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Centre for Peace and  
Development Initiatives

# Conference Report

## International Conference on Right to Information: Legal Regimes, Institutions and Citizens

September 27-28, 2011

# Conference Report

**International Conference on Right to Information:  
Legal Regimes, Institutions and Citizens**

**September 27-28, 2011**

Centre for Peace and Development Initiatives (CPDI) would welcome reproduction and dissemination of the contents of the report with due acknowledgments.

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## TABLE OF CONTENTS

Rationale of the Conference	1
List of Participants	2
Day One	3
SESSION 1- RTI: GLOBAL PERSPECTIVES	3
SESSION 2 - TRANSPARENCY AND NON-PROFIT SECTOR	7
KEYNOTE SPEECH - SHERRY RAHMAN	9
SESSION 3 - TRANSPARENCY AND INTERNATIONAL FINANCIAL INSTITUTIONS	10
SESSION 4 - RTI AS TOOL FOR INVESTIGATIVE JOURNALISM	11
Day Two	14
SESSION 5 - RTI AS TOOL FOR SOCIAL ACCOUNTABILITY AND INSTITUTIONAL REFORMS SOME CASE STUDIES	14
SESSION 6 - RTI AND COMMUNICATION AND INFORMATION TECHNOLOGY: THE EMERGING TRENDS	16
SESSION 7 - RTI AND THE VULNERABLE GROUPS	19
SESSION 8 - ISLAMABAD RTI DECLARATION	21

## Rationale of the Conference

Struggle between forces protecting, promoting and justifying culture of secrecy in the functioning of governments and those vying for openness and transparency therein continues. Whereas some countries have carried out progressive legislation to provide their citizens greater access to information held by public bodies and organizations substantially funded by tax-payers' money, many countries still hang on to coercive laws aimed at stopping flow of information in the public domain. Furthermore, there are countries like Pakistan which have put in place RTI laws which are ostensibly meant to provide information but end up denying information to citizens. Then there have been voices demanding putting in place mechanisms to ensure availability of information in the public domain about the working of the International Financial Institutions (IFIs) and the way tax-payers' money is utilized by Non-governmental Organizations (NGOs). Wikileaks took the world by storm and raising questions pertaining to moral aspects of right to information and the role of communication and information technology have come to fore. Furthermore, potential of RTI legislation as a tool for investigative journalism has not been fully realized and attitude of journalists in this regard can be described as ambivalent. It needed to be understood as to what are the causes of this ambivalence as citizens are mostly dependant on media for the exercise of their right to information. Right to information activists need to sit together and take stock of the situation and make recommendations for the way forward. It was in this background that the 'International conference on Right to Information: Legal Regimes, institutions and citizens' was held in Islamabad on September 27-28, 2011.

## List of Participants

Sr #	Resource Person	Organization	Country
1	Adnan Rehmat	Intermedia	Pakistan
2	Aftab Alam	Advocate	Pakistan
3	Barrister Zafarullah khan	CCE	Pakistan
4	Bilal Saeed	CPDI	Pakistan
5	Farzana Naim	MJF	Bangladesh
6	Gulbaz Ali	SDPI	Pakistan
7	Iqbal Khattak	Daily Times	Pakistan
8	Karolina Olofsson	Integrity Watch	Afghanistan
9	Mazhar Abbas	ARY News	Pakistan
10	Mukhtar Ahmed Ali	Founding Director, CPDI	Pakistan
11	Nasira Javaid	Justice (rtd)	Pakistan
12	Niazullah Ahmed	Sightsavours	Pakistan
13	Sadeka Halim	Member Information Commission	Bangladesh
14	Sanjida Sobhan	MJF	Bangladesh
15	Sarwar Bari	Pattan	Pakistan
16	Shafique ur Rehman	Baitulmal	Pakistan
17	Shahzada Zulfikar	Journalist	Pakistan
18	Shershah Khan	World Bank	Pakistan
19	Tahira Abdullah	Development and Rights worker	Pakistan
20	Tehani Dinushi Ariyaratne	Centre for Poverty Analysis (CEPA)	Sri Lanka
21	Toby Mendel	Centre for Law and Democracy	Canada
22	Zahid Abdullah	CPDI	Pakistan
23	Zaigham Khan	CPDI	Pakistan



Day One

SESSION 1- RTI: GLOBAL PERSPECTIVES

Evolving of international best practices on right to information legislation  
RTI Indices and other tools aimed at measuring level of access to information in a country

CHAIR:  
Toby Mendel- *Centre for Law and Democracy, Canada*

PANELISTS:  
Farzana Naim- *MJF, Bangladesh*  
Karolina Olofsson- *Integrity Watch, Afghanistan*  
Tehani Dinushi Ariyaratne - *Centre for Poverty Analysis (CEPA), Sri Lanka*  
Mukhtar Ahmed Ali- *Pakistan*

Toby Mendel:  
While giving introduction to RTI regime in the world, the chairman of panel introduced the RTI index based on certain variables to determine the status of RTI in the world. He presented the recent scores of the RTI index wherein India got 130 points, Bangladesh 109, Nepal 105, while Pakistan received only 70 points. He informed the participants that there are 19 countries in the world that scored more than 100 points on RTI index.

Farzana Naim  
Farzana Naim stated that RTI law was passed in 2009 in Bangladesh by the then elected government. She emphasized the need of effective RTI legislations around the world, which is now recognized globally in developing and the developed countries as strengthening democracy and promoting human rights and good governance. She argued that RTI has reduced the chances of corruption and misappropriation of funds. While regarding the enactment of RTI in Bangladesh, she stated that the civil society organizations played important role. Although the law commission of Bangladesh prepared draft for RTI in 2002, however the campaign was strengthened by civil society groups between 2002 and 2009. The rationale was to provide the poor, information to improve their socioeconomic conditions. She felt proud that her organization named MJF took leading role in that campaign. She informed that it was the civil society network group that drafted law in 2008, which was made part of ordinance in 2008 by care taker government but was not well accepted. Then in 2009, the elected government passed that law.

Miss Naim stated that, in Bangladesh, there is a very strong Information Commission constituted of government as well as NGOs appointed designated information commissioners working for

RTI. The preamble of law provides rationale for disseminating information. The authorities requiring providing information are all government ministries, statutory bodies, civil society organizations financed by government and development agencies under the constitution and other authorities under the law. The NGOs are also subjected to share information under this law, as in Bangladesh, the share of international economic aid to NGOs has increased from 14% in 1995 to 24 % in 2000 of the total ; therefore, NGOs should also be accountable and transparent regarding resources. However, the non inclusion of private sector like corporations, multinational companies and political parties in the authorities list is seen critically, however, these are regulated as well as made accountable by regulatory Authority, which treat these as third party under the law.

All the citizens of Bangladesh can request for information under the law. In the commission there are 7880 (6255 government officials and 1635 belonging to different NGOs) designated officers appointed for the dissemination of information. The recruitment, salaries and funding of information commission is done by government. The lowest ranked officers lack necessary coordination, will for such authority, however they are getting trainings, capacity building by the government and NGOs sector. However, in Bangladesh, she emphasized that the list of exemptions to RTI law is very long; it includes sensitive issues, foreign policy matters, security issues, intellectual property rights, and all the cases under trial in the local courts. Furthermore, eight categories of security and detective bodies have been exempted from these laws, however, in case of corruption and malfunctioning, these agencies have obligations to share information. However, there is mechanism for addressing complaints regarding RTI; in annual report of 2010, the commission addressed 18 complaints out of 24 received.

**Chairperson Remarks:** The chairperson identified two significant features of the RTI legislation in Bangladesh. First is the role of civil society organizations in the enactment of law and the second is that the RTI legislation was primarily made part of ordinance by interim regime which was then replaced by elected government.

Karolina Olofsson  
Miss Karolina discussed the situation of RTI regime and legislation in Afghanistan. She argued that since the 2/3 of budget of Afghanistan comes from foreign donors, therefore the Afghan government is more accountable to donors than the citizens of Afghanistan. The afghan government pleaded that as 74% of the population of Afghanistan lives in rural areas and majority of it is illiterate, therefore, the people will not be able to utilize RTI. Nevertheless, providing them information would create extra burden on Afghan government.

Karolina identified that since there are a lot of stakeholders in Afghanistan; therefore, their funding to Afghanistan is neither coordinated nor equitable. For example, American, British, and Germany fund those areas where their troops are stationed. Resultantly, the more peaceful areas

of Afghanistan do not receive funding at all. There are unclear development priorities and most of the time, development projects address the donors' concerns rather than citizens aspirations and needs. Regarding information about the development contracts in Afghanistan, there is clear gap of information and accountability at central, provincial and district levels.

Karolina informed the participants that, the RTI is supported by the constitution of Afghanistan, and in 2010 Kabul conference president Karzai committed to provide information, but so far there has been no legislation or implementation structure. Karolina argued that an attempt was made to draft the law; initially, Civil Society Human Rights Network drafted the law, but it did not want to share it with other civil society organizations outside the network. Therefore, two laws are prevailing now, that is of government and that of civil society organizations. Responding to this situation, Ministry of Information and Culture merged both laws. However the problem lies that both these laws are written in different language expressions; both these laws are not synchronizing because the government drafted law was strong in legal provisions and terminology, while that of civil society was weak in legal language and often contradictory. She argued that, even the legal document is itself vague which does not clearly direct regarding RTI, assigned officers and procedures to access information. As regards the legal limitations in way of RTI, the list, the categories and the definitions of legal limitations are so vague that anything can fall under such category. In the Monitoring committee which is for the implementation of law, there are two seats available for civil society and media man but that is selected based on nepotism and resources. There is only one assigned officer to address all complaints.

#### **Tehani Dinushi Arivaratne**

Miss Tehani shared her experiences while working for RTI legislation in Sri Lanka. She informed that currently Sri Lanka has not RTI Act. Tehani stated that in 1990s, although the movement for RTI already started, however in 2003, a draft bill was prepared, presented and passed by the cabinet of PM Raml Wikkremasinghe. The bill did not go to parliament because the then president dissolved the government. In 2010, Milinda Morgada handed over to president RTI bill, a revised version of Indian RTI bill of 2005. Again in 2011, Jaysuriya prepared motion but was denied. However, mayor of Colombo has promised for RTI legislation. The basic features of legislation includes, information to all citizens, the commission to be located at Colombo, remote from rural population, the language issues etc. however, the challenges to pass this act includes the lack of clarity and intentions on the part of government. She argued that there is no call from the citizens regarding RTI legislation; only few civil society organizations along with Transparency International are working for RTI.

#### **Mukhtar Ahmed Ali**

Mr Mukhtar Ahmed Ali argued that Pakistan's 1973 constitution retains article 19, which pertains to fundamental rights of freedom of speech and expression. He stated that interestingly, same article 19 is provided in Universal Declaration of Human Rights and International Covenant of Civil and Political Rights. However, in constitution of 1973 of Pakistan, the RTI was deliberately excluded; and now in the 18<sup>th</sup> amendment, the article 19-A is added which guarantees the RTI to all citizens of Pakistan.

Mr Mukhtar Ahmed Ali also argued that number of developments in the decisions made by courts in the relevant cases also guaranteed RTI in Pakistan. In a case in 1993, the court also interpreted RTI as part of article 19 of 1973 constitution. Similarly, back in history when democratic process resorted in 1988, the issues of corruption, bad governance, and accountability became prominent. There was development regarding media freedom. He mentioned that during Benazir second term, she made committee under Malik Qayyum for the eradication of corruption. The committee also recommended RTI along with other steps; he linked RTI with anticorruption measures. Similarly, the interim government of Malik Mairaj Khalid also drafted RTI bill, which the elected government of Nawaz Sharif did not enacted.

Mr Mukhtar Ahmed told that the current legislation was initiated by General Musharf but with many inherent flaws and limitations. The political parties do not own it because it was promulgated by a Military Dictator. The complaints under this legislation are to be filed in office of ombudsman, which is not very effective most of the time. Moreover, the law is only applicable to central level; however, it is weakly enacted in Sindh and Balochistan as well. Mukhtar Ahmed Ali also indicated that, the experience of this law is mixed one. In the court room this law is widely quoted but civil society does not use it generally. Similarly, in Pakistan, there is built-in deeply embedded culture of secrecy. The secrecy always subordinates the legislation; here in Pakistan, the bureaucracy looks into rules and procedures and if there is not any clear provision in it, they may simply say 'no' to requests just like colonial behavior. Moreover, there is also environment of insecurity as well; the office bearers often have feelings of insecurity and exploitation while providing the information related with government functionaries.

#### **Question/Answer Session.**

- Responding to a question Mr Mukhtar Ahmed Ali stated that there are different lists of information like public, exempted, specific, archives etc. For the interest of the state, the Hamood-ur Rahman commission on the atrocities on Bengalis was never disclosed. He ranked the Information Commission as better choice than Ombudsman because later has to settle all types of complaints.

- While responding to a question, Ms. Karolina argued that the exemption list depends upon the intention rather than type of information. If the government considers that sharing information with the civil society members will affect the interest of state, the state will never disclose information.
- Chairman Remarks: the chairman Mr. Toby Mendel argued that Bangladesh does not have legislation with regard to private companies; however incases where there is contract between government and private companies, the government retains the information regarding contract.

## ***SESSION 2 - TRANSPARENCY AND NON-PROFIT SECTOR***

### **CHAIR:**

**Sadeka Halim- *Member Information Commission, Bangladesh***

### **PANELISTS:**

**Shahzada Zulfiqar – Journalist**

**Barrister Zafarullah khan**

### **Sadeka Halim**

Miss Sadeka Halim provided information that almost 90 countries are practicing RTI in the world. In Bangladesh, people have right to information; and the information is regarded as power and the marginalized, the poor, the women and children all need information. She told that the NGO sector is also subject to RTI law. She argued that, the information Commission of Bangla Desh has persuaded Grameen Bank to appoint information commissioner. She also mentioned the study of Transparency international in Brazil, India, Croatia, South Africa, Uganda and Mexico which indicated that countries having RTI legislation have produced pro-people budget.

### **Shahzada Zulfiqar**

Shahzada Zulfiqar stated that transparency is essential, whether it be profit making or non-profit making organizations. He argued that Musharaf (a military dictator) promulgated RTI in Pakistan due to pressure from Asian Development Bank. He further stated that, in Pakistan, the rulers, political parties, and the dictators are famous for non-implementation of laws; there are many laws for corruption, but with no implementation.

Shahzada Zulfiqar also argued that in Pakistan, the literacy rate is only 20% as against 56% claimed by the government census; therefore, there is not any understanding of the laws like RTI law. He claimed that few civil society organizations including the CPDI are sensitizing the journalists for RTI legislation. The military dictators in Pakistan have been enacting NAB, RAB etc merely to victimize the opponents; however, Shahzada Zulfiqar stressed, that there is need of

accountability in all sectors whether be public or private sector. Regarding RTI, the government does not have kept record of information; the general masses don't know about RTI.

**Chairperson Remarks:** RTI is not confined to journalists; however, it is actually for the public.

### **Barrister Zafarullah Khan**

Barrister Zafarullah khan stated the 'right to know' is more comprehensive than RTI; he classified 'right to know' as mother of all rights. He argued that he is unclear about non-profit organizations; he categorized the government, semi-government, Rural Support Programs, NGOs, and trustees as all profit making organizations that should be subjected to transparency and accountability.

Regarding RTI legislation, Mr Zafarullah argued that in Pakistan, the laws are made under the shadow of dark nights and are enacted by the power of bullets by the dictators; the RTI law is one of those which was never debated in public and inherits many flaws. The exemption list carries the notions of 'until, unless, otherwise' etc which are against the fundamentals of laws. Moreover, there is no independent commission and the findings of ombudsman are not binding; only recommendations to president of Pakistan can be made.

### **Question/Answer Session.**

- The chairperson responded that, we have learnt new definitions regarding private sector organizations. She felt the need of Pakistan arranging study tours for its journalists to developed countries. She also categorically stated that, if RTI is donor's project, then it will not work at all.
- Toby Mendel commented that journalists should get involved in sensitizing the general public regarding RTI. He also disagreed with speaker that secrecy is colonial attitude. He stated that, the governments whether colonial, post colonial, or those that have never been colonized, have the same attitude.
- Responding to a question, Shahzada Zulfiqar reiterated that almost 60% of the NGOs are doing nothing except appropriating funds.
- Karolina endorsed that almost all international organizations and development agencies deny sharing information regarding budget, resources, and programs.
- The chairperson emphasized the need of development of demand and supply side and creating legal space for sharing experiences; for example SAARC at regional level. She put emphasis on the need of awareness, literacy through media campaign and civil society groups.

### **KEYNOTE SPEECH - SHERRY RAHMAN**

Miss Sherry Rahman recognized CPDI and other partners for their active participation in taking RTI movement forward. She argued that democracy is static concept but can be vibrant through active participation of stakeholders. As there is no other way for public to be stakeholder except through RTI because public directly can not be part of National Assembly, Senate, or Government.

She stressed that, it is fundamental responsibility of legal regime to reduce obstacles for RTI to its citizens and civil society organizations. She argued that RTI regime should not be confined to government operates; she also emphasized the need of extension of RTI to private sector like corporations and multinational corporations. The citizens (tax payers) have every right to understand the relationship between themselves and corporations. Although she recognized the steps taken by Musharaf regime for RTI as positive, however, she argued that 18<sup>th</sup> amendment by the current elected regime has actually guaranteed the citizens entitlement for RTI. She claimed that democracy is the only way to empower the citizens.

She also indicated the need of improving RTI law further. She identified that Punjab, and KPK are seriously considering such legislation; while the Sindh and Baluchistan have already passed it, but that is under used. She also mentioned that, Punjab government's recently enacted amendment of section 46 of Rule of Business obstructs information to journalists regarding key subjects like Home, Agriculture, Police, Health, Revenue etc. Therefore, she proposed to make federal RTI law as umbrella for all provinces and for Islamabad Territory. She argued that we should learn from Indian Commissioner System and also gender based ombudsmen as well.

Miss Sherry also suggested regarding RTI exemption list that declassification articles should be included. She emphasized the need of awareness regarding RTI in public by the media and civil society organizations.

### **Question/Answer Session.**

- Responding to question, Miss Sherry said that, in Pakistan there is need of building RTI seeking culture before establishing new structure and offices for RTI requests and complaints.

### **SESSION 3 - TRANSPARENCY AND INTERNATIONAL FINANCIAL INSTITUTIONS**

Transparency initiatives and undertaken by World Bank, Asian Development bank and IMF

#### **CHAIR:**

**Shershah Khan- Senior Governance Specialist with WB, Pakistan**

#### **PANELISTS:**

**Bilal Saeed – CPDI**

**Toby Mendel, *Centre for Law and Democracy, Canada***

#### **Bilal Saeed**

Mr. Bilal Saeed stated that transparency is essential component of participatory development; international Financial Institutions IFIs exercise a lot of influence on the world, therefore their policies needs to be monitored and that is only possible through information disclosure policies that comprehensively guarantee transparency. Bilal discussed in detail the information disclosure mechanisms at three international financial institutions; World Bank, Asian Development Bank, and IMF, wherein he elaborated the access to information procedures, the exemption lists, prerogatives to release or withhold information (where present), and the whistleblower policies per institute.

#### **Toby Mendel**

Toby Mendel shared his experiences working with IFIs for steps to improve the information being provided by such institutions. He stated that, their first concern with the WB policy was that WB had only one list of disclosure and every other information was not to be disclosed. However, due to pressure building on WB policy, the policy makers started inclusion of more information in disclosure list; but we demanded structural changes in disclosure list. We pursued for policy review of inverting the principle of 'everything should come under discussion except some exemption list. ADB was the first to address this issue in 2005, but with certain weaknesses. After 2005, almost all IFIs shifted their policies.

Nevertheless, between 2002 and 2010, the countries like India, China and Mexico (where WB was lending) influenced WB to make shift in policies. For example, if WB hid information from Indian NGOs, the government disclosed that information to NGOs as these countries have their own FOI and RTI laws. Toby informed that all the UN agencies including UNDP, UNESCO, and FAO don't have proper information policies. Toby argued that ironically, such institutes, organizations and agencies don't recognize RTI as tool for human right.



### Question/Answer Session

- Miss Tahira Abdullah criticized the both presentation as full of praise for the WB and other IFIs; she argued that WB is very often politicized party influenced by US policies and in presentations there is no mention of disclosure lists, their time frame for declassification of exemption list.
- Toby Mendel responded that the session deals with the information disclosure and transparency mechanisms rather than geopolitical influences of the IFIs
- Bilal Saeed responded to one question that in WB, there is list of restricted categories and in some categories in that exemption list, time frame pertaining to 5, 10, and 20 years is given.

### **SESSION 4 - RTI AS TOOL FOR INVESTIGATIVE JOURNALISM**

Are journalists reluctant to use RTI as tool for investigating stories?

#### **CHAIR:**

**Adnan Rehmat- Executive Director, Intermedia Islamabad**

#### **PANALISTS:**

**Iqbal Khattak- Bureau Chief Daily Times, Peshawar**

**Shahzada Zulfiqar- Journalist, Quetta**

**Mazhar Abbas - ARY News**

**Aftab Alam**

#### **Adnan Rehmat**

Mr. Adnan Rehmat, the chairperson of the session, argued that in Pakistan, the freedom of expression was guaranteed under article 19 of 1973 constitution and FOI and RTI legislation was enacted in 2002. However, between these two provisions, the vague idea of legislation has been the greater impediment in a way of using legislation for investigative journalism.

#### **Iqbal Khattak**

Mr. Iqbal Khattak stated that on the one hand, the RTI legislation is not user friendly; and on the other hand, the RTI legislation did not come from journalists, rather it was enacted by the pressure of IFIs for transparent use of resources and disclosure of information. Moreover, the RTI legislation can not guarantee the provision of information because the information can be denied as well. Iqbal Khattak also argued the leadership of English medium newspapers gives somewhat freedom to journalists and encourage them for investigative journalism; whereas the

Urdu medium newspapers (which are widely read in Pakistan) don't provide such guarantee. Moreover, the federal and provincial governments also do not want to give FOI to Urdu medium newspapers. He mentioned a case in support of his argument: in 1999, during Nawaz Sharif regime, there was issue of printing report between government and the 'Frontier Post'. The then information ministry directed the Frontier Post to print whatever it like in its English version but don't have permission to print in its Urdu Version 'Maidan'.

Mr. Iqbal Khattak also argued that, the new technology like mobile, internet, television etc have also reduced "leg-working" for hard work investigative journalism; now time frame has restricted journalists to rely on technology rather than spending time for stories.

#### **Shahzada Zulfiqar**

For Mr. Shahzada Zulfiqar, "whether it is human right, basic right or simply right to information, it is only possible under democratic regime and not of dictatorship". He argued that, in Pakistan the investigative journalists face many problems from state and non-state actors. Incase a journalists started finding stories, access to information is denied and ombudsmen may take 15 weeks to settle issue; nobody waits for such long time, especially in age of fast TV news channels and breaking news phenomena. Shahzada Zulfiqar also stressed the need of clear mechanism for disclosure of information by the governments whether it by federal, provincial and local body. All these tiers of government should display expenditure lists on the notice boards so that every one could easily get access to such information.

**Chairperson Remarks:** the chairman responded that, in Burma there are no 'Daily' newspapers; but only weekly' newspapers. The journalists have to get information anonymously and get published in weekly newspapers or in newspapers outside of Burma. He argued that, here in Pakistan journalists have all facilities including FOI legislation, but we don't get use of it.

#### **Mazhar Abbas**

Mr. Mazhar Abbas said that the matter of fact is that he also doesn't use RTI; he argued that if he is working on certain story, he tries to conceal that until that is published. All this is due to certain threats like the information officer from whom information is being sought can leak the story. Mazhar Abbas also stated that although there is time constraint, however, investigative journalism does exist in Magazines, Newspapers and even on TV. He argued, ironically we have culture of intelligence sharing and reporting rather than culture of investigative journalism.

Mr. Mazhar Abbas informed that, now especially post 9/11 scenario, the culture of journalism is changed; he motioned that 80-84 journalists have been killed in post 9/11 case. Now it is suggested to report only information from 'informed resources rather than uninformed and anonymous sources'. The investigative journalism for TV and Urdu medium newspapers is more at risk than English medium. He identified that in Pakistan's constitution, there are still 13

provisions which in one way or the other restricts RTI; the anti-terrorism act, official secret act, and section 144 can even ban the media. Mazhar Abbas also critically evaluated the commercial and advertisement constraints that can restrict the media owners to discourage the investigative journalism. Investigative journalists, he said, requires physical and social security that RTI legislation doesn't guarantee.

#### Aftab Alam

Mr. Aftab Alam stated that in the age of Real Time media and 'Breaking News' no ideal law can provide you information at time. The RTI legislation is basically flawed and needs the 'spirit of law' guaranteed in the constitution. For RTI regime, there should be separate structure of the law and subsequently in-built implementation and monitoring mechanism. He argued that RTI law should be inclusive and covering all areas. This law is vague and provides excuse to public sector organizations for non dissemination of information to members of civil society.

**Chairperson Remarks:** the RTI law is not representative of media because before its enactment, there was no consultation from media. He also argued that, from 2002 to until now, the number of journalists have reached to 17000 from 2000. Majority of these have average age of 23 years and in these majority is not qualified journalists; they never have attended journalism schools, therefore they don't have idea of RTI and investigative journalism. Moreover, there is no media organization teaching media laws.

#### Question/Answer Session.

- Responding to question of Mr Zahid Abdullah, Mazhar Abbas stated that journalists have to face three things when he reports a strong story pertaining to financial scam; these include bribe, threat and liability. We also need liability law in Pakistan. Moreover, the editors also do not publish investigative stories due to threats.
- Iqbal Khattak argued that different media have different time lines; therefore, monthly magazines can use RTI tools but daily newspapers can not do this. Similarly, every organization should have spokesperson that can provide you requisite information; he informed that Afghanistan does have spokespersons in every organization but Pakistan has only in few departments.
- The chairperson concluded the session with remarks that whether to reveal the source or not, whether to retain the right of privacy or right of information, the deciding principle should be public interest.

## Day Two

### ***SESSION 5 - RTI AS TOOL FOR SOCIAL ACCOUNTABILITY AND INSTITUTIONAL REFORMS –SOME CASE STUDIES***

Don't offer bribe, submit information request- case studies from India

#### **CHAIR:**

**Zafarullah Khan, CCE, Pakistan**

#### **PANELISTS:**

**Zahid Abdullah- CPDI, Pakistan**

**Gulbaz Ali- SDPI, Pakistan**

**Sanjida Sobhan- MJF, Bangladesh**

#### **Gulbaz Ali**

Mr. Gulbaz Ali stated that, in Pakistan regarding accountability, the focus has been on the supply side mechanism rather than delivery process. Development of different accountability institutions like Public Accounts Committees (PACs), Audits & Accounts, NAB, RAB, Anti-corruption department, Ombudsmen office and judiciary as well provide supply side. He further stated that regarding social accountability in Pakistan, there are four deficits and four problems related with service delivery; the deficits includes deficit of alternative, deficit of information, deficit of accountability and deficit of participation by citizens. Similarly, the four problems constitute problem of budget allocation, problem of public expenditure tracking, problem of monitoring, and problem of participation and awareness. Gulbaz Ali argued that social accountability is that service delivery should benefit the poor, the marginalized class; if the accountability does not engages citizens, it is not social accountability. He further stated that social accountability depends on democracy, engages citizens, helps reduce poverty and its tools are budget analysis, participation mechanism, community score card, public hearing, public jury etc. it is the RTI threat helps for social accountability tools.

#### **Sanjida Sobhan**

Miss Sanjida Sobhan argued that although social accountability and RTI are new tools in Bangladesh, however, media is effectively sensitizing the citizens regarding social accountability and RTI. Social accountability tools were introduced in Bangladesh for Budget analysis and disclosure by the efforts of WB. In Bangladesh, people use RTI in social safety net programs. In

2009, the consumer rights protective law was also using RTI. The outcome of this law is positive both in demand and supply side.

#### **Zahid Abdullah**

Mr. Zahid Abdullah stated that the RTI is much effective tool for social accountability but there are lots of challenges for using this tool for getting information. He pointed out that, in India over the period of last 8 months, almost 8 RTI activists have been killed because these activists were disclosing mafias under anti-corruption laws. However, he asserted that, in India using RTI even poorest of poor can effectively use RTI laws rather than giving bribe for their small piece of work.

Mr Zahid Abdullah narrated three case studies clearly differentiating the use of RTI in India and Pakistan

- a) In India an 18 years old lady applied for visa but did not receive information regarding her passport on time. She then went to Information commission for enquiring the status of her passport by using RTI. The information commission recorded her complaint and the next day she received her passport at home.
- b) In Pakistan the CPDI contacted Ministry of Information and Broadcasting (I&B) for enquiring budget item under the head of 'secret fund'. The information was denied. Upon this CPDI filed complaint to office of ombudsman; there in the case proceeding, the representative of Ministry of I&B regretted to ombudsman that the policy letter written in 1960s for the disbursement of RS 40 lacs/month have been lost. There was another head of fund called 'special publicity fund' that is allegedly used to manipulate the media in favour of government. When CPDI asked for that fund, the same was the reply from ministry and also from ombudsman office.
- c) Again in Pakistan, the CPDI asked to Ministry of Law and Justice for money paid to, the names and addresses of, private lawyers hired for government cases in the courts during 2002 to 2007. There was bizarre behaviour from the ministry with two remarks; first, Mr Zahid Abdullah of CPDI is interfering with working of government; and second, if we provide information, it will open new Pandora boxes. However, office of ombudsman decided in CPDI's favour, but the ministry moved to president of Pakistan.

By narrating such case studies, Mr Zahid Abdullah supposed that there may be connection between bureaucracy and the media mafias, lawyers' community mafia etc. He further emphasized that even the weak law like RTI can play role in breaking such mafias.

#### **Question/Answer Session.**

- Responding to the question of Karolina, Mr. Gulbaz said that social accountability in Pakistan is on rudimentary stage.

- Mazhar Abbas also supported Zahid Abdullah and commented that the secret fund is available in several ministries in Pakistan; while in ministry of I&B, the fund is used for corrupt journalists and columnists for writing columns in government favour by fake names.
- Chairperson also commented and concluded that there is culture of publishing annual report of ministries here in Pakistan; the 2006-07 annual report of ministry of I&B proudly says that, it has commissioned 1800 articles per year; and we can see that it almost accounts 10-12 per day written by the money of tax payers to 'doctrinate or indoctrinate' the public. The chairperson concluded that as the government has acknowledged RTI as legal entity, it must take step for implementation by letter and spirit.

#### ***SESSION 6 - RTI AND COMMUNICATION AND INFORMATION TECHNOLOGY: THE EMERGING TRENDS***

Wikileaks- A Moral Dilemma?

RTI and Social Media

#### **CHAIR:**

**Toby Mendel- *Centre for Law and Democracy, Canada***

#### **PANELISTS:**

#### **Emily:**

**Zaigham Khan, CPDI**

**Tahira Abdullah, Development and Rights worker, Islamabad**

**Sedeka Halim- *Member Information Commission, Bangladesh***

#### **Toby Mendel**

Toby Mendel said that, there are many aspects of Wikileaks saga; however our focus would be on RTI, new technologies and social media. He argued that Wikileaks currently is regarded as massive leaks about US diplomatic connections. There are three main players; first is the Bradley Manning who originally and officially leaked information and is now in jail; second is the Wikileaks personified Julian Assange and third is media disseminating leaks. US has not prosecuted Julian Assange probably because US don't find basis in its law against Assange. If the Julian Assange happened to be in Pakistan, Canada or elsewhere, he might have been in jail. Even some individuals in UN and US bodies argue that public authorities bare the sole responsibility to protect the classified information.

### Emily

Emily discussed the history of role of whistle blowers in the world; however there is no law for protecting the whistleblowers in the world. She stated that whistle blowers disclose information with good faith about misconduct, illegality, corruption, crime, health and safety risks of public internally or to oversight bodies.

She indicated that in history, the most significant whistle blower was China's Dr Jiang Yongung, who provided detail to public and from public to national or international media about under reporting of SARS death and epidemic by Chinese government. This step was recognized and appreciated by WHO and to some extent by the Chinese government as well. However, in 2003 in India, an engineer was disappeared and then killed for uncovering corruption in highway department. Similarly, many journalists have been killed in Pakistan for uncovering different stories related with different crimes, corruption, misconduct and fraud. Therefore, Emily stressed the need of legislation for protection of whistleblowers based on general principles in global context. She argued that whistle blower protection regime should be meaningful to avenue for the internal disclosure as well as to oversight external bodies like ombudsman, anti-corruption unit etc. she proposed that, there should be duty with incentives for disclosing corruption, mismanagement, legal violation and abuse of public offices. Subsequently, there should be protection from retaliation for primary whistleblowers and then secondary whistle blowers (media, public) as well and penalties for deterring the future retaliation.

Regarding Wikileaks and its relationship with whistle blowing, there are some emerging questions like whether Wikileaks be treated as journalist, authenticity and validity of information and whether information is for public interests?. Nevertheless, Emily advocated that Wikileaks should be treated like whistle blowers; and the whistle blowers are now taking aid from technology and they are doing to protect the human rights and therefore, they should not be subject to penalty.

### Zaigham Khan

Mr. Zaigham Khan started his presentation with many examples from the leaks of Wikileaks and regarded these as entertaining stories. However, he argued that Wikileaks supposed to have brought transparency to our foreign policy, domestic policy and defence policy. It has painted picture of politicians and government officials as childish and duplicitous. Fortunately or unfortunately, the pictures of American emerged not as bad as is painted otherwise. Zaigham Khan ridiculed on the Americans being emerged as great confessors like priests. He stated that, American appeared as having good intentions about Pakistan. Many other daily conspiracies created in Pakistan about (Pak-US) commitments are not confirmed by Wikileaks.

He informed that the most important documents held by Wikileaks are either US based documents or the documents about alleged US misbehavior. However, he argued that, Wikileaks

has been very controversial issue in civil society organizations. Many organizations recognize its information regarding the disclosure of human rights violations by US and NATO forces in Afghanistan, Iraq, and Guantanamo jail as having undeniable value. However, the reports of US diplomatic channels have undermined civil society support for Wikileaks. It is also being suspected that so many leaks of Wikileaks may pertain to more secrecy and restrictions on information.

### Tahira Abdullah

Tahira Abdullah stated that in 2002, military dictator promulgated Prevention of Electronic Crime Ordinance (PECO); and then it was again enacted by so called elected government in 2009. She inferred that nothing changes in Pakistan whether it is democracy or dictatorship. She stated that PECO is related with sabotage, cyber crime, hiking, mobile communication etc with 14 years of sentence and even irreversible death penalty and criminalization of such things outside Pakistan with the help of Interpol.

Regarding PECO, Miss Tahira Abdullah stated that in Pakistan, only 200 cities, towns and villages have direct accesses to internet; only 10 % population with 3:1 male female ratio has access to internet. She argued that, it is hopeful that the youth which is active on 'Facebook and Twitter' are very much vigorous in talking and sharing social issues, human rights, democracy and social justice. However, the government of Pakistan blocked these sites in 2010 by defying ICT. Miss Tahira Abdullah also argued about certain negative affects of communication technology on women. She stated that women are often victims of cyber crimes, cyber talking, cyber pornography, and cyber blackmailing through internet and mobile phones. However, she recommended women to use ICT in order to combat the negative use of ICT against women. Talking about the positive implications of ICT on women, she credited the use of mobile phones with cameras which have brought to civil society and media from remotest areas of Pakistan, the stories of flogging of women by the Taliban.

She stressed the need of civil society to conduct researches, collecting data, analyzing and disseminating information to poor for the socioeconomic uplift. She also demanded certain things to be done that are constituted of revisiting RTI, PEMRA, review of UN convention on human rights, elimination of optional protocol in UN convention, harmonization of domestic laws with international law, enactment of new cyber crime law ( protecting women) as opposition to PECO, review of death penalty under PECO etc.

### Sedeka Halim

Miss. Sedeka Halim argued that Wikileaks in Bangladesh is seen as entertaining because this organization has not produced research based evidences in support of their leaks. However, Wikileaks have social implications because it's provided information has not only embarrassed



the specific people like politicians, businessmen, military men, and key persons in the governments but has brought confusion to common man.

Sedeka Halim identified that, although the information leaked by Wikileaks about democracy, military intervention in 2002 in Bangladesh is not new for the people, however, such information leaked in international organization provide somewhat authenticity of the information for the public. However, such information is generally subjectively understood, but not verified objectively. She also critically evaluated that, people generally and the journalists particularly of Pakistan, India and Bangladesh should consider the political motives and implication behind such leaks. She indicated that as information has been leaked with consultation of three leading news papers of the world; New York Times, Guardian and German newspaper, there is definitely some interest group working.

However, Sedeka Halim took different position regarding the exemption lists; she argued that government should provide information until and unless disclosure of any information put serious implications on the security and sovereignty of country. She argued that we should be concerned about the objectivity of information; whether the information is ethical or unethical, it is relative matter. The judgment comes from the public; however she stated that all the specific factions of society like politicians, elites, businessmen, media and civil society organizations are involved in the process except poor common people.

#### Question/Answer Session.

- Mazhar Abbas commented that Wikileaks has proved to be surprising for the people and especially for journalists. It has caused embarrassment for politicians, but has justified the journalists' positions in the eyes of public because it has provided authenticity to journalists' stories.

### **SESSION 7 - RTI AND THE VULNERABLE GROUPS**

RTI Legislation and duty to Assist persons Facing Access barriers

#### **CHAIR:**

**Justice (rtd) Nasira Javaid**

#### **PANELISTS:**

**Sarwar Bari- Pattan, Pakistan**

**Niazullah Ahmed- Sightsavours, Pakistan**

**Shafique ur Rehman- Baitulmal, Pakistan**

#### ***Zahid Abdullah- Centre for Peace and Development Initiatives***

##### **Sarwar Bari**

Mr. Sarwar Bari stated that individual is pivotal and center of society and has full independence over his/her mind and body so that he/she could contribute to society and the state has to reciprocate to individual. However, he argued that human beings have certain similarities and difference, but the discrimination is done on the basis of differences; he stressed the need to overcome discrimination.

Sarwar Bari identified that vulnerability is natural as well as man made. Vulnerable groups are constituted of the poor, the women (structurally vulnerable), minorities, elderly, children, immigrants, physically handicapped, and stigmatized like cancerous, aids and STDs patients. He argued that, in Pakistan article 3 of the constitution provides measures against all kind of discrimination, however all discrimination is done by the state itself. He identified that all such discrimination and vulnerability can be clearly observed in flood affected areas of Pakistan. Regarding the use of RTI in Pakistan, Sarwar Bari argued that the problem lies with access, resources, confidence, and say; who have such qualities can access to information.

##### **Niazullah Ahmed**

Mr Niazullah Ahmed felt dissatisfied with the information about disable persons being provided by 1998 census report of Pakistan. He stated that, the census report provides that only 2.49% of population is comprised of disable persons; further it mentions that there are 8-10% of population disable persons in Karachi. He stated that, even some districts of Pakistan do not have mentioned about disability rate. Mr Niazullah indicated that the World Disability Report of 2011 clearly stated that every country in the world has 20 % population comprised of disable persons in one way or the other. He further argued that in Pakistan, there is also disability of knowing and understanding of disability problem. He also reported that there are many news regarding so many issues of disabled persons from the flood affected areas. He stated that in Pakistan, the special education statistics shows that only 35,000 disable children are enrolled in schools.

**Chairperson Remarks:** Chairperson commented that in all government employment sectors, 2% quota is allocated for disabled persons; she demanded that government should also implement this quota for enrollment of disable children in all schools.

##### **Shafique ur Rehman**

Mr Shafique ur Rehman emphasized on the connotation of 'disabled' persons; he argued that disables are not actually disable but they are disable[ed] by the society. In Pakistan, there are always physical barriers in way of disable person; on the one hand, how can a disable person go

to offices for information?; and on the other hand, the society generally do not give positive response to disable persons. Therefore, he suggested the dissemination of information procedure should be user friendly.

#### Zahid Abdullah

Mr. Zahid Abdullah, argued from the chapters of world history, that in the world the disable persons did not have right to live, just forget about their right to information, right to mobility etc. He stated that, it was past and old age when the people like Plato and Cicero opined that disable persons should be thrown away into sea. He argued that same behaviour about disable people can be witnessed even in modern world. Mr. Zahid Abdullah also mentioned the Eugenics movement in 1880 that suggested on the basis of researches that world should be eliminated from people of low genes and disability because the crime rate is very high in these people. In 20<sup>th</sup> century, Hitler took this idea and clinically killed and eliminated more than hundred thousand people in Germany. He also stated that in 1960s, a noble laureate biologist claimed that during pregnancy, it is possible to determine the disability of new born baby and could be stopped by abortion practices.

Mr. Zahid Abdullah argued that disability is not always measured in terms of physical impairment, but it is socially created; in the whole world there is foundation discrimination based on disability. He identified that regarding RTI and vulnerability, the clause of RTI is provided in article 19-A for disabled persons, but it needs extra education training and capacity building for disabled persons to use RTI.

#### Question/Answer Session.

- Karolina commented that vulnerability includes many groups, however in discussion and presentations; the focus has been only on disable persons.
- Tahira Abdullah proposed two recommendations: one was that the world should call the 'disable persons' as 'differently enabled or challenged' persons; and second was the need of attitudinal change of society towards disable persons.

#### **SESSION 8 - ISLAMABAD RTI DECLARATION**

We, participants at the International Conference on Right to Information: Legal Regimes, Institutions and Citizens, held in Islamabad on 27-28 September 2011, which was attended by social activists, civil society representatives, journalists, media professionals, lawmakers, political activists, development professionals, legal practitioners, senior government officials and educationalists from Afghanistan, Bangladesh, Canada, Pakistan, Sri Lanka and United States hereby adopt the following resolution, to be known as the 'Islamabad Declaration', on an enabling environment for the effective implementation and mainstreaming of the right to information in Pakistan:

*Recalling* Article 19 of the Universal Declaration of Human Rights (UDHR), as well as the similar Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which states: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers";

*Noting* the Universal Declaration on Democracy (UDD), Clause 21 of which says: "Democracy presupposes freedom of opinion and expression; this right implies freedom to hold opinions without interference, and to seek, receive and impart information and ideas through any media and regardless of frontiers";

*Noting* the UN Convention on Rights of Persons with Disabilities which requires States Parties to eliminate access barriers in order to bring persons with disabilities into mainstream life;

*Emphasising* that the Millennium Development Goals (MDG) and the Paris Declaration highlight good governance as being central to development and the eradication of poverty;

*Recognising* that press freedom and the right to know are essential underpinnings of democracy and respect for all human rights and fundamental freedoms; and

*Keeping in mind* that the article 19 A of the Constitution of Islamic Republic of Pakistan grants every citizen to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law;

- Hereby recommend that the following actions be undertaken urgently in order to create an enabling environment for ensuring respect for the Right to Information in Pakistan:
- The federal and provincial governments should, as a matter of priority, enact right to information laws, which are in keeping with international standards and best practices. In particular, the laws should:
  - be guided by the principle of maximum disclosure;
  - require public bodies to publish a range of information of significant public interest;
  - put in place clear mechanisms for the processing of requests for information which ensure that this is rapid and fair, and that the provision of information is free or low-cost;
  - provide for a clear and narrow regime of exceptions, based on a harm test and subject to a public interest override;
  - ensure the availability of an independent review of any refusals to disclose information;

- establish autonomous information commissions at the federal and provincial levels with the requisite powers and resources to do the above and to promote proper implementation of the laws;
  - provide for sanctions for obstruction of access to information and provide protection for good faith disclosures;
  - put in place a range of promotional measures to help ensure that the law is properly implemented in practice; and
  - repeal existing laws on access to information, which are ineffective and which were put in place without input from citizens and civil society.
- The websites of public bodies and private bodies which are substantially funded by public resources or which conduct public functions should be designed and structured in a manner that ensures that they are accessible to persons with disabilities and that they adhere to web accessibility standards.
- The non-profit sector should proactively disclose information about how they use their funding, as well as make the information they hold available on demand.
- Media organisations should encourage their journalists to use RTI laws for investigative reporting, and provide support for them to do so, including by allocating resources for training of journalists how to use these laws.