

KP Right to Information Law Ineffective without KP Information Commission

**Research Report
November 04, 2013**

Executive Summary:

Khyber Pakhtunkhwa Right to Information Ordinance 2013, promulgated on August 13, 2013 has been replaced with Khyber Pakhtunkhwa Right to Information Act 2013. The Assembly of Khyber Pakhtunkhwa unanimously passed Khyber Pakhtunkhwa Right to Information Act 2013 on October 31, 2013. Apart from changing total number of KP Information members from four to three and inserting Section 28 (1) (e) which pertains to the misuse of information, the Act is largely the same as the KP RTI Ordinance. Therefore, findings and recommendations are relevant also for the proper implementation of KP Right to Information Act 2013.

Coalition on Right to Information, (CRTI) carried out this study from August 20, 2013 to November 04, 2013. Centre for Governance and Public Accountability, (CGPA) and Centre for Peace and Development Initiatives, (CPDI) filed information requests under KP RTI Ordinance 2013 to District Headquarter Hospitals and Deputy Commissioners of the province seeking information about medical equipment in the hospital and access to certified copies of the log-books of official vehicles under the use of Deputy Commissioners respectively. Out of total 50 information requests filed under KP RTI Ordinance 2013, information was provided in the case of only seven information requests. Reminders were sent to public officials requesting them to provide the information. Complaints could not be lodged against these officials for denying and delaying access to information in the absence of appellate body which was not established as envisaged in KP RTI Ordinance 2013. This research report clearly shows that culture of secrecy prevails in government departments. It can be concluded that an effective and autonomous appellate body is required to implement right to information law in the province. This study recommends the establishment of KP Right to Information Commission as envisaged under KP RTI Act 2013, designation of Public Information Officers in all public bodies and their training on record-keeping and responding to information requests filed by citizens.

Background:

Khyber Pakhtunkhwa Right to Information Ordinance was promulgated on August 13th, 2013. It was first provincial law after the 18th constitutional amendment in 2010 that facilitated constitutionally protected fundamental right of citizens to have access to information held by provincial public bodies. It met International standards regarding right to information legislation, which include (a) maximum disclosure; (b) minimal exception, (c) obligation for proactive disclosure; (d) process to facilitate access; (e) minimal costs; (f) disclosure should take precedence; and (g) duty to assist. The law came into effect at once. The Khyber Pakhtunkhwa Right to Information commission, under the provision of KP Right to Information Ordinance 2013, was to be established within 120 days of its promulgation. Coalition on Right to Information decided to use this law to determine the level of its effectiveness. Centre for Peace and Development Initiatives, (CPDI) and Centre for Governance and Public Accountability, (CGPA) carried out this study from August 20, 2013 to October 31, 2013.

Research Methodology:

Following are the key features of the research methodology.

Scope:

The scope of research is limited to public bodies of Khyber Pakhtunkhwa as KP Right to Information Ordinance 2013 is applicable only to KP public bodies.

Unit of Analysis:

District Headquarter Hospitals of Khyber Pakhtunkhwa
Deputy Commissioners of Khyber Pakhtunkhwa

Research Tool:

Filing of Information Requests under Khyber Pakhtunkhwa Right to Information Ordinance 2013
Follow-up of information requests through letters.

Information Requested:

- Certified copy of the log-book of each vehicle under the use of Deputy Commissioner;
- Information about X-ray machines:
 - Number of X-ray machines procured for the District Headquarter Hospital;
 - Total number of functional X-ray machines;
 - Number of out of order X-ray machines;
- Information about ECG machines:
 - Number of ECG machines procured for the District Headquarter Hospital;
 - Total number of functional ECG machines;
 - Number of out of order ECG machines;
- Information about ultrasound machines:
 - Number of ultrasound machines procured for the District Headquarter Hospital;
 - Total number of functional ultrasound machines;
 - Number of out of order ultrasound machines;
- Information about CT scan machines:
 - Number of CT scan machines procured for the District Headquarter Hospital;
 - Total number of functional CT scan machines;
 - Number of out of order CT scan machines;

Research Process:

A total of 50 information requests were submitted under KP Right to Information Ordinance 2013-25 each by CPDI and CGPA. Out of total 50 information requests filed under Khyber Pakhtunkhwa Right to Information Ordinance 2013, requested information was provided only in the case of 7 information requests. CPDI submitted information requests to all the Deputy Commissioners of Khyber Pakhtunkhwa

on August 20, 2013 and maintained the follow-up. None of the Deputy Commissioners provided the requested information within the time period of 10 working days as stipulated under KP Right to Information Ordinance 2013. Only Deputy Commissioners of Peshawar, Haripure and Tor Ghar provided copies of log-books of official vehicles under their use. Deputy Commissioner Peshawar provided copy of the log-book of official vehicle under his use on September 23, 2013, Deputy Commissioner, Tor Ghar on September 16 September and Deputy Commissioner Haripure on September 02, 2013. Reminders were sent to the rest but they failed to respond. Similarly, CGPA submitted information requests to Medical Superintendants of all District Headquarter Hospitals of Khyber Pakhtunkhwa on August 20, 2013 and maintained the follow-up. Only four Medical Superintendants provided the requested information. The rest did not provide the requested information.

Complaints could not be lodged against public officials for delaying and denying access to information under Khyber Pakhtunkhwa Right to Information Ordinance 2013 as KP Information Commission has not been established yet.

Findings:

1. Process of filing information requests is very easy and cost effective.
2. Most of public officials did not acknowledge receipt of information request.
3. Most of public officials did not provide the requested information under Khyber Pakhtunkhwa Right to Information Ordinance 2013.
4. Complaints could not be lodged in the absence of Khyber Information Commission envisaged under Khyber Pakhtunkhwa Right to Information Ordinance 2013.

Conclusion:

Khyber Pakhtunkhwa Right to Information Ordinance 2013 has been replaced with Khyber Pakhtunkhwa Right to Information Act 2013 as the Assembly of Khyber Pakhtunkhwa enacted this Act on October 31, 2013. There are no major changes in the provincial right to information law other than insertion of Section 28 (2) which pertains to the misuse of information.

This research report shows that culture of secrecy prevails in public bodies. Let alone responding to information requests, a majority of public officials did not even acknowledge the receipt of information requests. This clearly means that an effective and autonomous implementation mechanism is required to implement right to information law in the province.

Recommendations:

1. Khyber Pakhtunkhwa Information Commission as envisaged in Khyber Pakhtunkhwa Right to Information Act 2013 be established at the earliest.
2. Government of Khyber Pakhtunkhwa issue instructions to all public bodies of the province to designate Public Information Officers.
3. Government of Pakhtunkhwa take steps to impart training to Public Information Officers on record-keeping and responding to information requests filed by citizens.