

National Conference on 'Pakistan's RTI Legislative Regime Learning from Provincial Legislative Experiences'



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Regime Learning from Provincial Legislative Experiences'**

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Background and Rationale:

While Indian Right to Information Act 2005 has been a beacon of light for RTI activists in Pakistan for a long time, KP Right to Information Act 2013 and Punjab Transparency and Right to Information Act 2013 have immense value as examples from home for enactment of robust laws at federal level and in provinces of Sindh and Balochistan. In fact, federal RTI bill approved by the Senate Committee on Information and Broadcasting benefits from both these laws and the drafters of this law have included all the stronger provisions of these laws and left out weaker ones. This is a major departure from the past when provinces always looked up to the federal government for guidance in legislative matters and Balochistan Freedom of Information Act 2005 and Sindh Freedom of Information Act 2006, replicas of the Freedom of Information Ordinance 2002, testify this practice. If federal government can learn from right to information laws of Khyber Pakhtunkhwa and Punjab, Balochistan and Sindh should scrutinise laws of their provincial counterparts and explore the possibility of taking from these laws what suits them best according to their own requirements.



The Balochistan government has shown keen interest in the area of right to information legislation as was demonstrated by the participation of Dr. Abdul Malik Baloch in the conference on 'Right to Information and Need for New Legislation in Balochistan' organised by CPDI on September 02, 2015. Sindh government is in the process of drafting RTI law for the province. It is in this context that CPDI, as a partner of Coalition on Right to Information, (CRTI) held conference on 'Pakistan's RTI Legislative Regime: Learning from Provincial Legislative Experiences' on October 06-07, 2015 in Islamabad.

Conference Goal:

To explore legislative options on right to information for Balochistan and Sindh by involving Balochistan political leadership, public officials, RTI experts and members of information commissions of Khyber Pakhtunkhwa and Punjab

Specific Objective:

To develop specific policy recommendations to enact new right to information laws as well as policy recommendations for strengthening existing provincial RTI legislative regime.

Welcome Note:

Ms. Natalia Tariq, Program Officer,
Open society foundation Pakistan:

Assalam o Alaikum and good morning
everyone!

I would like to welcome you to the
conference on “Pakistan’s RTI
Legislative Regime: Learning from
Provincial Legislative Experiences”
being held by the Coalition on RTI
(CRTI). As mentioned in the concept
note that you have a copy of, the objective of this conference is twofold:



- to explore legislative options on right to information for Balochistan and Sindh by involving Balochistan political leadership, public officials, RTI experts and members of information commissions of Khyber Pakhtunkhwa and Punjab; and
- To develop specific policy recommendations to enact new right to information laws as well as policy recommendations for strengthening existing provincial RTI legislative regime.

There is now a global recognition of the importance of transparency in promoting effective governance and also as a fundamental right in and of itself (as enshrined in national, regional and international level laws and treaties). RTI is seen as being fundamental to enhancing citizen participation in decision making, affecting public policy, and tipping the balance of power between states and citizens. Internationally, momentum for reform has been created by intergovernmental bodies and aid agencies (OSF being one of the key players), working with local NGOs and policymakers that have pressurised governments to pass RTI laws. In many cases, this pressure has translated into reality at the national level as domestic political elites have realised they need to support RTI efforts to gain or maintain their political legitimacy domestically and internationally.

In Pakistan, quite recently, the efforts of our civil society and commitment of our governments have led to the enactment of the Punjab Transparency and RTI Act and the KP RTI Act. Both are considered effective pieces of legislation, being ranked quite highly by the Centre for Law and Democracy, an independent group that ranks RTI laws worldwide. Both laws include the principles of maximum disclosure, a process to facilitate access to information, limited scope of exemption, no or affordable fees for citizens who wish to access information, and protection of whistle blowers. Under both these laws, independent information commissions (consisting of three members) have been established to ensure that these principles are upheld.

It is my hope that our discussions during this conference will lead to recommendations and political will to enact similar effective laws in Sindh, Balochistan and at the Federal level. In fact, the federal RTI bill which has already been approved by the Senate Committee on Information and Broadcasting benefits from both KP and Punjab laws, and this draft bill is being ranked by CLD 11 points higher than the best RTI law in the world (Serbia). However, the enactment of this law is still pending and unfortunately, In a major dent to transparency and people's right to know, the federal government has almost buried the Freedom of Information law by issuing a directive that allows all the ministries to block any information in the name of "public interest". A directive such as this is a huge blow to the transparency and openness movement in Pakistan, and we all must play our part in ensuring that our right to information is not encroached.

I would also like to use this opportunity to highlight the importance of ensuring the effective implementation and operationalization of RTI legislation once good laws are adopted. The platform that this conference provides is ideal for discussing experiences and lessons learned of all stakeholders in the implementation experience so far, and really think about how we can make the law more functional and usable for the average Pakistani.

Finally, I would like to thank CPDI and CRTI for organising this wonderful and very important conference, as well as all the participants – parliamentarians and representatives from government, information commissioners and our colleagues from the civil society and media who have taken out the time to be with us today.

Day 1:

1st Session

An Overview of RTI Legislative development in Pakistan: Challenges and lessons learnt

Speakers:

Natalia Tariq, Program Officer, Open society foundation Pakistan (Moderator)

Mr. Muhammad Anwar, Executive Director, Centre for Governance and Public Accountability, (CGPA)

Mr. Mukhtar Ahmad Ali, Information Commissioner, Punjab Information Commission

Mr. Amer Ejaz, Executive Director, Centre for Peace and Development Initiatives (CPDI)

Mr. Azaz Syed, Journalist, Jang Group

Ali Muhammad Khan, MNA, Pakistan Tehreek e Insaaf

Altaf Hussain, Director Programs, Gilgit Baltistan Policy Institute

Mr. Muhammad Anwar:

Mr. Anwar shared that none of the districts courts shared information when sought under Khyber Pakhtunkhwa Right to Information Act 2013. He also said that Proactive disclosure of information was a major challenge in Khyber Pakhtunkhwa. He said that Khyber Pakhtunkhwa public bodies needed to proactively disclose the information under section 5 of the RTI Law. He mentioned that Right to Information is basically participation of citizen's in public affair matters.



Mr. Ali Muhammad Khan:

Mr. Ali Muhammad Khan MNA Pakistan Tehreek e Insaaf quoted the example of Hazrat Umar; he said that right to ask question is in our own Islamic tradition as a common man asked question to Caliph Umar about the piece of Cloth. He stated that every citizen can file information request to question the



performance of Khyber Pakhtunkhwa public officials under Khyber Pakhtunkhwa Right to Information Law. He said that he kept his commitment of advocating on taking back amendments in Khyber Pakhtunkhwa RTI Act 2013. Khyber Pakhtunkhwa and Punjab RTI Laws have strong penalty system in case PIO refuses to provide information. He said that he is the tax payer and he should have this right to know.

Mr. Amer Ejaz:

Mr. Amer Ejaz mentioned that transparency should be for all and no institution should be



exempted. He said that even budget documents are considered as secret documents in Pakistan. He said 'that he was not a student of law but what the use of right to information was if one could not get information about one's elected representatives. Talking about the need for the enactment of

effective right to information laws in Balochistan, Sindh and at federal level, he suggested that there should be an independent information commission; ombudsman does not have capacity to deal with RTI issues.

Mr. Mukhtar Ahmed:

Mr. Mukhtar Ahmad share with participants that transparency should be rule and secrecy should be an exception. When seen in this context, laws like Official Secrets Act need to be modified. He was also of the view that Peshawar High Court should not be given exemption. He also shared that both KP and Punjab RTI laws also give citizens right to inspect documents. He said that RTI Laws should be applicable to FATA PATA, Gilgit, Baltistan. If exceptions are clearly drawn in RTI Law then what is the use of official secrets Act? Contradictory laws to RTI should be abolished. He also explained that record keeping should be improved in government departments. He briefed about the poor record keeping causes delay in providing information. He also shared that filing right to information request under the Punjab Transparency and Right to Information Act 2013 was simple as the request could be filed on a plain paper.



Mr. Azaz Syed:

Mr. Azaz Syed shared his experiences of using right to information laws of Khyber Pakhtunkhwa and Punjab. He was of the view that both Punjab and Khyber Pakhtunkhwa information commissions were doing commendable job. He shared that when he asked about PM's and president's gifts received and sent and response was that it can damage the foreign relations. He said that 'qomi raz' terminology needs to be defined clearly.



Mr. Altaf Hussain:

Mr. Altaf Hussain, Director Programs, Gilgit Baltistan Policy Institute shared that residents of his area could not seek information from public bodies as there were no RTI laws. He stressed the need for putting in place RTI laws so that residents of his area could also exercise their right to information.



2nd Session:

Post 18th Amendment RTI Legislation and Role of Political Parties

Speakers:

Mr. Amer Ejaz, Executive Director, Centre for Peace and Development Initiatives, (CPDI)
(Moderator)

Senator Ms. Rubina Khalid, PPP

Mr. Hafeez u din, Member Provincial Assembly (PTI)

Haji Adeel, Senior Politician, ANP

Senator Mr. Kamil Ali Agha, Chairperson, Senate Committee on Information and
Broadcasting

Ms. Rubina Khalid:

Ms. Rubina Khalid representing Media cell PPP. said that Right to information and media ethics were equally important.

Mr. Hafeez u Din:

Mr. Hafeez ud Din addressing the participants stressed upon the need for a robust RTI Law for Sindh. He said that his party would play its role for the enactment of an effective right to information law for the province.

Haji Adeel:

Haji Adeel said yes exemptions are there but why everything related to cantonment comes under the security and defence. MNA's cannot ask question from National Assembly. If they seek information from National Assembly, they need to talk to speaker.

Mr. Kamil Ali Agha:

Senator Kamil Ali Agha shared with the participants that 17th July 2012 was a remarkable day as Senate Standing Committee on Information and Broadcasting established sub-committee to finalise RTI Bill. Senate sub Committee came up with the finalised RTI Bill on 9 Jul 2013. Unfortunately, the same bill is yet to be tabled in the Parliament by PMLN government. This bill has been ranked highly by an international organisation but our government has failed to present it in the Parliament for its approval. Government is not interested in enacting right to information law. This RTI Bill will be presented as private member Bill in next private member's day.

Day 2:

Working Group Session:

Strengthening RTI legislation in
Pakistan



Working Group Speakers and Participants:

Mr. Zafar Ullah Khan ,
Executive Director, CCE

Mr. Muhammad Wasay Tareen
Baluchistan Ombudsman

Mr. Mazhar Hussain Minhas
Chief Information Commissioner, Punjab Information Commission

Sahibzada Muhammad Khalid
Chief Information Commissioner, Khyber Pakhtunkhwa Information Commission

Mr. Muhammad Siddique Abbasi
Additional Secretary, Law Department Sindh

Mr. Amer Ejaz
Executive Director, CPDI

Mr. Nadeem Iqbal
Executive Director, The Network

Ms. Shagufta Malik
Member Provincial Assembly, ANP

Mr. Liaqat Banori
Executive Director, SHARP

Mr. Aftab Alam
Media Development Professional

In the working group, the discussants elaborated upon whether Baluchistan Freedom of Information Act 2005 and Sindh Freedom of Information Act 2005 could be improved through amendments or needed to be repealed to ensure citizens right to information. They also discussed role of political parties in the enactment of right to information laws and the amendments introduced in Khyber Pakhtunkhwa Right to Information Act 2013. Following are the key points shared by the participants in this session.

Balochistan ombudsman, Muhammad Wasay Tareen said that Balochistan Freedom of Information Act 2005 should be repealed and a new robust right to information law on the lines of those enacted in Punjab and Khyber Pakhtunkhwa should be enacted. Additional Secretary, Law Department, Sindh said that Law Department was currently working on Draft of RTI bill. He said that the effort was being made to enact an effective right to information law for Sindh province. Sahibzada Muhammad Khalid, Chief Information Commissioner, Khyber Pakhtunkhwa Information Commission shared that no government was interested in the implementation of right to information laws in the country. He said that new laws should be enacted in Sindh and Balochistan. RTI should be the part of school Curriculum. He was of the view that it was wrong to give exemption to Peshawar High Court but for him the major challenge was the implementation of this law. He also said that our society was secretive in nature Mazhar Minhas, Chief Information Commissioner; Punjab Information Commission was of the view that Baluchistan and Sindh right to information laws could be improved through amendments. He also mentioned that even KP and Punjab Laws needed to be amended. He argued that amendments in Khyber Pakhtunkhwa KP Right to Information Act 2013 were against the spirit of the law. He was also of the opinion that the political parties should play an active role for the enactment of an effective right to information law at the federal level. Nadeem Iqbal, Executive Director, the Network said that FOI 2002 has not served any purpose and neither did its replicas. Mr. Zafar Ullah Khan, Executive Director, Centre for Civic Education was also of the view that Baluchistan and Sindh right to information laws could not be improved through amendments and new laws needed to be enacted by provincial governments. He also suggested that budgetary allocations for information commissions and for other regulatory bodies should be made as charged expenditure as is done in the case of judiciary. Mr. Amer Ejaz, Executive Director, Centre for Peace and Development Initiatives, (CPDI) shared that Sindh government should immediately share the draft right to information law with the public. The bill should be presented for cabinet approval only after seeking input from all stakeholders including media, civil society groups and citizens. He also opined that Freedom of Information Ordinance 2002 and its replicas in Sindh and Balochistan were so structurally flawed that these laws could not be improved through amendments. He also argued that there was no precedent in the country when private member bill was enacted as a law. Mr. Ishaq Banori mentioned that courts should also be brought within the purview of the law. Mr. Aftab Alam said that PMLN was not interested in enacting right to information law.

Media Briefing:

In the media briefing, Mr Amer Ejaz and Zafar Ullah Khan shared following recommendations that emerged during deliberations in the conference proceedings:



- PMLN government should immediately table right to information bill approved by the Senate Standing Committee on Information and Broadcasting, and enact it after input of civil society groups and media organisations.
- Baluchistan and Sindh governments should enact effective right to information laws and repeal Baluchistan Freedom of Information Act 2005 and Sindh Freedom of Information Act 2006 as these laws have such structural flaws that cannot be improved through amendments
- Sindh government should immediately share draft right to information bill with the public. This bill should be presented for cabinet approval only after seeking input from all stakeholders including media, civil society groups and citizens.
- Peshawar High Court should be made appellate forum against the decisions of Khyber Pakhtunkhwa Information Commission.
- Budget of Khyber Pakhtunkhwa Information Commission and Punjab Information Commission should be approved by their assemblies as a charged expenditure on the lines of budget approved for judiciary.



The Coalition on Right to Information (CRTI) was established on December 17, 2012 in Islamabad by a group of civil society organizations.

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