies. Questionnaires have been prepared accordingly such that the above-mentioned queries could be explained.

2.2 Recognition and Adoption of RTI in Global Arena

Freedom of Information (FOI), or the right to information, can be defined as the right to access information held by public bodies. It is an integral part of the fundamental right of freedom of expression, as recognized by Resolution 59 of the UN General Assembly adopted in 1946, as well as by Article 19 of the Universal Declaration of Human Rights (1948).

Right to information has also been declared as an integral part of the basic human right of freedom of expression in other major international instruments, including the International Covenant on Civil and Political Rights (1966), the American Convention on Human Rights (1969) and African Charter on Human and People's Rights.

Law of Right to Information upholds the basic premise that all information held by government institutions is in principle public and disclosure thereof may be denied only on legitimate grounds related to privacy and security. Presently more than 90 countries including developing ones enacted RTI Act throughout the world.

In its 1945 Constitution UNESCO took up the decision that clearly urges the concerned Organizations to “promote the free flow of ideas by word and image”. Reflecting the mission UNESCO adopted Medium Term Strategy for 2008-2013 and the purpose is particularly embedded in its program objective to enhance universal access to information and knowledge. Furthermore the World Summit of the Information Society has reaffirmed freedom of expression and universal access to information as cornerstones of inclusive knowledge societies. The importance and necessity of ‘Right to Information’ has also been highlighted in the Brisbane Declaration on Freedom of Information: The Right to Know (2010), the Maputo Declaration on Fostering Freedom of Expression, Access to Information

ad Empowerment of People (2008) and the Dakar Declaration on Media and Good Governance (2005), all emerging from UNESCO's annual celebrations of World Press Freedom Day. (Communication and Information, UNESCO)

Sweden was the first country that adopted RTI Law (though its *Freedom of the Press Act*) in 1766 and the credit largely goes to the parliament for getting access into information. The United States enacted the law first in 1966 and Norway in 1970. The US after the Watergate scandal in 1974 adopted further a stronger Freedom of Information (FOI) law in the year of 1976. The example of the United States was subsequently followed by some democratic countries of the West. The countries are France and The Netherlands (1978), Australia, New Zealand and Canada (1982), Denmark (1985), Greece (1986), Austria (1987) and Italy (1990). Until 1990 the number of RTI adopting countries rose to 13. In 2000 the European Union (EU) made Charter of Fundamental Rights in which the right of access to documents was recognized along with freedom of expression as fundamental right. By the year 2010, more than 85 countries enacted RTI laws for national level and the major developing countries like China and India were within these countries. Among these countries, the performance of Mexico is the best. Passing its RTI Act in 2000 Mexico has been a model worldwide for unique compliance. (Simi T.B., Madhu Sudan Sharma & George Cheriyan of and for CUTS International, 2010)

In Asia and the Pacific, sixteen countries have so far got access to information laws. The countries are Australia, Bangladesh, Cook Islands, India, Indonesia, Japan, Kyrgyzstan, Mongolia, Nepal, New Zealand, Pakistan, South Korea, Taiwan, Tajikistan, Thailand, and Uzbekistan. Israel, Jordan and Yemen are the only three countries in the Middle East that enacted RTI laws until January 2013. As of September 2013, the number of countries around the globe that adopted RTI laws in national level in order to submit request and receive relevant information is at least 95. (RIGHT2INFO, 2012)

2.3 Protection of RTI Act by International Laws/Treaties

Main human rights treaties and other instruments of intergovernmental organizations protect right to information. The following Convention and Declaration of the United Nations could be cited as examples.

- **Aarhus Convention** (Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters), UN Economic Commission for Europe, 25 June 1998

- **Convention against Corruption**, General Assembly Resolution 58/4 of 31 October 2003.
- **General Comment No. 34**, UN Human Rights Committee, 12 September 2011, arguably constitutes an authoritative interpretation of the freedoms of opinion and expression guaranteed by Article 19 of the International Covenant on Civil and Political Rights, which is binding on more than 165 countries,
- **International Covenant on Civil and Political Rights**, UN General Assembly Resolution 2200 A (XXI), 16 December 1966 (Article 19) and the **First Optional Protocol**
- **Universal Declaration of Human Rights**, UN General Assembly Resolution 217 A (III), 10 December 1948 (Article 9) (RIGHT2INFO, 'INTERNATIONAL INSTRUMENTS AND STANDARDS' Sep 04, 2012 online)

2.4 Endeavors for Enactment of RTI Act in Bangladesh

In the context of curtailment of press freedom in the early 1980s by the then autocratic regime the Press Council for the first time raised voice for enacting a law on freedom of Information. Thereafter some civil society organizations arranged discussions on the importance of enacting RTI Act in Bangladesh. In the meantime through Universal Declaration of Human Rights and The International Covenant on Civil and Political Rights it became mandatory for the state parties to enact suitable law for empowering people with Freedom of expression implying right to seek, receive and impart all kinds of information except those as are necessary for state security and securing privacy of ordinary citizens. Bangladesh is a signatory to The International Covenant on Civil and Political Rights since December 6, 2000. Therefore international law binds Bangladesh to adopt laws as to ensure greater freedom and access to information for its citizens and stakeholders and adopt policies to be more transparent and accountable. (Murad and Hoque, 2011) A working paper on RTI was prepared by the Law Commission in 2002. In association with others Manusher Jonno Foundation (MJF) undertook a mission to assist the endeavor of the government to enact RTI Act following examples of well-functioning RTI law countries.

Three core groups namely the Law Drafting Core Group, Policy Advocacy Core Group and Awareness/Capacity Building Core Group were formed to widen support base and put pressure for the law. Each of these three groups was helped by MJF. The eminent legal experts of the country were in the Law Core group and they provided inputs, feedback and

repeatedly reviewed the draft of the law. For giving a final shape to the draft of the law a series of consultation meetings were held both at regional and national levels and thereafter in 2007 the draft was formally handed over to the Law Advisor of the Interim government. With the partnership of Commonwealth Human Rights Initiative for technical assistance in 2005 MJF expedited the process of adopting RTI Act in Bangladesh. At the same time MJF along with their partner organizations and other networks actively took part in the process of knowledge building and to this end they developed different communication materials, composed RTI-addressing theme song and conducted research. The core group on Policy Advocacy and Mass Mobilization became engaged in so many activities like article writing, arranging talk shows in TV, idea sharing with NGOs, local journalists, policy makers etc. Having persuaded national and international networks a friendly bondage for issue based mobilization was established with organizations such as Transparency International Bangladesh, PET, Bangladesh Enterprise Institute, SUPRO, SANAK, Article 19, Commonwealth Human Rights Initiative (India), MKSS (India). Distinguished personalities were invited to act as champions for the law and simultaneously were requested to lobby and advocate for adoption of RTI Act. The Law Core group presented the draft law to the concerned Advisor of the Interim government in March 2007 for review and consideration of the draft. Responding to this, the Government in December 2007 declared officially to enact RTI as an Ordinance and instructed the Information Ministry to do the needful in preparing the draft on the ministry's behalf picking up materials from the draft submitted earlier by the Law Core group. Accordingly the Information Ministry (MOI) formed a working group and representative from MJF was officially nominated as member of the working group. To share the contents of the draft prepared by the working group of MOI, the Ministry arranged a national seminar in March 2008 and subsequently uploaded the draft in the Ministry's website for comments of the citizens on it. After that the Council of Advisors of the Interim government in principle gave approval to the proposed ordinance on 20 September 2008. On 20 October 2008, the ordinance was passed getting consent of the President. After the General Elections of December 2008, the RTI Forum approached Parliamentarians for the enactment of RTI law. At last, on March 20, 2008 it was approved in the Cabinet and on March 29, 2008 it was passed by the members of the parliament in its first session with few changes as recommended by the special committee (Anam, 2012:11-15).

2.5 Overview of RTI Act 2009¹

It is intended to incorporate here the main provisions of the law concisely. RTI Act, 2009 was notified in the Bangladesh Gazette on Monday, 6 April, 2009. It received assent of the President on 5 April 2009.

There are altogether 8 chapters, 37 Articles, 1 Schedule and 1 Preamble in the Act.

Preamble:

The preamble of the RTI Act 2009 enacted in Bangladesh describes that the law was enacted to make provisions for ensuring free flow of information and people's right to information. Right to freedom was declared as fundamental right because of its being inalienable **part of** constitutionally recognized freedom of thought, conscience and speech. The law was for empowerment of the people, to ensure transparency and accountability, to decrease corruption and to establish good governance.

Enforcement of the law: Section 1

All provisions of the Act came into force since 20 October 2008 except sections 8, 24, 25 which were given effect from 1 July 2009.

Authorities/Organizations bound to provide information: Section 2

The following organizations are within the purview of the law and bound to provide information.

- Any organization/institution constituted in accordance with the Constitution of People's Republic of Bangladesh;
- Any ministry, division or office constituted under the Rules of Business as given in Article 55(6) of the Constitution;
- Any statutory body or institution established by or under any Act;
- Any private organization or institution run on government funding or with help from the government exchequer;
- Any private organization or institution run on foreign funding;

¹ Based on **RTI Act 2009**

- Any organizations or institution that undertakes public functions in accordance with any contract made on behalf of the Government or made with any public organization or institution;
- Any other organization or institution as may be notified by the Government in the official gazette from time to time.

Right to Information: Section 4

Every citizen has a right to information from the Authority and the Authority shall on demand from a citizen be bound to provide information.

Types of Information not to be provided – Section 7

The authorities will not be bound to provide citizens the following types of 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;
- 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) Any information the disclosure of which would either benefit or harm an individual or institution
- 6) Information the disclosure of which would obstruct the enforcement of law or incite any offence;
- 7) Information the disclosure of which would endanger the security of the people or would impede the due judicial process of a pending case;
- 8) Information the disclosure of which would harm the privacy of the personal life of an individual;
- 9) Information, the disclosure of which would endanger the life or physical safety of any person;
- 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;
- 13) Information, 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;
- 17) Information whose release may lead to breach of privileges of National Parliament
- 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;
- 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.

Organizations exempted – Section 32 and Schedule

The following organizations and institutions involved with national security and intelligence as mentioned in the schedule remain outside the jurisdiction of 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
8. Intelligence Cell of Rapid Action Battalion (RAB)

Maintenance and Preservation of data by Authority: Section 5

- 1) Authority has to maintain information in a catalogued and indexed form and preserve it in an appropriate manner;
- 2) Each authority shall computerize all information that can be computerized within a reasonable time limit and connect them through a country-wide network to facilitate access to information;

Disclosure of information by Authorities: Section 6

Each authority has to publish and publicise all information in an indexed manner which is easily accessible to the citizens regarding any decision taken, proceeding or activity executed or proposed. In disclosing this information, no authority shall conceal or limit access to any information;

Responsible Officer: Section 10

One Responsible Officer must be nominated within 60 days from the notification of the Act by each authority established before and after the enactment of this Act for each “information providing unit”.

Application Procedure: Section 8

- 1) Application is to be in writing or electronically or by e-mail to the Responsible Officer;
- 2) In the application, the following information must be given:
 - Name, address, and where applicable fax number and e-mail address of the applicant;
 - Correct and clear description of the information sought;
 - Any other useful and related information that might help in locating the requested information;
 - Description of the method by which information is sought, namely by inspecting, taking photo copies, taking notes or any other approved method.
- 3) The applicant will have to pay reasonable fees as may be prescribed by the Responsible Officer.

Procedure and Time Limits for providing information: Section 9

- 1) Responsible Officer shall provide information within 20 working days from the date of receipt of application;
- 2) In case more than one “information providing unit” or authority is involved with the information requested, then information shall be given in 30 working days from the date of application;
- 3) In case the Responsible Officer rejects a request, then he must inform the applicant the decision and reasons for rejection within 10 working days from the date of application;

- 4) In case basic information concerning any person's life or death, arrest and release from jail is sought then it must be given within 24 hours from receiving the request;

Appellate Authority and Appeals Mechanism: Section 2, 24

- 1) In case of the "information providing unit" the appellate authority is the administrative head of its immediate superior office. In case the unit does not have a superior office, then the appellate authority is the administrative head of that unit.
- 2) If any person is not given information within the time period specified in Section 9 or is aggrieved by the decision of the Responsible Officer, then he/she can appeal before the appellate authority within the next 30 days from receiving the decision or after the expiry of the time period;
- 3) The Appellate Authority shall within 15 days from the date of receiving the appeal:
 - Direct the concerned Responsible Officer to provide the requested information; or
 - Reject the appeal if it is not fit for acceptance.

Complaints Mechanism: Section 25

- 1) Any person for the following reasons may submit a complaint with the Information Commission:
 - Non-appointment of a Responsible Officer by an authority or refusal to accept applications for information;
 - Refusal upon request for any information;
 - Not being given either a response or the information requested within the specified time period as given in the Act;
 - If the complainant is asked to pay a fee or is compelled to pay an amount of fee which he/she thinks are unreasonable;
 - If the complainant feels that the information given is incomplete, false or misleading; and

Penalty Provisions: Section 27

While deciding on a complaint, or if the Information Commissioner believes that for any reason given below, any Responsible Officer will be liable for fine of 50 Taka per day up to a maximum of 5,000/- Taka for –

- i) Refusing to accept an application or appeal without any reasonable cause;*
- ii) Not furnishing information or not taking a decision on this matter within the time specified;*
- iii) Malafidely denying the request for information or appeal;*
- iv) Instead of giving the information requested, giving incorrect, incomplete or misleading or distorted information and;*
- v) Obstructing furnishing of information in any manner (The Right to Information Act, 2009 Bangladesh A Summary online).*

2.6 Compatibility of RTI Act 2009 with Johannesburg Principles of Right to Information legislation

In 1995 a meeting on Freedom of Expression was organized jointly by Article 19, an International Human Rights Organization and Centre for Applied Legal Studies (CALs) at the University of Witwatersrand, Johannesburg, South Africa with the participation of 36 eminent experts from across the world. The aim was to formulate authoritative standards and legally applicable restrictions on freedom of expression such that national security is not hampered. Through discussion, debate the participating experts developed some principles on Freedom of Expression and Information. The principles were released in 1996 as Johannesburg Principles: National Security, Freedom of Expression and Access to Information. Judges, lawyers, civil society actors, academics, journalists around the world overwhelmingly recognized these principles. The UN Special Rapporteur on Freedom of Expression endorsed the principles. In clarifying the principles developed in Johannesburg on Freedom of Information Article 19 published a set of detailed general standard and process in the name The Public's Right to Know, Principles on Freedom of Information Legislation in 1999. The following sentences will describe the provisions of Johannesburg principles on Freedom of Information and how much these provisions are covered in RTI Act 2009 enacted in Bangladesh.

Principle 1: Maximum disclosure

Freedom of information legislation should be guided by the principle of maximum disclosure. This principle emphasizes on the disclosure of maximum information held by public bodies and only in few circumstances disclosure could be denied. Section 4 of RTI Act 2009 clearly declares that Right to Information is a statutory right of every citizen and thereby proves its consistency with Principle 1.

Principle 2: Obligation to publish

Public bodies are under obligation to publish key information.

Public bodies are obliged to make proactive dissemination of important information, even if information is not formally sought from them by the people. Section 6 of RTI Act 2009 lays down the provision to compulsorily publish certain information from time to time by public authorities.

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Principle 3: Promotion of open government

Public bodies must actively promote open governance. Public bodies must aware the people of their rights and create a culture of openness within own organizations. There is no specific section in RTI Act 2009 that reflects the above principle. However, fines could be imposed in case of the failure of disclosing information or failure to give reasons for non-disclosure or Delay.

Principle 4: Limited scope of exceptions

Exceptions should be clearly and narrowly drawn and subject to strict “harm” and “public interest” tests. Public bodies should respond to all requests for information if they do not lie within the narrow categories of exceptions. Non-disclosure of information should be clearly justified and a list thereof be prepared. Section 7 of RTI Act 2009 mentions several circumstances under which authorities are not to provide information.

The situations include state security, price sensitive information, and personal privacy and sub-judice matters. Experts opine that exceptions are huge and likely to be misused as an excuse for non-disclosure by the authorities.

Principle 5: Processes to facilitate access

Requests for information should be processed rapidly and fairly and an independent review of any refusals should be available. A process directing towards decision as to request for information should be dealt in three levels: within the public body; appeals to an independent administrative body and appeals to a court.

Section 24 of RTI Act 2009 provides scope for any person who does not properly receive information sought within specified time to submit appeal to the Head of the concerned authority within 30 days. Being satisfied the appellate authority shall either direct the officer in-charge to supply the information or discharge the appeal..

Section 25 of the Act describes the procedure to lodge complaints to the Information Commission by information-seeker aggrieved by the decision of the Commission..

Section 29 of RTI Act bars the jurisdiction of any court to entertain a suit or application of information-seeker aggrieved by the decision of the information providing authority or information Commission. So Principle 5 is partially complied by the provisions of RTI Act 2009.

Principle 6: Costs for obtaining access to information

Individuals should not be deterred from making information request by the excessive costs. Information-seekers should not be deterred from filing applications for information by imposing unaffordable high costs.

Section 9 of RTI Act 2009 has made directive for the officer in-charge to decide as to costs which should not exceed the actual cost for retrieving and printing or otherwise supplying through electronic ways. This section seems to be compatible.

Principle 7: Open meetings

Meetings of public body should be open to public. People should know what public offices are doing and should have ample knowledge about decisions taken. No provision as to meetings open to public is kept in RTI Act 2009. This contradiction and inconsistency is unacceptable.

Principle 8: Disclosure takes precedence

Laws which are inconsistent with the principle of maximum disclosure

Should be amended or repealed. Provisions of Right to Information Act should be such that people get access to maximum information and this law gets prominence and priority over relevant other laws. According to section 3 (b) of RTI Act 2009 the Act gets precedence over any other Act coming in conflict with the Act. However, because of the abundance of many secrecy laws and the huge exceptions being in the Act misinterpretation could be used for denial of information sought.

Principle 9: Protection for whistleblower

Individuals who release information on wrongdoing or whistleblower must be protected. Persons leaking out information related to irregularities or wrongdoings should be protected from any legal, administrative or employment related sanctions. In this context wrongdoing may include but not limited to criminal activities, failure to comply legal obligation, mischief, miscarriage of justice, corruption, dishonesty and nepotism. Although this provision is absent in RTI Act 2009 Whistleblower Protection Act has separately been enacted in our country. (Mohammad Hasan Murad;Kazi Ashraful hoque, 2011)

2.7 Restrictions and lapses as revealed in RTI Act 2009

As per section 7 of RTI Act 2009, information that is likely to threaten security, integrity and sovereignty of Bangladesh could be denied. Information adversely affecting relations with foreign countries or organizations could also be refused. There are some other circumstances for denial. Even if some restrictions are logical, the Act has illogically listed so many issues in the denial list and the definition of national security is not precise.

Section 8 describes the procedures for obtaining information. Along with personal details and description of information sought the information-seeker needs to pay for information. Payment is inconvenient for journalists and others who need huge information and this could discourage them from receiving information.

Since eight security and intelligence agencies such as the National Security Intelligence Agency, the Directorate of Forces Intelligence, the Defence Intelligence Units, the Criminal Investigation Department of the Bangladesh Police, the Special Security Forces, the National Revenue Board's intelligence cell, the Special Branch of Bangladesh Police and the Rapid Action Battalion's Intelligence Cells remain beyond the reach of the Act, these enjoy impunity and lack accountability. There are accusations of violation of human rights and misuse of power against most of these agencies. There are also allegations as to discipline, financial transparency and involvement in political affairs as evidenced during caretaker regime that will curtail benefits arising out of RTI Act. As there is no definition of national security as per Bangladesh Policy and so restriction in the RTI Act 2009 on the ground/plea of national security cannot be justified.

The independence and autonomy of the information commission are seemingly inadequate. Since its establishment on July 1, 2009 information commission has not yet achieved significant progress in respect of securing the 'right to information' of the people. Section 14 of the Act entails the provision of establishing a three-member 'independent' information commission to preside over the information dissemination process of the State. That the government intends to compose an information commission, as per its choice is evident in the composition of a five-member 'selection panel' 'The government have direct control on three of the five-member selection panel and the presence of three of the members will make a quorum. Furthermore decision will be undertaken on the basis of the opinion of the majority of the members. It is required to obtain the approval of the government to frame rules for functioning of Information Commission. So the Commission is in the grip of the government and cannot be termed as independent in a true sense.

The information commission enjoys very little jurisdiction in respect of punishing public authorities willfully neglecting to provide information to the public. The commission could award an errant official a fine of Taka 50 per day for a certain period, which will not exceed Taka 5,000. Besides, the commission would 'recommend' to the concerned [higher] authorities to take 'departmental action' and ask authorities to let Commission know the

result. Notably, nothing is in the law as to what would happen if the higher authorities concerned do not take departmental action or do not inform the Commission about the actions taken.

Public Officials

Many government officials do not have satisfactory level of understanding of RTI Act. Majority of the citizens are also unaware of the Act. Unawareness of citizens about the Act and non-cooperation from public officials are holding back the Act's successful implementation. (Khan, 2012)

2.8 Conceptual Framework

There are some major determinants (mostly activities pursuant to the provisions of the Act) that determine the implementation-status of RTI Act. The major determinants are

1. Awareness about the law
2. Publicity of the law
3. Culture of Secrecy of Public Officials
4. Training of Designated Officer
5. Improvement of Data Preservation System
6. Self-driven disclosure of Information
7. Budget allocation for training and publicity
8. Availability of Internet Connectivity
9. Resource Constraints
10. Independence and Capability of Information Commission

Depending on the determinants the implementation status of the Act could either remain at a poor level or conversely at a satisfactory level. A poor level is unwanted and makes adoption of the law insignificant. On the other hand, satisfactory implementation of the law brings about changes like,

- ❖ Transparency and Accountability of Administration
- ❖ Decrease of Corruption
- ❖ Good Governance
- ❖ Democratic Values
- ❖ People's Empowerment

2.9 Conclusion

Review of existing literature on 'Right to Information Act' has imparted me a workable understanding of relevant views and provisions, generated thoughts and ideas enabling me to ascertain parameters for implementation of the law and ultimately guiding me to conduct the proposed study.

Chapter Three

Analysis of Data

3.1 Introduction

This chapter deals with the presentation of data collected from respondents on selected questionnaires and the analysis thereof with a view to find the trend. The respondents belong mainly to two categories, the demand side and the supply side. In the demand side there remain the citizens or information-seekers irrespective of their social status or occupation. In the supply side there remain public officers holding two different positions/ responsibilities in offices. Officers of the first type are Heads of the offices and the second type are Designated officers (also called officer-in –charge) entrusted primarily with the responsibility of providing information to the people on their demand. It is to be mentioned here that the Head of a certain office could himself serve as a Designated Officer or alternatively appoint any official subordinate to him in the said responsibility for his office. Questionnaires are different for Head of Office, Designated Officer and Information-seeker. For Head of Office, there are 25 questions, for Designated Officer the number of questions are 12 and for Information-seeker there are 11 questions. There are some legal bindings in RTI Act 2009 as well as some directives issued by the authority of the Information Commission to be strictly followed by public offices as regards to delivery/dissemination of information to the people. Questions for officers falling in the both types/positions as mentioned above are prepared with the contention such that answers from the respondents could reflect their preparedness, initiative and mindset as well as how much they are equipped and encouraged to implement the law. Likewise, questions designed for Information-seekers are for exploring their awareness and consciousness about the law and their perception about sincerity, cooperation and attitude of government officers towards implementing the law. On the ground of time-constraint, the sample size for each questionnaire have been kept at 20. The questions in the questionnaire designed for Head of the Office could be sub-divided mainly into 3 parts containing encouragement received from superior authority, organizational preparedness pursuant to the provisions of law and personal initiatives undertaken to implement the law.

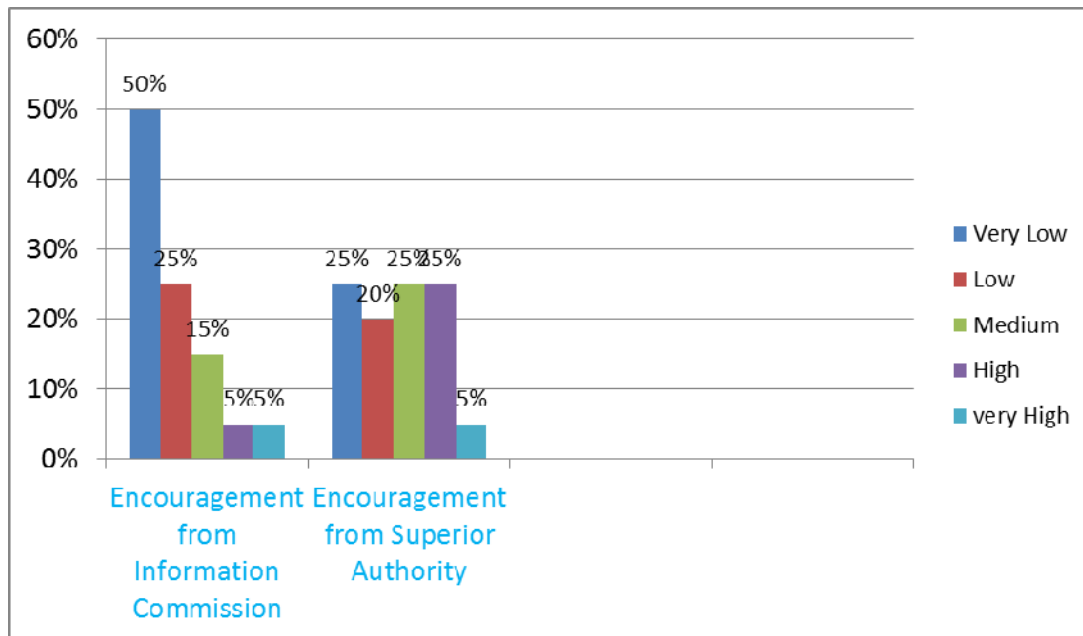
3.2 Information extracted from' Questionnaires for Heads of Offices

At the outset let us separately assess the outcome on the basis of received data with respect to the following four indicators. The frequencies i.e. the number of respondents against each question is 20.

Table-1

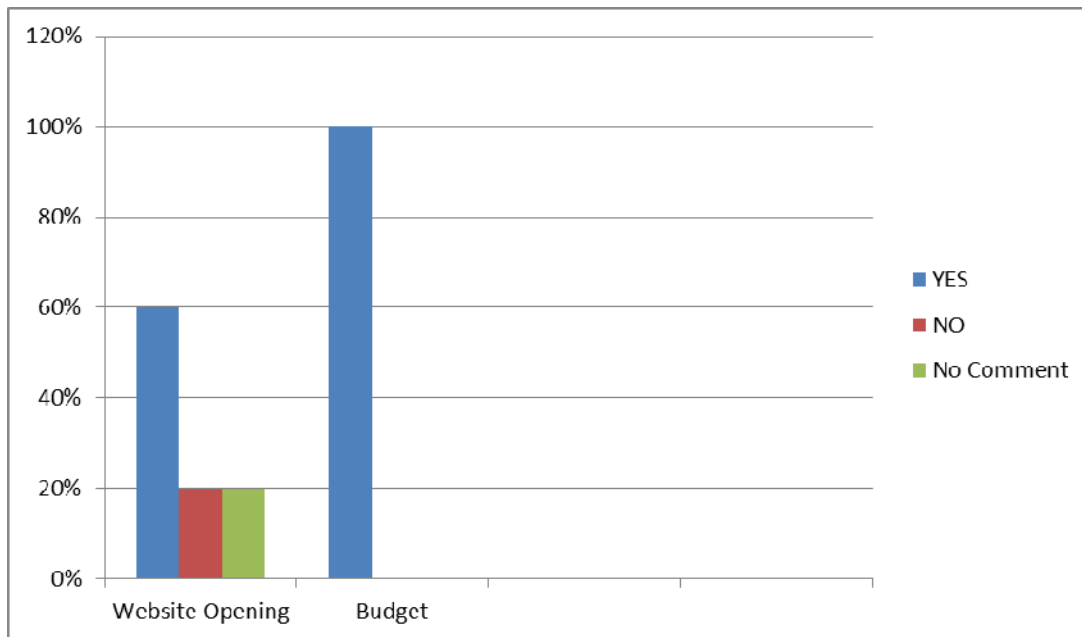
Indicators/Variables	Frequencies
Encouragement from Information Commission	20
Encouragement from superior authority	20
Instruction from min./Dept. to open website	20
Budget for publicity & Training	20

Figure -1 Encouragement as to RTIA Implementation



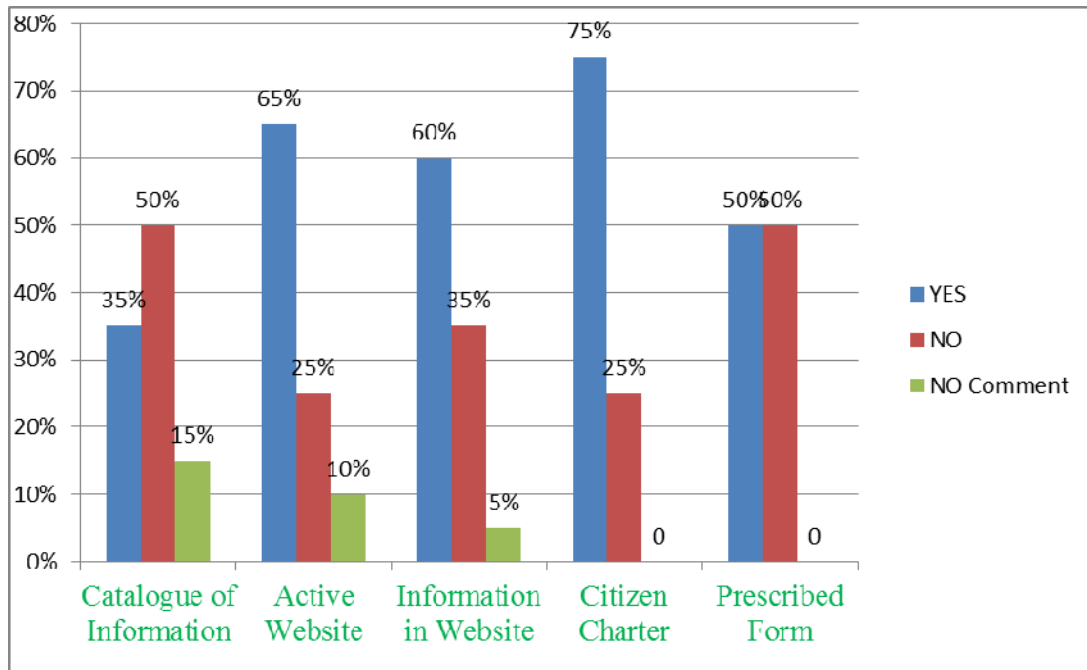
Encouragement from superior positions plays a vital role to devote officials seriously in the assigned task resulting in success. In case of implementing RTI Act, encouragement could come from the Information Commission and from the respective Superior Administrative Authority. The above chart shows that 50 percent respondents opined that encouragement from Information Commission was very low, 25 percent respondents got low encouragement, only 5 percent of the respondents received High/Very High encouragement. As to encouragement from Superior Administrative Authority 25 percent and 20 percent respondents got Very Low and Low encouragement respectively. High and Very High encouragement was received by 25 percent and 5 percent respondents respectively. It reveals that encouragement in both cases is still at dissatisfactory level, although encouragement from administrative authority is much higher than Information Commission

Figure-2 Website Opening Instruction and Budget allocation from Ministry/Department



Opening of Website is required for self-driven disclosure of information pursuant to sSection 6 of RTIA 2009. The above chart reveals that 60 percent respondents received instructions from respective administrative authority to open website for their offices. This is a good indication. As to allocation of budget required for publicity and training of officials about the law, 100 percent respondents replied in the negative. This situation is very much frustrating and contrary to the proper implementation of the law.

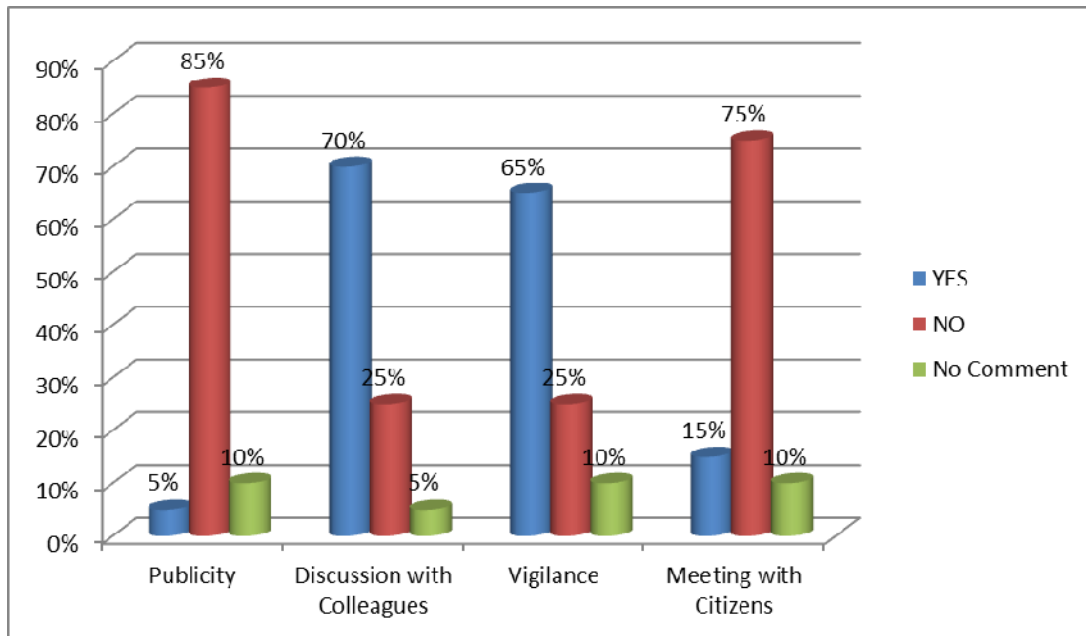
Figure -3 Compliance of the provisions of RTIA



The above figure displays data of some indicators which are obligatory for compliance for every public office. Catalogue of information is required pursuant to section 5 of RTIA 2009. Active website and uploading information in that website is required for enabling citizens to access to information through country-wide networking pursuant to section 5 of RTIA 2009. Citizen Charter is required for dissemination of information. Public offices should print application forms prescribed by Information Commission.

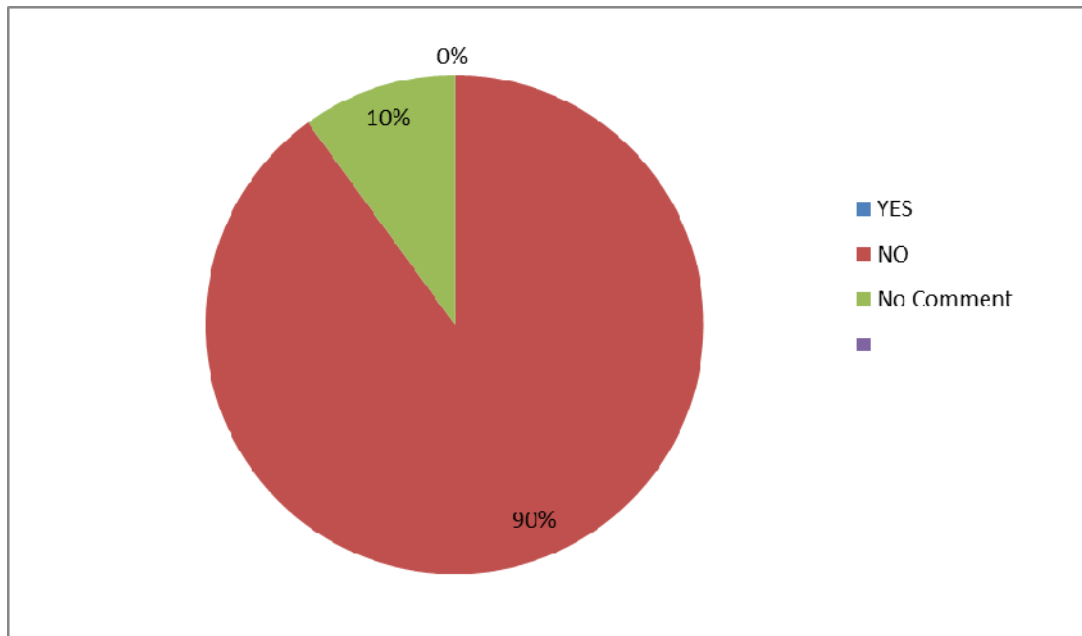
Only 35 percent respondents maintain catalogue or index of information. This is not helpful for speedy delivery of information. 65 percent respondents have active website in their offices and 60 percent respondents upload information in their website which is somewhat encouraging. 75 percent offices under this study presently display information in Citizen Charter. Prescribed form for application is available in 50 percent offices.

Figure -4 Personal Initiatives undertaken for implementation of RTIA



The above chart exhibits personal initiatives undertaken by heads of public offices for ensuring implementation of RTIA. 85 percent respondents undertook no initiative for publicity of the law. Only 5 percent took personal initiatives. 70 percent of the total respondents discussed the provisions of RTIA with their subordinate colleagues and 65 percent respondents are vigilant over the activity of Designated Officer. 75 percent respondents replied that they did not hold meetings with service-recipients of their offices in order to ensure better delivery of information.

Figure -5 Seeking information by Heads of Offices

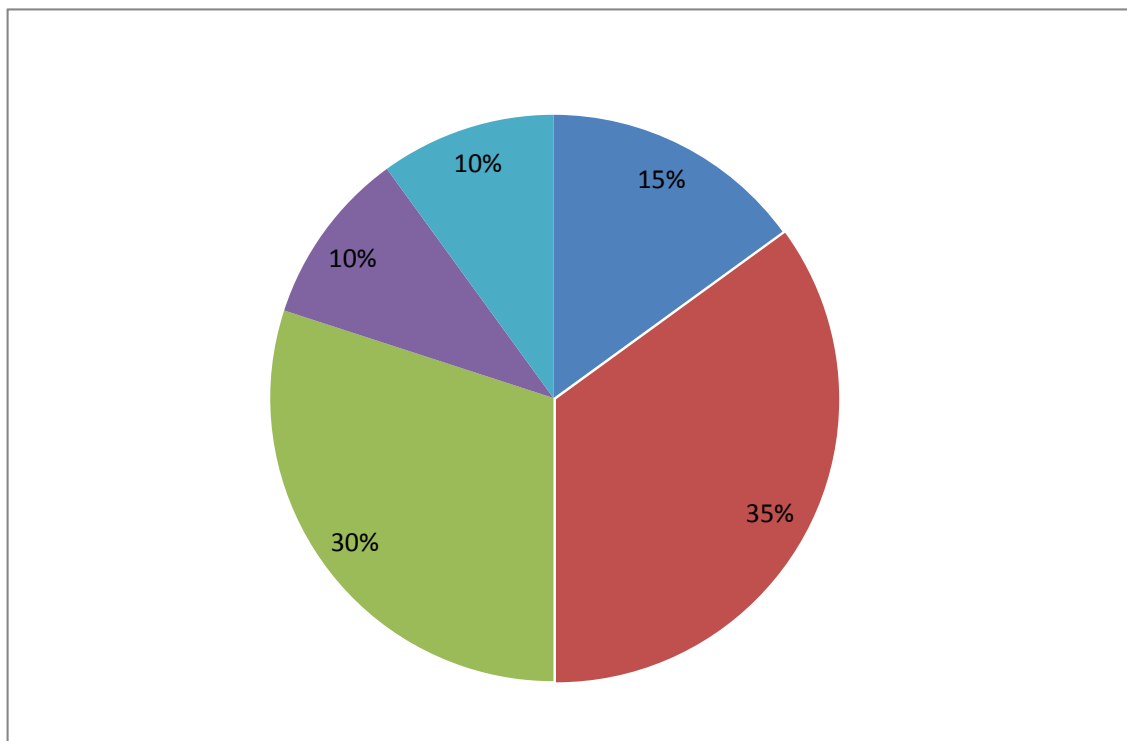


Heads of offices could be information-seekers of different other offices on personal needs. Seeking information by the head of an office in the way of submitting application to another office is an indication of their understanding of the law and conviction about the effectiveness of the law. As to applying for information, 90 percent respondents replied in the negative and 10 percent gave no specific reply. No respondent ever applied for information on personal needs. The data indicate that respondent public officers are themselves not confident about the effectiveness of the law and hesitant to practice on it. This reveals a shortcoming of attitude and mindset.

3.3 Analysis of data on Questionnaires for Designated Officers

The questionnaire prepared for Designated Officer contains 12 questions. Of these, the last 2 questions ask for their opinion as to the inconveniences they are presently experiencing in implementing the law and their suggestions for improvement of the implementation of the law. The remaining 10 questions can be categorized into 3 main groups relating respectively to their preparation to serve skillfully, the cooperation they receive and the response they get from information-seekers. Factors like ' Understanding of the law', 'Training undertaken on RTIA', 'Copy of RTIA in personal collection', ' Internet Connectivity in office' and ' disclosure of e-mail for information-seekers' fall in the first category of 'preparation'. These factors help measure how much Designated Officers qualify to deliver information properly.

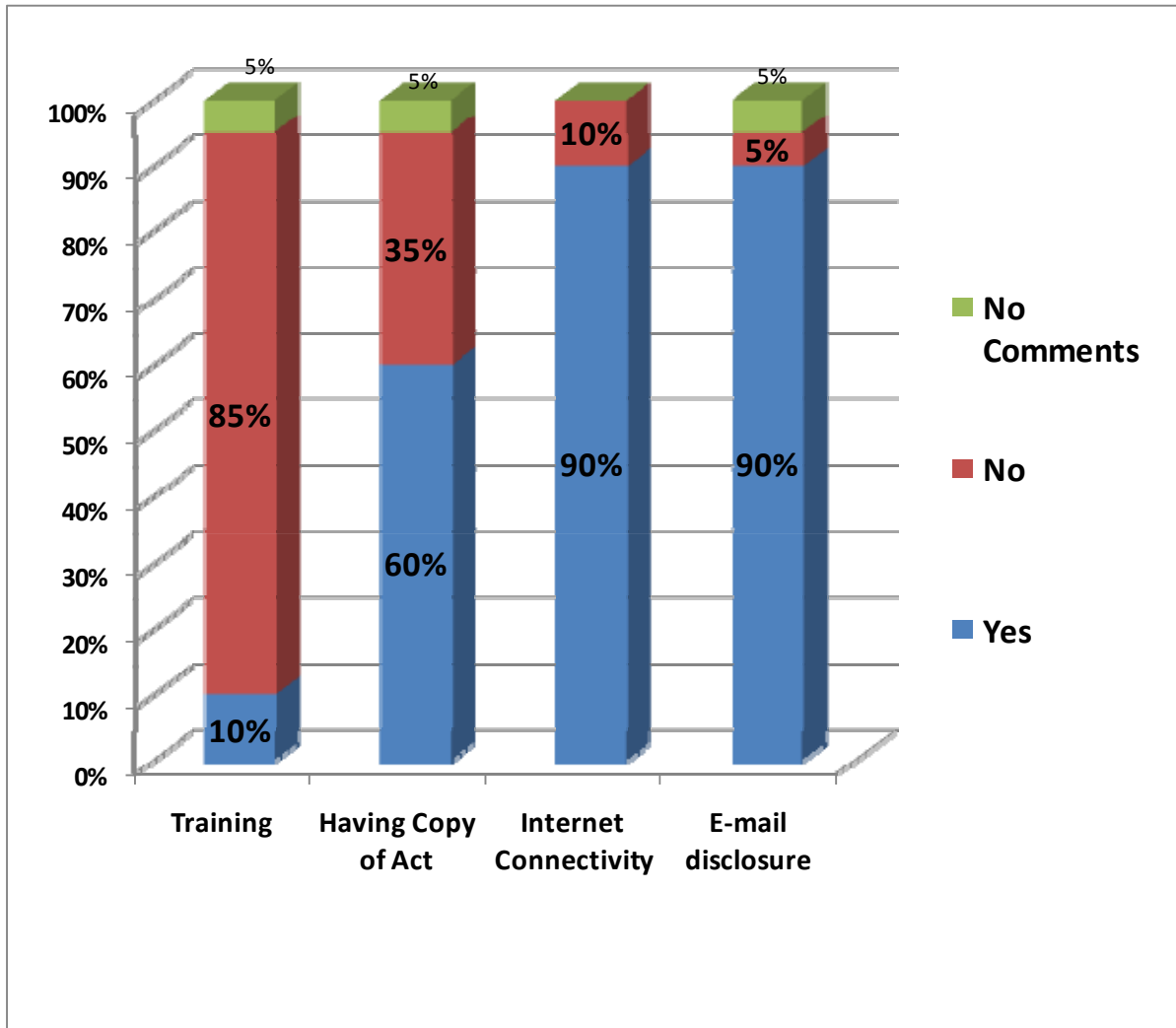
Figure -6_ Understanding of RTIA



The above pie chart represents the level of understanding of the RTIA perceived by Designated Officers in the study area. The level ranges from Very Low to Very High. 15 percent respondents' understanding of the law is Very Low and 35 percent have Low understanding. 30 percent respondents have medium level of understanding. High/ Very High

level of understanding is only 10 percent. So Designated Officers yet to be acquainted fully with the provisions of RTIA.

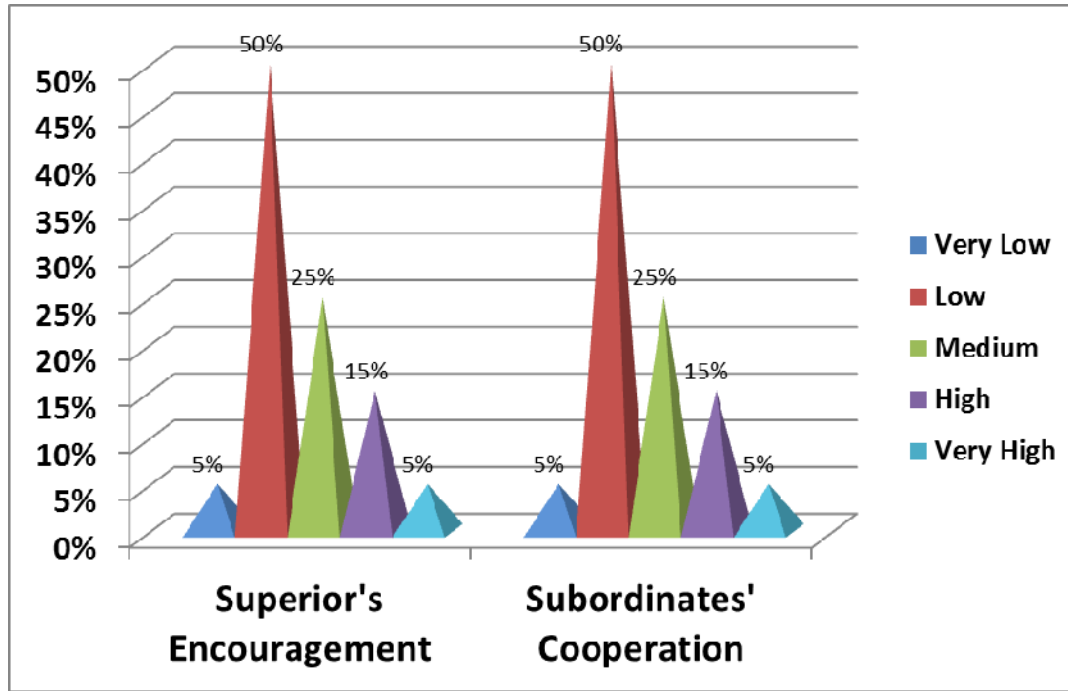
Figure 7 Preparation of Designated Officer



The bar chart above represents statistics as to other factors. As to training, only 10 percent respondents have yet undertaken training on RTIA and 85 percent respondents i.e. the vast majority are remaining without training. Since training enhances skills and motivation, this statistics goes with poor implementation of the law. Only 35 percent respondents have copy of RTIA in their personal collection and the majority i.e. 60 percent do not have copy of RTIA. This signifies that the understanding of the provisions of the law as gathered by the Designated Officers is alarmingly poor that directly contradicts to better implementation of the law. The statistics on internet connectivity and disclosure of e-mail is quite encouraging as 90

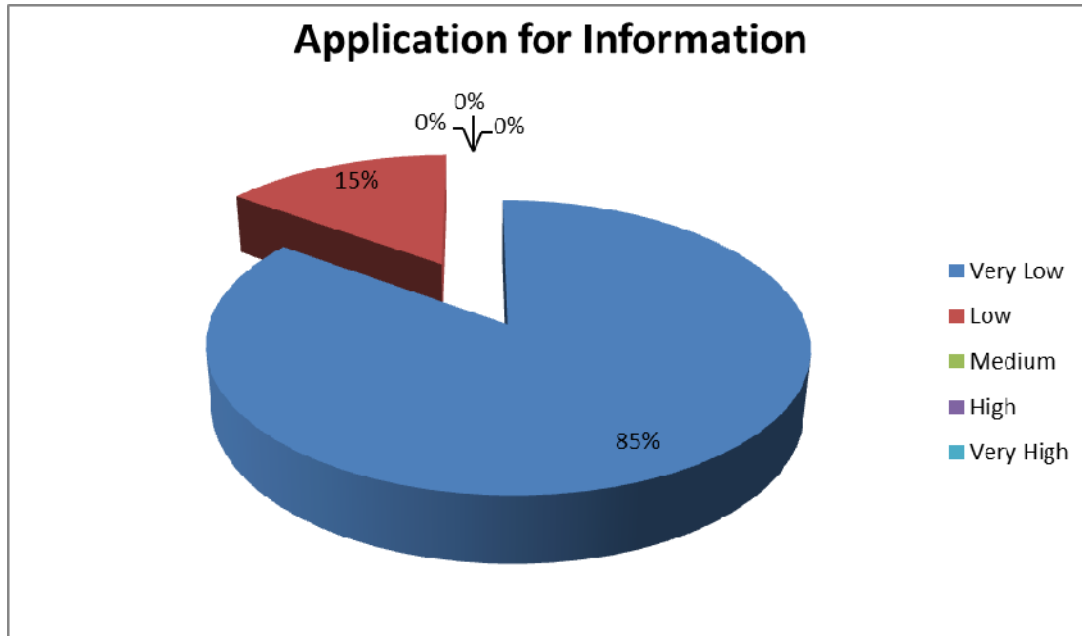
percent respondents replied in the affirmative. This could be an outcome of the efforts of the present government to digitize public offices.

Figure -8_Encouragement/cooperation



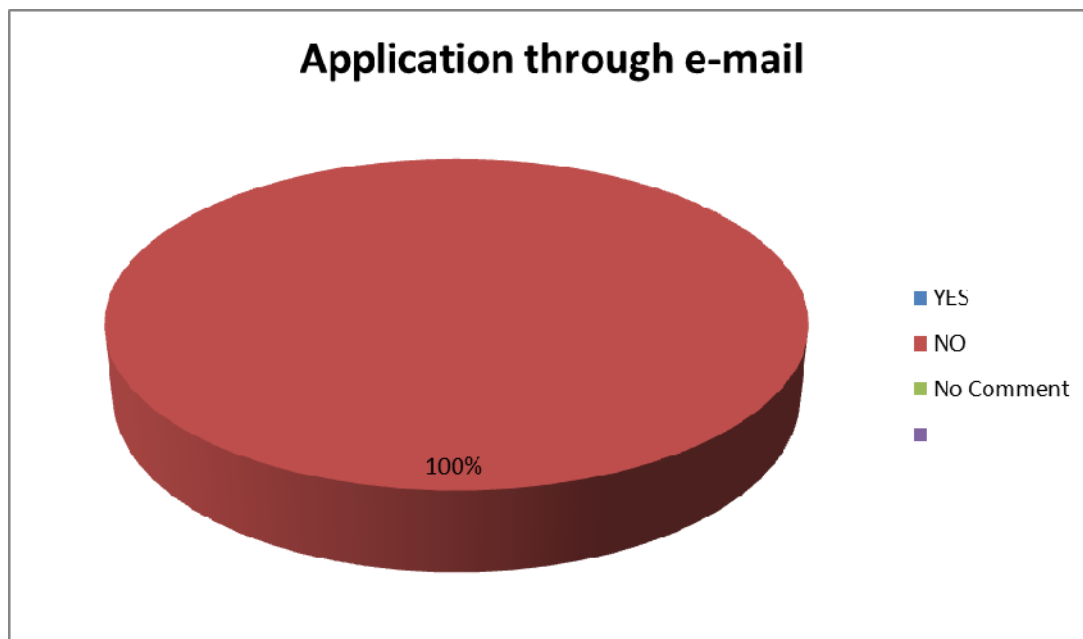
The above chart shows that 50 percent respondents get low encouragement from their superiors as to implement the law. High encouragement is supported only by 15 percent. Low encouragement from superiors can be responsible for poor implementation of the law. Subordinates' cooperation is also dissatisfactory as 50 percent of them impart Low, 25 percent medium and only 15 percent impart High cooperation. This could be improved through training and motivation program undertaken by respective offices for their supporting staff.

Figure -9 Volume of Application for information



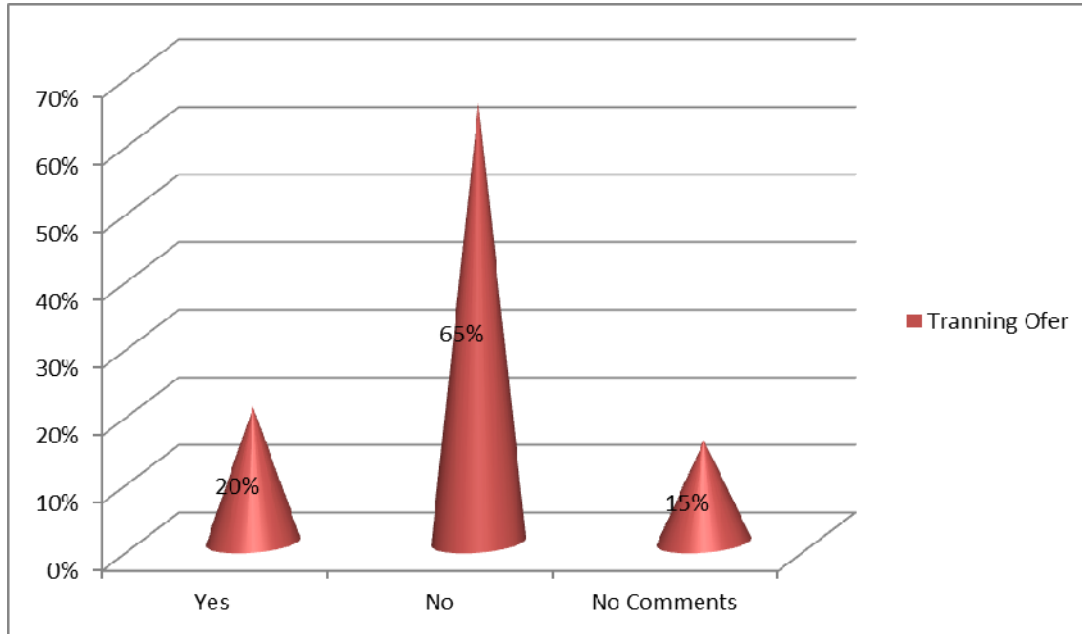
The pie chart shows that 85 percent respondents received Very Low and 15 percent respondents received Low volume of application for information in a month. Very High, High and even Medium volume of application do not exist. These statistics clearly shows that the citizens are either utterly unaware of the law or their consciousness/eagerness for practice on RTIA remains in a very low scale. Implementation of the law cannot be enhanced until and unless citizens frequently put pressure for information.

Figure -10 Electronic Application



The pie chart above represents that 100 percent respondents replied that they received no application through their disclosed e-mail. This sort of unexpectedly poor response of citizens cannot make us optimistic about the implementation of the law. Awareness building among the citizens should be considered as the highest priority for the time being

Figure -11 Training Offer under RTI

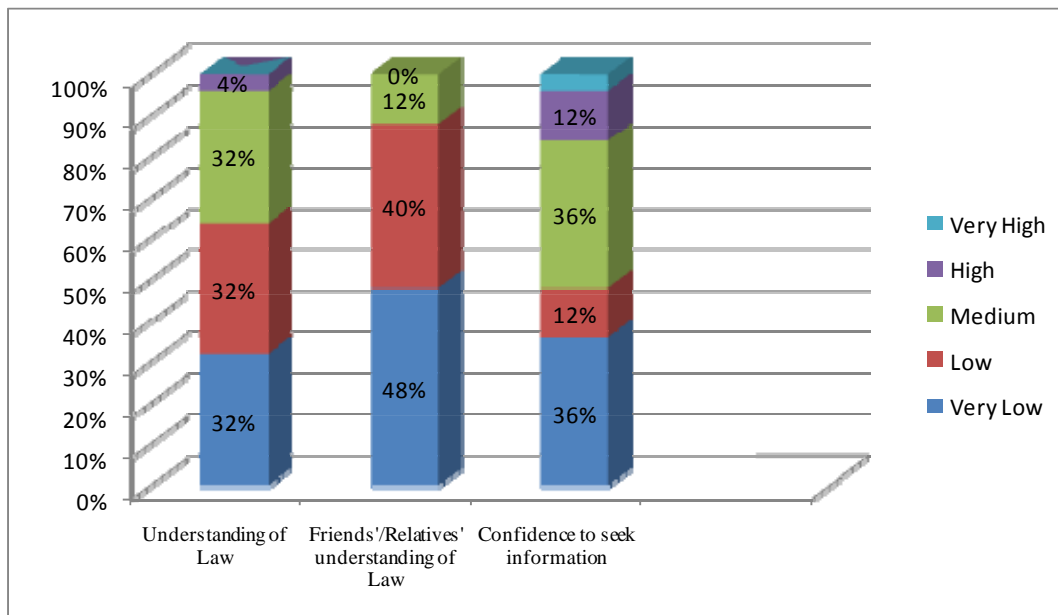


The above chart reflects that 20 percent respondents got offer for training on RTIA from Information Commission or elsewhere, while 65 percent respondents did not get any such offer. The remaining 15 percent refrained from making any comment. Training offer is clearly inadequate and one of the major reasons that government officers lag behind in implementing the law. Thus, the Information Commission and the Government must ensure training facilities for all the Designated Officers as soon as possible.

3.4 Analysis of Data from Questionnaires for Information-Seeker

The questionnaire prepared for Information-Seeker contains 11 questions. Of these, the last question enquires their suggestions for improvement of the implementation of the law. The remaining 10 questions can be categorized into 2 main groups. Questions of the first group relate their understanding of the law and consciousness to make use of the law. Questions falling in the second category are related to the cordial behavior and cooperation they experienced from the supply side i. e. government officers.

Figure-12 Understanding & Consciousness about law



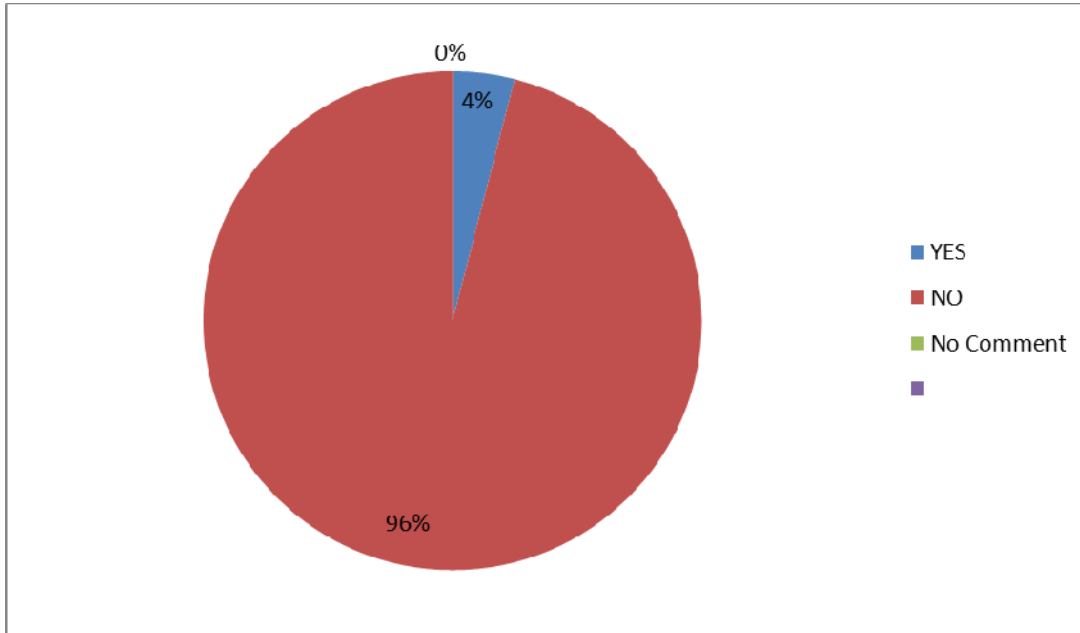
The above bar chart shows that 32 percent respondents have very low and low level of understanding of the law respectively. That is 64 percent respondents have below medium level of understanding. Medium level of understanding is achieved by 32 percent and only 4 percent have high level of understanding. No respondent has very high level of understanding.

48 percent respondents guess that their friends/relatives have very low and 40 percent guess that friends/relatives have low level of understanding of RTIA. Medium level of understanding has been reported by only 12 percent. No respondent pointed to high or very high understanding.

Expressing confidence to seek information from offices, the respondents replied somewhat interestingly. 36 percent and 12 percent respondents replied that they had very low and low level of confidence respectively. Again 36 percent and 12 percent respondents replied that

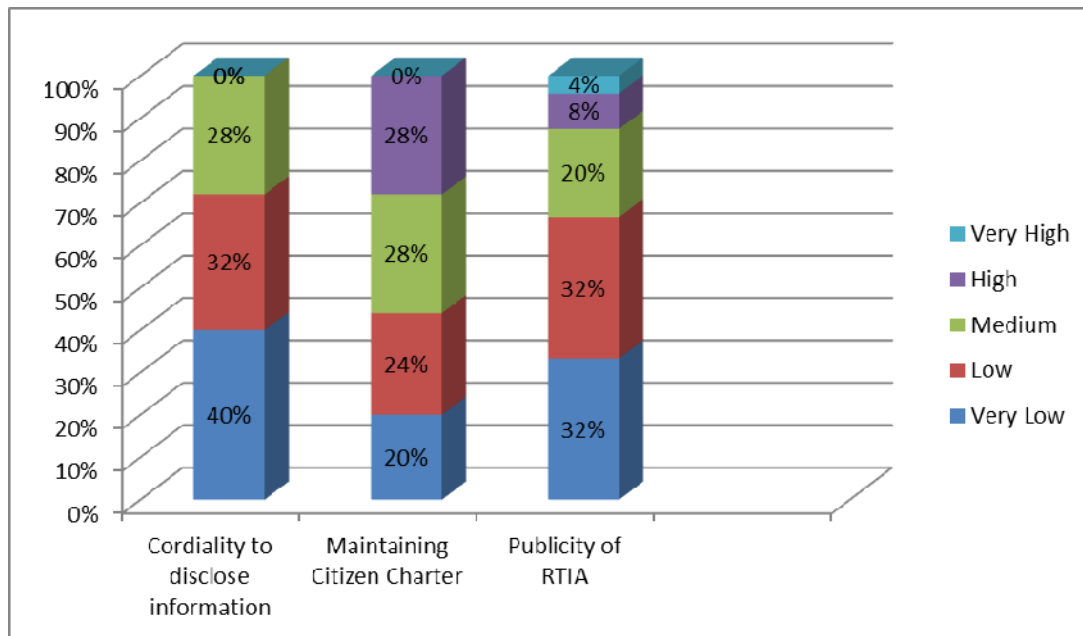
they had medium and high level of confidence respectively. Only 4 percent respondents had very high confidence.

Figure 13 Application for Information



96 percent respondents did not ever applied for information to Government/Non-Government offices. Only 4 percent respondents applied for information. This statistics reveals that citizens are not at all conscious and zealous to seek required information making use of RTIA. This is the greatest drawback in the way of implementation of the law.

Figure 14 Cordiality of offices to disclose information and publicity of law



40 percent respondents opined that cordiality of government officers regarding disclosure of information is very low, as per the guess of 32 percent respondents cordiality is low and the rest 28 percent told that it was medium. So the majority of respondents were suspicious about the cordiality of government officers.

As to maintaining Citizen- Charter by offices, 20 percent respondents replied that very few no. of offices maintain Citizen-Charter, 24 percent opined that a few no. of offices maintain it. 28 percent respondents replied that number of offices that maintain Citizen –Charter is Medium. According to the opinion of 28 percent respondents the number is high. So the data establish that presently slightly more than half of the government offices maintain Citizen-Charter.

With respect to the publicity of RTIA, 32 percent respondents commented that publicity conducted so far is very low; according to 32 percent respondents it is low, 20 percent respondents told it to be medium. The rest 8 percent and 4 percent respondents commented that the publicity is high and very high respectively. So the majority (64%) respondents are of the opinion that the publicity of RTIA is still below medium level.

Chapter Four

Findings of the Research

4.1 Introduction

Keeping the objectives of the research in mind, we had designed questionnaires for the head of government offices, for Designated Information Officer (Officer-in-charge) of government offices and finally for information-seekers who represent the citizens at large. Questions in the questionnaires for officers were so chosen that they mostly relate to the compliance of the provisions of RTIA 2009 by them and practical inconveniences/inadequacies the officers are facing in implementing the law. Officers are entrusted with the responsibility of disclosure and delivery of information. On the other hand, questions in the questionnaire for Information-seekers were predetermined with a view to explore the understanding, awareness, interest and consciousness of the citizens about RTIA. Citizens how much make use of this law and what are their experience/feelings as to the cooperation/cordiality of government officers they gather during seeking of information. Additionally what their views/ comments are about publicity and other related aspects of the law. On the predetermined questionnaires data/responses were collected and data were plotted in charts and analyzed in the previous chapter. This chapter deals with making a list of findings resulting from the analysis of data.

4.2 Findings resulting from Analysis of data collected from Heads of Offices

- i) Information Commission's role in persistently encouraging heads of government offices is alarmingly poor. 75 percent respondents expressed the view that the encouragement they receive from Information Commission is below medium level.
- ii) Encouragement from the superior administrative authority still needs to enhance. 45 percent of respondents opined that it is below medium level. By other respondents (55%) it is medium to very high range.
- iii) No office in the study area gets allocation of budget for the purpose of publicity of RTIA and training of officers on RTIA.
- iv) 60 percent offices of this study have not yet received instructions from controlling ministries/departments to open website in offices. Self-driven disclosure of information

through website is being barred in at least 40 percent offices due to non-availability of active website.

v) Only 35 percent offices preserve information in catalogued or indexed manner i.e. systematically. The remaining offices are preserving information haphazardly.

vi) 65 percent offices have active website.

vii) 60 percent offices upload information in website for dissemination.

viii) 75 percent offices maintain/ hang Citizen Charter in offices.

ix) Prescribed Form for application is available in 50 percent offices.

x) Publicity of the law is done from only 5 percent offices.

xi) Only 15 percent offices held meeting on RTIA with citizens/service-recipients.

xii) Only 10 percent office-heads sought information on personal needs following RTIA.

4.3 Main Findings resulting from Analysis of data collected from Designated Officers

i) 50 percent Designated Information Officers have below-average understanding of RTIA. Only 20 percent have above-average understanding.

ii) Only 10 percent Designated Officers have so far undertook training on RTIA. The huge majority (90%) is left without training.

iii) 60 percent officers keep copy of RTIA in offices

iv) 90 percent offices have internet connectivity.

v) 90 percent Designated Officers have disclosed e-mail address

vi) 55 percent respondents receive below-average encouragement from their superiors in implementing the law. Likewise 55 percent respondents receive below-average cooperation from their subordinates.

vii) Volume of application for information from citizens is very low in 85 percent offices and low in 15 percent offices. Interest of citizens in seeking information is utterly frustrating.

viii) No office in the study area has yet received any request for information through e-mail.

ix) Only 20 percent Designated Officers have so far got offer for undertaking training on RTIA. Alarming 80% Designated Officers have not received training-offer.

4.4 Findings from Analysis of data collected from Information-Seekers

i) 64 percent citizens have below –average understanding of RTIA. 32 percent respondents have medium level of understanding of the law.

ii) Respondents guess that 88 percent of their friends/relatives acquire below-average level of understanding of the law and 12 percent acquire medium level of understanding.

iii) 48 percent respondents have below-average level of confidence to seek information from offices following RTIA. 36 percent respondents have medium level of confidence. Only 16 percent have high to very high level of confidence.

iv) Only 4 percent respondents applied for information. On the contrary, 96 percent respondents did not apply for information.

v) 64 percent respondents commented that publicity of the law is at below-average level. 20 percent respondents commented that it is at the medium (average) level. High to very high level of publicity is commented by only 16 percent respondents.

vi) The majority i.e. 64 percent respondents guess that maintaining/hanging of Citizen Charter is done by less than 50% (half) of offices.

vii) 72 percent respondents guess that cordiality of government officers to disclose information is at below-average level and the rest 28% opine that it is at average level.

Chapter Five

Recommendations and Conclusion

5.1 Introduction

RTIA 2009 is a pro-people law and recognizes people's right to access to information held by public and related other offices. The preamble of the law explicitly declares its objectives as, to ensure transparency and accountability of all public, autonomous and some specific private organizations, to reduce corruption and to empower the people. That RTIA safeguards and restores valid rights of every citizen could be authentically proved through drawing numerous examples from RTI good practicing countries. What we presently need is to establish a regime of frequent practice on RTIA. To ensure expected implementation of the law cordial efforts of the supply side, enthusiastic approach from the demand side and strong monitoring of Information Commission are crucially important. An admixture of strong political will of the government and functioning of a completely independent and fully capable Information Commission is at the same time inevitable. Role of watchdog bodies like the media, NGOs and civil society organizations cannot be overemphasized. The findings of our research point out number of issues where we need to concentrate on. The important issues include,

- ❖ Information Commission and administrative authority's inspirational activities towards field level officers are poor.
 - ❖ No budget is allocated for offices for training, awareness raising and wide publicity of the law.
 - ❖ Heads of offices do not take initiatives for the for the publicity of the law
 - ❖ Heads of offices rarely meet with the service-recipients to disseminate ideas on RTIA
 - ❖ Officers/Staffs are not technically sound and logistically abundant to preserve information of offices in catalogued or indexed manner required for timely delivery of requested information
-

- ❖ Merely twenty percent Designated Officers of the public sector has so far been awarded training on RTIA. The huge majority (80%) is working without having any training whereas these officers are primarily responsible for delivery of information
- ❖ A non-mentionable segment (4%) of the people have been habituated and motivated to formally seek information from offices which indicates the necessity of massive awareness building program to be undertaken by the government and Information Commission to acquaint the people with the provisions and privileges of the law
- ❖ People's perception about the cordiality of government officers as to delivery of information by them is negative. Officers need to get out of this sort of image crisis through continuous inspiration, encouragement from the superior authority and proper understanding and training on RTIA.

So we can see that the prevailing challenges in the way of implementing the law could be cited as lack of inspirational activities undertaken by Information commission/ administrative Authority, lack of training of government officers on RTIA, lack of adequate publicity of the law, lack of cordiality of the authorities in providing information, a culture of secrecy, lack of citizens' demand for information, lack of institutional preparation and lack of technical preparations. All these challenges should be addressed and remedied.

5.2 Recommendations

On the basis of experience gathered in the process of present study, there are some recommendations. The recommendations are,

- ❖ The organizational capacity of Information Commission should be enhanced.
- ❖ Compulsory training program for all Designated Information Officers should be chalked out and completed within specified time-frame.
- ❖ Unnecessary culture of secrecy of officers must be removed through continuous inspiration, motivation and follow-up from the superior authority
- ❖ Technical and logistical support required for systematic preservation of information need to be ensured by the respective administrative authority on priority basis. ❖ With the

allocation of special budget information providing government offices must install internet connectivity and establish website❖ Massive program for wider publicity of the law among the people should be implemented.

- ❖ Against any willful omission or negligence quick punitive action should be imposed.
- ❖ The media, NGOs and civil society organizations should contribute as to disseminate the provisions of the law to the people and encourage people to make use of the law.
- ❖ Above all, political will of the government must be ensured and strengthened

5.3 Conclusion

RTIA is a landmark law in Bangladesh which provides legal opportunities for citizens to seek and receive information from public offices. Through enactment of this law Bangladesh has formally recognized its bold support to the universally accepted notion of right to information and opens up windows for a better regime of good governance and empowerment of the people. Adoption of this law has brightened the image of the country in international arena and this adoption is quite in line with its being a signatory of ICCPR on 6 December 2000. Probable benefits arising out of this law are huge. Mere adoption of law is not adequate to procure those benefits. There are still a great deal of lapses on the part of important agencies like the government, the Information Commission, the public officials and the citizens in implementing this beneficial law. For a country like ours where democracy is still weak and corruption in all spheres of administration abundantly prevails we need to introduce a changed scenario through proper implementation of RTIA. For this end sincere effort from all concerned is a must.

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Appendix - A

Topic: Compliance of RTI Act, 2009 in Bangladesh: A Study of Rajshahi Division.

Questionnaire

(For Head of the office)

(This questionnaire is for the purpose of academic research. Confidentiality of personal identity is to be maintained. Your cordial cooperation is earnestly sought.)

Name:

Organization:

Designation:

Engagement of Office/Organization

1. How much initiative did Information Commission take to acquaint you/your colleagues with RTI Act?

Very Low

Very High

1	2	3	4	5
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2. How much encouragement did you get from your superior authority to implement RTI Act?

Very Low

Very High

1	2	3	4	5
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3. Designated Officer for this office was first assigned

i) In 2009/2010 ii) In 2011 iii) In 2012 iv) In 2013 v) Not yet

4 Is there catalogue or Index for all information?

Yes

No

No Comment

5. Did your controlling ministry/division/higher authority instruct you to open website for your office?

Yes

No

No Comment

6. Is there active website for your organization?

Yes

No

No Comment

7. Whether relevant information is made accessible to citizens through website?

Yes

No

No Comment

8. Do you have Citizen- Charter hung in the Notice-board of your office?

Yes

No

No Comment

9. Do you have copy/copies of RTI Act in your office?

Yes

No

No Comment

10. Is prescribed application form for information available in your office?

Yes

No

No Comment

11. Does Designated Officer have e-mail address?

12. What is the level of responses of information-seekers?

Very Low

Very High

1	2	3	4	5
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13. Do you maintain separate File for delivery of information under RTI Act?

14. How much inconveniences your office undergo to deliver information?

Very Low

Very High

1	2	3	4	5
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15. Did you get any budgetary allocation for publicity or training on RTI Act?

16. Do you have required Fax Machine, Photocopier, Internet Connection, other requisites needed in connection with information -delivery?

a) (i) Yes (ii) No (iii) No Comment

b) If No, which one is needed?

Personal engagement

1. What is your level of understanding of the RTI Act 2009?

Very Low

Very High

1	2	3	4	5
---	---	---	---	---

2. How much prepared are you as to deliver information properly?

Very Low

Very High

1	2	3	4	5
---	---	---	---	---

3. Did you or your Designated Officer participate in any Training Program/Workshop arranged by Information Commission or else other?

 Yes No No Comment

4. Did you make any publicity in your tenure for better compliance of RTI Act?

 Yes No No Comment

5. Did you discuss the provisions of RTI Act with your subordinate colleagues?

 Yes No No Comment

6. Are you vigilant about the performance of Designated Officer?

 Yes No No Comment

7. Did you hold any meeting with the service-recipients?

 Yes No No Comment

8. Did you ever applied for information following RTI Act?

 Yes No No Comment

9. What are your suggestions/recommendations to improve the implementation of RTI Act?

Appendix - B

Topic: Compliance of RTI Act, 2009 in Bangladesh: A Study of Rajshahi Division

Questionnaire

(For Designated Officer)

(This questionnaire is for the purpose of academic research. Confidentiality of personal identity is to be maintained. Your cordial cooperation is earnestly sought.)

Name:

Organization:

Designation:

1. What is your level of understanding of the RTI Act 2009?

Very Low

Very High

1	2	3	4	5
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2. Did you get any offer from Information Commission or elsewhere to take part in Training on RTI Act?

 Yes No No Comment

3. Did you undertake any Training on RTI Act?

 Yes No No Comment

4. Have you collected copy of RTI Act for your use?

 Yes No No Comment

5. How much encouragement do you get from your superiors to implement RTI Act?

Very Low

Very High

1	2	3	4	5
---	---	---	---	---

6. How much cooperation do you get from supporting staff to deliver information to citizens?

Very Low

Very High

1	2	3	4	5
---	---	---	---	---

7. Is there Internet Connectivity in your office?

 Yes No No Comment

8. Have you disclosed your e-mail address as Designated Officer?

 Yes No No Comment

9. Did you ever receive any request for information through your e-mail?

 Yes No No Comment

10. What is the volume of application you receive in a month for information?

Very Low

Very High

1	2	3	4	5
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11. What are the inconveniences you are facing regarding delivery of information?

12. What are your recommendations to improve the implementation of RTI Act?

Appendix - C

Topic: Compliance of RTI Act, 2009 in Bangladesh: A Study of Rajshahi Division Questionnaire

(To be filled in by Information-seekers)

(This questionnaire is for the purpose of academic research. Confidentiality of personal identity is to be maintained. Your cordial cooperation is earnestly sought.)

Name:

Age:

Occupation:

Address:

1. What is your level of understanding of RTI Act 2009?

Very Low

Very High

1	2	3	4	5
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2. How did you come to know about RTI Act?

Through

Discussion of Information Commission	Television	Newspaper	Gov./Non-govt. Offices	Friends/Relatives
--------------------------------------	------------	-----------	------------------------	-------------------

3. Did you ever applied for information to Gov./ Non govt. offices?

Yes

No

No Comment

4. If yes, how much cooperation did you get?

Very Low

Very High

1	2	3	4	5
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5. Did you get Prescribed Form from concerned office/offices?

Yes

No

No Comment

6. What proportion of offices hangs citizen-charter for knowing of the people?

Very Low

Very High

1	2	3	4	5
---	---	---	---	---

7. How much cordial offices are as regards to disclose information and implement RTI Act?

Very Low

Very High

1	2	3	4	5
---	---	---	---	---

8. What is your level of confidence to go for information to any office?

Very Low

Very High

1	2	3	4	5
---	---	---	---	---

9. How much your friends/ relatives know / use RTI Act?

Very Low

Very High

1	2	3	4	5
---	---	---	---	---

10. What is your evaluation about the wideness of publicity of RTI Act?

Very Low

Very High

1	2	3	4	5
---	---	---	---	---

11. What are your suggestions to improve the implementation of RTI Act?