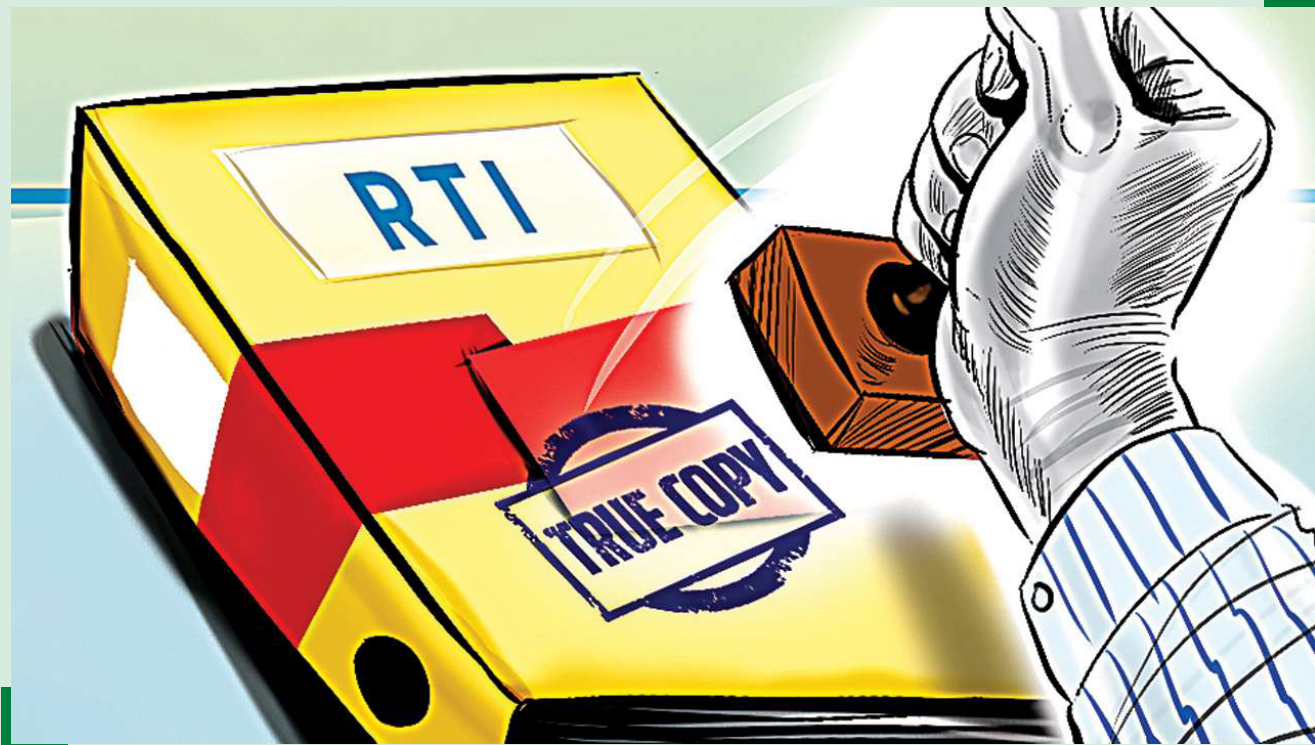


# RIGHT TO INFORMATION SINDH

CRITICAL ANALYSIS & OF SINDH RTI LAWS & IMPLEMENTATION OF RTI LAWS IN PAKISTAN



# RIGHT TO INFORMATION SINDH

CRITICAL ANALYSIS & OF SINDH RTI LAWS & IMPLEMENTATION OF RTI LAWS IN PAKISTAN

“Every citizen shall have the right to have access to information  
in all matter of public importance subject to regulation and  
reasonable restrictions imposed by law”

*Article 19 A of the Constitution of Pakistan*

**Research & Editing**

Hawwa Fazal

**Shehri-Citizens for a Better Environment**

88-R, Block 2, P.E.C.H.S, Karachi 75400 – Pakistan

Tel/Fax: +92-21-34530646

Email: [info@shehri.org](mailto:info@shehri.org) Web: [www.shehri.org](http://www.shehri.org)

Facebook: [www.facebook.com/shehri.citizens](http://www.facebook.com/shehri.citizens) Twitter: @ShehriCBE

With the support of

**Friedrich Naumann Foundation for Freedom-Pakistan**

P.O.Box 1733, 44000 Islamabad

Tel: +92-51-2655750 Fax: +92-51-2655752

Email: [pakistan@freiheit.org](mailto:pakistan@freiheit.org) Web: [www.freiheit.org/pakistan](http://www.freiheit.org/pakistan)

Facebook: [www.facebook.com/@FNFPakistan](http://www.facebook.com/@FNFPakistan) Twitter: @FNFPakistan

No. of printed copies: 1000

Edition: 2022

ISBN:978-969-9491-24-5

**Production:**

SAUDAGAR ENTERPRISES

[www.saudagar.com.pk](http://www.saudagar.com.pk)

Tel: +92-333-2276331

**Disclaimer:**

Every effort has been made to ensure the accuracy of the contents of this publication. The authors or the organization do not expect any responsibility of any omission as it is not.

## ACRONYMS LIST

RTI	Right to Information
KP	Khyber Pakhtunkhwa
SRTI	Sindh Right to Information Law
NGO	Non-governmental Organization
PIO	Public Information Officer
SIC	Sindh Information Commission
PIC	Pakistan Information Commission
ECP	Election Commission Pakistan
MP	Member of Parliament
CAA	Civil Aviation Authority
SSDO	Sustainable Social Development Organization
CII	Council of Islamic Ideology

# TABLE OF CONTENT

MESSAGE	01
INTRODUCTION	02
CHAPTER 1 INFORMATION: PRINCIPLES OF AN EFFECTIVE RIGHT TO INFORMATION LAW	03
CHAPTER 2 RIGHT TO INFORMATION LAW IN PAKISTAN	09
CHAPTER 3 RTI LAW SINDH-A CRITICAL ANALYSIS	21
CHAPTER 4 IMPLEMENTING RIGHT TO INFORMATION LAW	27
BIBLIOGRAPHY	35
ABOUT THE AUTHOR	35

# MESSAGE FROM



## AMBER ALIBHAI

GENERAL SECRETARY

SHEHRI- CITIZENS FOR A BETTER ENVIRONMENT



Information is power and Shehri-CBE believes in its strength. The Right to Information (RTI) is one such legislative instrument that facilitates citizen's access to information, relevant to the functioning of government. Despite resistance and obstacles surrounding its implementation, Shehri-CBE for the past 16 years has been striving to educate citizens on the law, 'its use and its power'. Shehri-CBE has successfully leveraged the information accessed through invoking this legislation for effective use in its Public Interest Litigation (PIL) cases. As a standard practice now, we first make our query through use of RTI and then proceed towards the complaint and other advocacy measures.

Shehri-CBE has been conducting awareness raising and training workshops all over Sindh interacting with students, public servants, media, youth, women, marginalized communities and religious minorities, capacitating them on how to effectively access information for all their issues. Shehri- CBE strongly believes that institutions of governance have to be fully accountable and transparent in their functions.

Shehri-CBE led the effort to suitably amend and strengthen the **Sindh Provincial Right to Information Act** which resulted in the enactment of a more inclusive and stronger **"Sindh Transparency and Right to Information Act 2016"**. We are confident that this publication will help shed light on the importance of Sindh RTI 2016, the problems in operationalization of the law, how they can be resolved and widespread use of this law can lead to advocacy and informed citizen engagement.

# INTRODUCTION

---



Freedom to Information is a basic right. The quest for access to information in Pakistan began in 1990 and is still ongoing. Initially, there were first generation Right to Information laws, which did not adhere to the standards of effective legislation as judged against international standards and best practices. The standards are maximum disclosure, promotion of open government, limited scope of exceptions, minimum cost for requested information, disclosure taking precedence over exceptions and protection of whistle blowers.

After much advocacy by civil society organizations and addition of Article 19 and 19A through Eighteenth Amendment in 2010, both of which guarantee Freedom of Information and Right to Information; the second-generation laws were introduced. Albeit improved, these laws still have loopholes, which allow government departments and employees to evade RTI requests by civilians. An analysis of the Sindh RTI Law of 2006 and Sindh RTI law 2016, shows how the RTI law was significantly improved but still contains ambiguities and lacks of provisions that would ensure effective implementation of the law - in spirit & letter.

Access to previously hidden information has revealed how the government runs, helped highlight problems within the society, led to litigations by citizens seeking to make functionaries comply with standards and hold them accountable for their actions. This toolkit examines and cites successful cases where RTI Law was used by citizens and civil organizations to right the wrongs, bring light to veiled issues and safeguard rights of minorities.

Hawwa Fazal  
August, 2022

# INFORMATION: PRINCIPLES OF AN EFFECTIVE RIGHT TO INFORMATION LAW

## CHAPTER

## WHAT IS RIGHT TO INFORMATION?

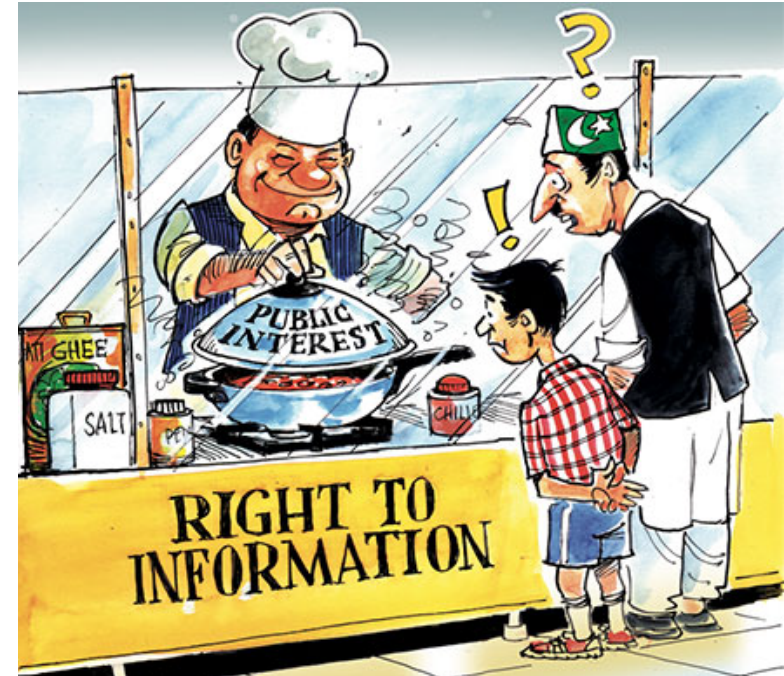
Information is power. Access to information is the determinant that tilts the power equation in the favor of people and against bureaucracy to create an accountable and participative democratic government.

Information is power. Access to information is the determinant that tilts the power equation in the favor of people and against bureaucracy to create an accountable and participative democratic government.

Over the past few years, 'Right to Information' has achieved eminence in human rights and democratic discourse. Countries around the world have realized the importance of information and introduced laws that have entrenched a legal right to access information from governments and, in some cases, private bodies.

Enveloped in various names — Freedom of Information, Right to Information, Access to Information, Right to Know — the essence of the idea stays the same:

- the public should have the right to request information and the government has to comply with the request, unless there is a defined exemption;
- the government should proactively provide certain key information even in the absence of a request.



Governments across the globe have developed legislation and enacted laws answering important questions concerning who can access information, how information is retrieved, its cost, who is obligated to provide information and when can access to information be legitimately refused.

However, the success of 'Right to Information' essentially depends on the successive implementation of the aforesaid law, which requires commitment by the government in terms of scrutiny at all levels, awareness among citizens and watchdogs, training of bureaucratic officials, development of a digital records system and an independent body to ensure accountability.

## PRINCIPLES OF A TRUE RTI LAW

In a democracy, right to information plays a crucial role. It allows citizens to hold the government responsible for its actions by asking questions and raising objections on decisions taken by people in power.

Hence, the Right to Information law allows citizens to request and receive information and obligates the government to provide it. To ensure that the legislation, which is being enacted regarding the right to information, provides complete transparency, a set of principles were designed.

*Hence, the Right to Information law allows citizens to request and receive information and obligates the government to provide it. To ensure that the legislation, which is being enacted regarding the right to information, provides complete transparency, a set of principles were designed.*

The following principles, were endorsed by the UN Special Rapporteur on Freedom of Opinion and Expression in his report to the 2000 Session of the UNCHR and referred to by the Commission in its 2000 Resolution on freedom of expression, as well as by his successor in 2013 in his report to the UN General Assembly in 2013. According to that report a true Right to Information Law should encompass the following characteristics:

### 1. MAXIMUM DISCLOSURE

The legislation should be formulated with the aim to disclose all 'information' held by public bodies. All data held by official bodies should be disclosed regard less of its nature i.e., documents, computer files, audio, video, recording, etc. The legislation should also bind authorities to provide the context via which the information was collected and used, the date of production and the source of data.

Separately, the legislation should clearly define all public bodies. All branches and levels of government bodies should be specified, along with those that operate under a statutory mandate including nationalized and public corporations. Judicial bodies, private bodies working in partnership with the government, using public money or holding decision — making authority should also be declared in the legislation. None of the bodies, even if they are related to Defense and securities, should be exempted.

Moreover, even material held by private bodies, which may be subject to public interest such as environment, health, labor rights or human rights, should be discoverable.

## 2. OBLIGATION TO PUBLISH

The legislation should bind the body to publish data of the following categories.

- The functions, structure, objectives, achievements, policies, and procedures of the body.
- Key personnel, both former and current.
- Actions and achievements of the body.
- Annual budget and audit of the body i.e. expenditure, revenue, etc.
- Type of information held by the body.
- All data acquired before and after making or implementing decisions.
- How the public can utilize facilities being provided by the body.

The bodies should also update the data annually and inform of any changes via notifications or press releases.

## 3. PROMOTION OF OPEN GOVERNMENT

The law will only be effective when people use it and public servants are aware of their responsibilities. Hence, the legislation should require the formation of an official body and adequate resources to promote the law.

### PUBLIC AWARENESS

The public should be educated about their right to access information. This can be done in various ways:

- Higher secondary educational institutions and universities should be informed about the importance of the law and how they could use it.
- Broadcast media should be used to educate people who live in areas in less literate areas.
- Educational videos on social media could be used to promote the law.
- Civil society groups and government could collaborate to conduct workshops

### TRAINING GOVERNMENT OFFICIALS

If the government body is unaware of this law, then the culture of office secrecy would prevail. Hence, it is essential that the law makes it a requirement for public bodies to provide training to their employees at all levels regarding the scope of right to information, procedural mechanisms for accessing information, and ways to maintain and access records.

#### 4. LIMITED SCOPE OF EXCEPTIONS

All types of requests to access information should be granted and the exceptions should only be in cases where non disclosure can be justified, which is done through a three — part test.

- 1 The information relates to a legitimate aim as provided for in the international law.
- 2 The disclosure threatens the peace of the state or makes it vulnerable to threats.
- 3 The disclosure harms public interest.

Non — disclosure would only be justified on a case — to — case basis. For instance, restrictions imposed to protect the government from embarrassment are not valid. If a case arises in which information disclosure could lead to a public benefit for e.g., high — level corruption within government could be exposed, then the information should be revealed to public scrutiny.

The harm of exemption should be weighed in light of public interest. To cite, if the information could make a substantial contribution in exposing human rights violation, expose wrongdoings and benefit health and public safety, then the immunities on information should be waived.

#### 5. PROCESSES TO FACILITATE ACCESS

The request for information should be processed rapidly and equitably.

All public bodies should be required to appoint a person whose primary responsibility will be to deal with a right to information request. Moreover, the procedure to request for information should be eased. For instance, the request should be accepted in national and provincial languages. Special request formats should be formed to facilitate disadvantaged groups such as those who cannot read, speak or write due to blindness, deafness or illiteracy.

If the requestor has made an error, the government body should assist them in correcting their mistake instead of just dismissing their request.

Separately, there should be a closed deadline in which the request should be fulfilled and in case of denial, a written explanation should be provided to the requestor.

## 6. COSTS

Given that the entire rationale behind the disclosure of information is to promote public's participation in the government, its cost should be waived off in best cases. If not, then the cost should be minimum or negligible.

## 7. OPEN MEETINGS

RTI signifies that the public is informed about the decisions being made on its behalf and participates in the decision — making processes.

Hence, the legislation should include a directive in which the governing bodies, that withhold decision making power or are involved in decision-making processes, should conduct open meetings. Meetings, in this context could be gatherings where decisions regarding public interests are taken.

A notice of the meeting should be regulated well before it is conducted on all forums of outreach. This will allow maximum participation and engagement from the public. The meetings can be closed but then the discussion and decisions in those meetings should be made public.

## 8. DISCLOSURE TAKES PRECEDENCE

Laws that prevent the maximum disclosure of information should be repealed and the RTI law should take precedence over others. Furthermore, officials disclosing information pursuant to a request, which is an exemption, should be protected from sanctions. This will allow officers to perform their duty without having to worry about personal risks.

## 9. PROTECTION FOR WHISTLEBLOWERS

Individuals who expose wrongdoings using the right to information law should be protected from any legal, administrative, employment — related sanctions or retaliation from the public or government.

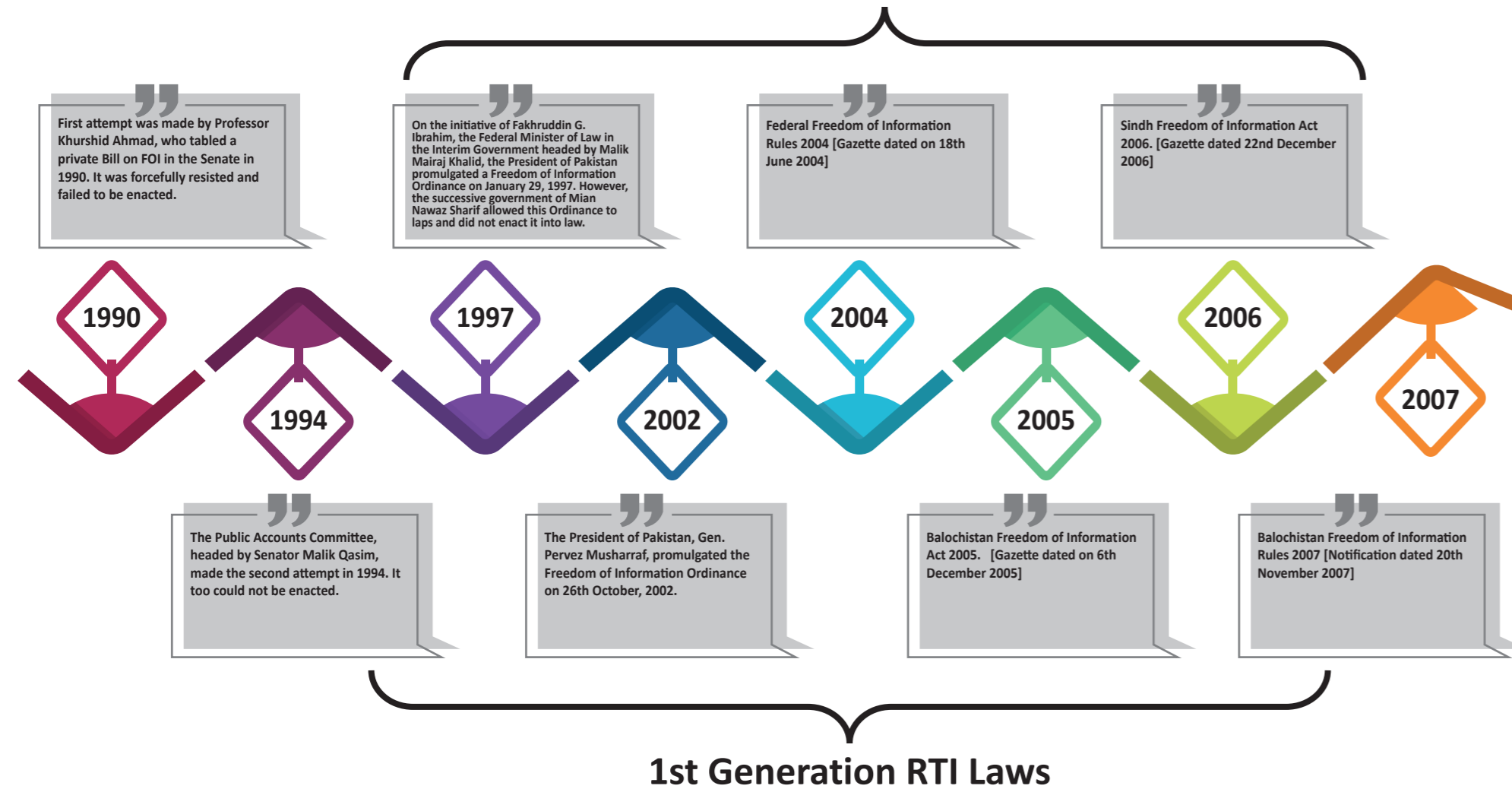
The protection, given by the RTI law, would apply in situations where formal mechanisms are insufficient to solve the wrongdoings and if the information is not released, it will be concealed or destroyed. These misdeeds include criminal offences, corruption, maladministration and the miscarriage of justice. They can also be a threat to health, safety or the environment.

In some countries, protection to whistleblowers is given if the 'oversight' body declares that the released information was in 'public interest' and outweighs the harm. Anonymous disclosure should be allowed and protected.

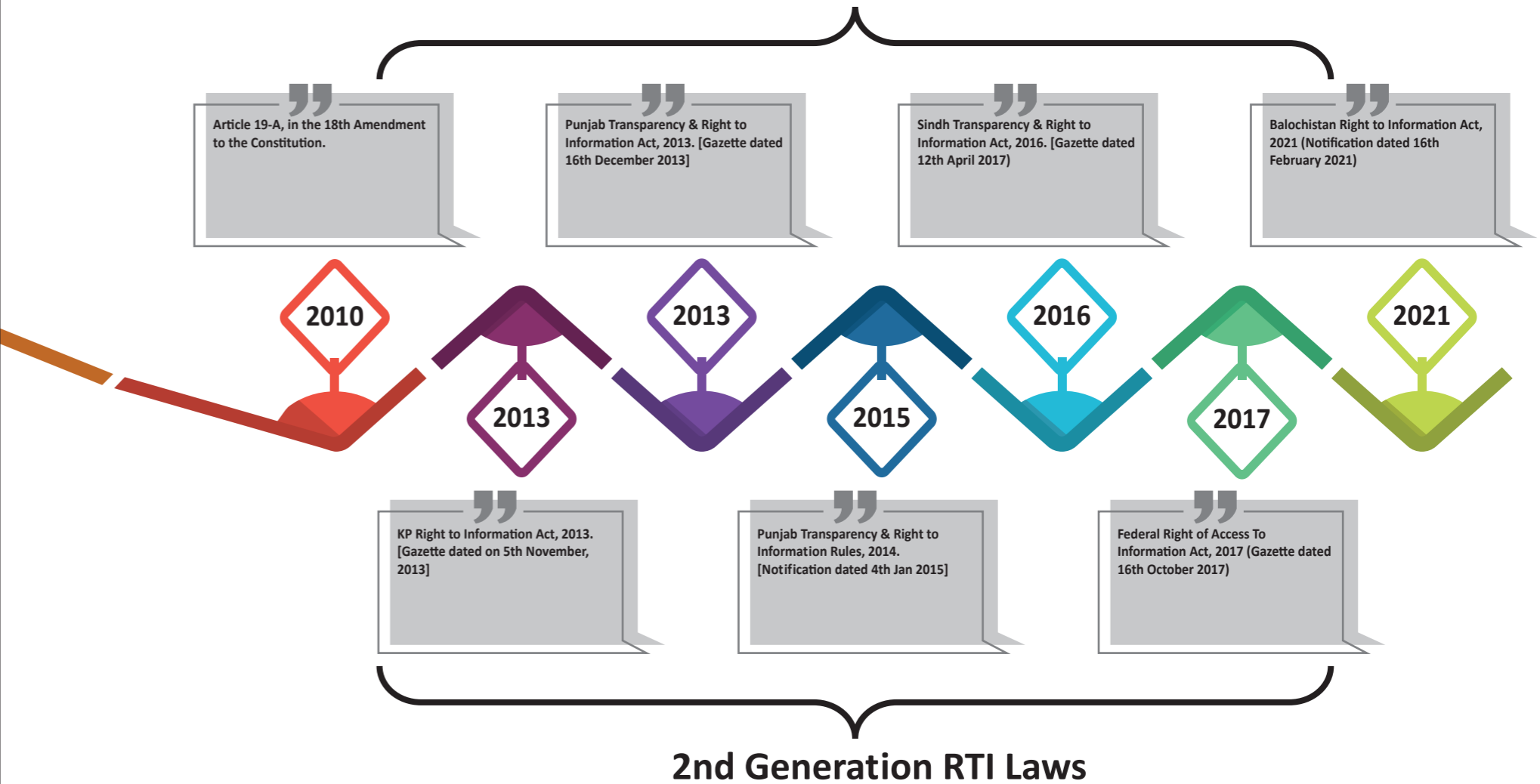
# RIGHT TO INFORMATION LAW IN PAKISTAN

## CHAPTER

# CHRONOLOGY OF



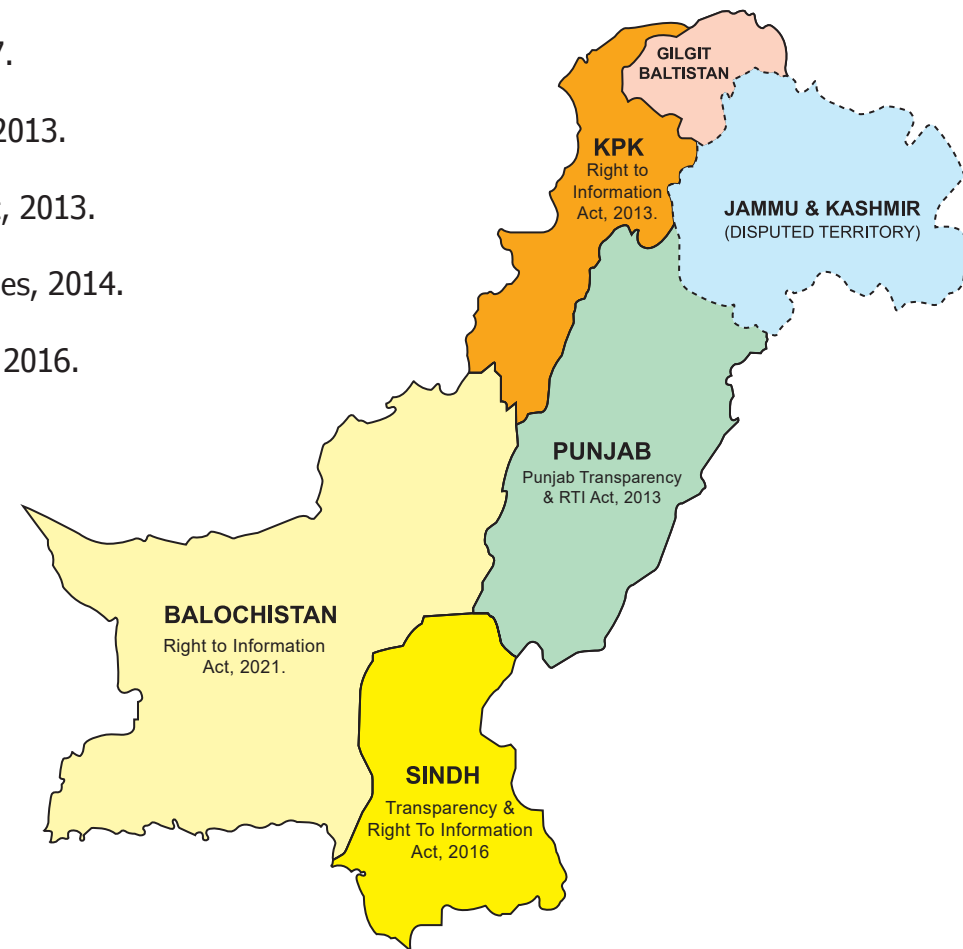
# RTI LAWS IN PAKISTAN



# EXISTING RTI LEGISLATIONS IN PAKISTAN

## WHAT RTI LEGISLATIONS EXIST IN PAKISTAN

- Article 19-A of the Constitution of Pakistan: “Every citizen shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law.”
- Federal Right of Access to Information Act, 2017.
- Khyber Pakhtunkhwa Right to Information Act, 2013.
- Punjab Transparency & Right to Information Act, 2013.
- Punjab Transparency & Right to Information Rules, 2014.
- Sindh Transparency & Right to Information Act, 2016.
- Balochistan Right to Information Act, 2021.



# YOU CAN ASK FOR INFORMATION FROM ANY PUBLIC BODY

## A PUBLIC BODY MEANS:

- a. Any ministry, division or department of the Federal or Provincial Government.
- b. Any Federal or Provincial Legislature (national assembly or provincial assembly secretariat).
- c. Any office of any Board, Commission, Council, Municipal or Local Authority established by or under a Federal or Provincial Government.
- d. Any Federal or Provincial court or tribunal.
- e. Any corporation, body or institution set up, established, owned or controlled by the Federal or Provincial Government.



# INFORMATION YOU CAN ASK FOR ✓

## UNDER SINDH TRANSPARENCY & RIGHT TO INFORMATION ACT 2016

A citizen can ask for any information except for the category defined as 'exempt from disclosure'. Following are some examples of the type of information you may ask for under the Right to Information Act:

- Under what authority are the people building houses on land reserved for parks or utilities?
- How are residential areas being converted into commercial areas?
- How many government primary schools are operational in a particular area?
- Who all received government contracts, for what amount and on what grounds?
- What amounts are spent on a politician or a government servant to support his perks, travel, cars, house rents, foreign visits, office, entertainment, advertisements, etc.?
- What is the budget and how is it spent. Ask this information about a park, school, hospital or any public body?
- What is the crime rate for each police station, cases pending in courts, cases of violence against women and why are the culprits not punished?
- What licenses, contracts, allotments and other benefits were made, or given by the public body?
- Any information or record held by any public body that the government declares as public information.
- The functions, structure, objectives, achievements, policies, and procedures of the body.

## 5 STEPS FOR OBTAINING INFORMATION

01

Applicant determines the information I record that he I she requires.



02

Applicant identifies the custodian ministry I department I public body which must be approached for obtaining the required information.



03

Applicant submits the application in any form or manner to the Designated Official of the Public Body.



04

Applicant waits for 15 working days (in Sindh RTI Act) or 10 working days (in Federal Act) for a response.



05

In case of an unsatisfactory response, the applicant files for an Internal Review or Complaint with the Information Commission.



## TIMELINE

LAWS	Designated Official/PIO	Internal Review (Head of Dept)	Complaint before Information Commission	Total Days
Federal Right of Access to Information Act 2017	10 Days	-	60 Days	70
Balochistan Right to Information Act 2021	15 Days	14 Days	60 Days	89
Sindh Transparency and Right to Information Act 2016	15 Days	30 Days	45 Days	90
KP Right to Information Act 2013	10 Days	-	60 Days	70
Punjab Transparency & Right to Information Act 2014	14 Days	14 Days	30 Days	58

# STEP BY STEP GUIDE TO MAKING RTI REQUESTS

## GUIDELINES FOR MAKING AN RTI APPLICATION

1. Ensure you are writing to the correct government department.
2. Ensure you demand a specific record by name and period such as “Please give me the record under the heading ‘purchase of Computers’ from 1st January 2020 to 31 December 2020 for DC Office XYZ”
3. Ask for specific information such as “How many employees from Grade 5 to 10 are employed in the Education Department of Sindh Government from 1 st January 2018 to 31 st December 2020”
4. Do not ask general questions which may involve views of various individuals such as “Why is the newly constructed Overhead bridge in my area in such a bad shape”
5. Do not ask for vague information such as “Give details (what details) of the project to build the underpass in XYZ area”
6. Try to confine your request to one subject per application.
7. If you are hand delivering your request, get a receipt that shows receiving date. If you are using a courier, save the courier receipt, in case you need to follow up or appeal.



**SPECIMEN OF RTI REQUEST UNDER SINDH TRANSPARENCY &  
RIGHT TO INFORMATION ACT 2016**

Date: \_\_\_\_\_

(Designated Official)

RE: APPLICATION FOR OBTAINING INFORMATION UNDER ARTICLE 19-A OF THE CONSTITUTION AND SINDH TRANSPARENCY AND RIGHT TO INFORMATION ACT 2016

Sub: \_\_\_\_\_

Dear Sir

We ask for the following information under Section 8(1) of Sindh Transparency and Right to Information Act 2016 which says *“Subject to the provisions of this Act, any applicant may make an application for obtaining information of the public body. The said application may be made in any form or manner to the Designated Official and duly acknowledged”*.

1) \_\_\_\_\_

2) \_\_\_\_\_

3) \_\_\_\_\_

Please provide the requested information at your earliest, and within the fifteen (15) working days, required under section 8(3) of Sindh Transparency and Right to Information Act 2016.

Sincerely,

Name of Applicant  
CNIC  
Address  
Contact Number

“Every citizen shall have the right to have access to information in all matter of public importance subject to regulation and reasonable restrictions imposed by law”  
*Article 19 A of the Constitution of Pakistan*

**INTERNAL REVIEW RTI REQUEST UNDER SINDH  
TRANSPARENCY & RIGHT TO INFORMATION ACT 2016**

Date: \_\_\_\_\_

To,

(Head of the Public Body) \_\_\_\_\_

(Address of Department) \_\_\_\_\_

Ref: APPLICATION FOR OBTAINING INFORMATION UNDER ARTICLE 19-A OF THE CONSTITUTION AND SINDH TRANSPARENCY AND RIGHT TO INFORMATION ACT 2016

Sub: *(Same as the subject of the Initial RTI Request)* \_\_\_\_\_

Dear Sir

I refer our letter (Date of Request) sent to Name of Public Body ,  
(copy of the RTI request attached), requesting for the following information;

(i) \_\_\_\_\_

(ii) \_\_\_\_\_

(iii) \_\_\_\_\_

Despite the passage of more than 15 working days, the requested information has not been provided to me, therefore, as per Section 9 of the Act, I am now filling an **“Internal Review”** with you for the non-provision of information. Please note that as per Section 9(3) of the Act, the request under Internal Review has to be resolved within 30 days.

Sincerely,

Name of Applicant  
CNIC  
Address  
Contact Number

“Every citizen shall have the right to have access to information in all matter of public importance subject to regulation and reasonable restrictions imposed by law”  
*Article 19 A of the Constitution of Pakistan*

**SPECIMEN OF RTI COMPLAINT TO SINDH INFORMATION  
COMMISSION UNDER SINDH TRANSPARENCY AND RIGHT  
TO INFORMATION ACT 2016**

Date: \_\_\_\_\_

**Chief Information Commissioner**  
Sindh Information Commission  
State Life Building # 3 (Ground floor)  
Dr. Ziauddin Ahmed Road  
Karachi

**Subject: COMPLAINT TO SINDH INFORMATION COMMISSION  
UNDER SINDH TRANSPARENCY & RIGHT TO INFORMATION  
ACT 2016**

Dear Sir

I refer our letter dated \_\_\_\_\_ sent to \_\_\_\_\_ (copy attached)  
requesting for information under Sindh Transparency & Right to  
Information Act 2016.

*Details of records/information requested*

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

Please note as per Section 8(3) of Sindh Transparency & Right To Information  
Act 2016, the information is to be provided within 15 working days.

As there has been no response from (Name of Department), I am filing a  
complaint under Section 11 of the Sindh Transparency & Right To Information  
Act 2016 with your office.

It is requested that Sindh Information Commission to help me in getting the  
information at the earliest.

Sincerely,

**Name of Applicant**  
**CNIC**  
**Address**  
**Contact Number**

"Every citizen shall have the right to have  
access to information in all matter of public  
importance subject to regulation and  
reasonable restrictions imposed by law"  
*Article 19 A of the Constitution of Pakistan*

Encl: Initial RTI Request letters

**SPECIMEN OF RTI REQUEST UNDER FEDERAL RTI ACT 2017**

Date: \_\_\_\_\_

To,  
(Designated Official)  
Address of Department

-----  
-----

**Sub: Information request Under Article 19-A of the Constitution and Federal  
Right of Access to Information Act 2017**

Re: \_\_\_\_\_

Dear Sir/Madam,

You are requested to provide the following information under Article 19-A of the  
Constitution and Section 11 of the Federal Right of Access to Information Act 2017

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

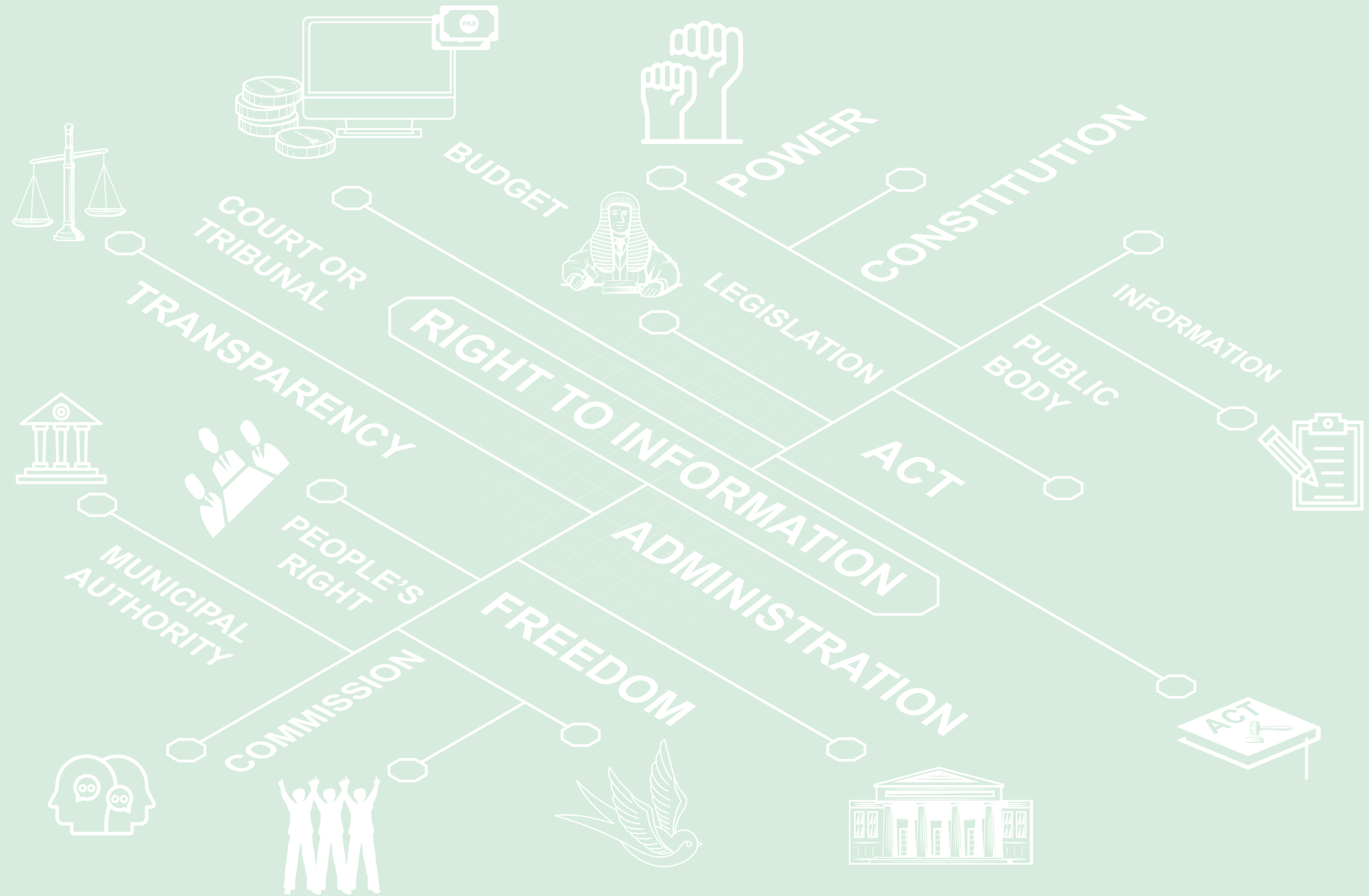
Please note that as per Section 14(1) of Federal Right of Access to Information  
Act 2017, the requested information is to be provided within 10-days.

Your cooperation in providing the requested information will be highly  
appreciated.

Sincerely,

Name  
Signature  
Address  
CNIC No.  
Contact Number

"Every citizen shall have the right to have  
access to information in all matter of public  
importance subject to regulation and  
reasonable restrictions imposed by law"  
*Article 19 A of the Constitution of Pakistan*



# RTI LAW SINDH- A CRITICAL ANALYSIS

## CHAPTER

## THE TWO GENERATIONAL LAWS

Governments in Pakistan have always been reluctant, to the point of resentment, when it comes to sharing information that should have been public anyway. Hence, the Right to Information law in Pakistan can be classified into two categories — the first generation RTI Law and the second generation RTI Law.

### • THE FIRST ATTEMPT: 1ST GENERATION RTI LAW

The first generation RTI Law failed to follow the standards of effective RTI.

These laws were phrased in such a way that made them ineffective and useless for the common man.

One of the examples of the “toothless law” was the ‘Sindh Freedom of Information Act 2006’, and had the following weaknesses:

- The term ‘Public Body’ was not defined which meant that many government bodies could evade the law.
- The law demarcated a list of allowable information that could be requested via RTI.
- An extended list of exceptions along with a carte-blanche authority to the government to declare any record as classified.
- The exemptions were subject to a harm test on a case-by-case basis for information on which disclosure was sought but there was no public interest override.
- There was a long and delayed timeline for the process which extended up to more than 60 days and in the absence of any seriousness on the part of the authority could be extended to even beyond a year.
- There was an absence of an appellate authority and no substantial punitive powers with the ombudsperson (appellate authority) rendered the official’s actions ineffective.
- There was no penalty/punishment for officials who evaded these laws and wouldn’t take the request seriously.
- There was no directive in the legislation that would ensure protection for whistleblowers.

Meanwhile, the second generation RTI laws are comparatively more progressive and follow the principles of effective RTI legislation substantially.

However, after the enactment of second-generation laws i.e., KP RTI law 2013, Punjab RTI law 2013, a coalition of civil society organizations mounted huge pressure on the treasury benches to enact better reforms in the province.

Subsequently, the second generation RTI law in Sindh came ten years later.

### • THE SECOND ATTEMPT: 2ND GENERATION RTI LAW

The Sindh Transparency and Right to information Act, 2016 (SRTI) was passed by the provincial assembly on March 13, 2017, and assented by then Sindh Governor Muhammad Zubair on April 8, 2017. It replaced the “Sindh Freedom of Information Act, 2006”, which was consequently repealed.

Here is why the SRTI, 2016, is much more effective:

- The term ‘public body’ is defined and includes the Secretariat Chief Minister, Secretariat of the Governor, local government, company of the government, semi-autonomous body of the government, NGOs financed by the government, statutory body established under the provincial law, court, tribunal, Board, Commission, council or other bodies functioning in the province.
- The SRTI 2016 has only one list of exempted information and the rest has been declared public. Even information that is otherwise exempted from disclosure, will be provided if it is in the public interest and overshadows the harm.
- If information requested pertains to life and liberty of a person then it should be provided within two days.
- The citizens can retrieve certified copies of documents and inspect all documents that are required.
- The SRTI envisages formation of an autonomous information commission to develop rules and regulations for solicitors and information officers, train public information officers, monitor progress and publish annual reports on compliance to RTI by public bodies.
- The chief of the information commission, as per legislation, is to be a retired public servant with at least 15 years of service. One information commissioner is to be from the judiciary, who should be qualified enough to be a judge of high court and another from civil society who should have 15 years of experience in their profession.
- The response time is 15 days and in exceptional cases 10 additional days would be given to fulfill the request.
- The information officer has to justify the non-disclosure of information which can be subject to internal review.
- The information which has been undisclosed due to exemption would be declassified after a period of ten years.
- The officer can be subject to a fine that may equate to 10% of thier salary, if found to be inhabiting RTI with mala fide intentions.
- Every public body should have a PIO who cannot be below grade 16.

## CHALLENGES TO OPERATIONALIZATION OF SINDH RTI LAW

The dismal state of governance in Sindh can largely be attributed to the lack of freedom of information, despite having a Right to Information Law.

The vague terms used and the lack of implementation of the SRTI Law 2016 retards the capacity of citizens to effectively monitor public institutions. The citizens have lost confidence in the system and have become apathetic towards issues of larger public concerns. This secretive culture within the system has led to citizens mistrusting state institutions and a lack of participation in the formal economic activity.

Here are the barriers in the Sindh RTI law which allows the government to evade accountability and has discouraged citizens from using the RTI law.





Section 6 of the SRTI Law, 2016 states that all government departments should proactively disclose and publish information — a provision which has not been followed till date. The websites of most Sindh government departments don't have updated information and, in some cases, there is no information at all. These departments state that they don't get appropriate funding to publish information on a regular basis.



Many government departments do not have designated and notified Public Information Officers (PIOs) as required by Section 7 of the SRTI 2016. Often PIO's are designated by name instead of the post. Moreover, the PIO's contact details are not easily accessible which makes addressing them in the RTI letter difficult. Subsequently, the letter is addressed to the head of department and ends up getting misplaced.



The public records in the departments are often on paper and kept in a disorganized manner. This makes extracting information tedious for the PIOs. There is an urgent need for digitalization of data. This will help avoid anomalies in data and make upgradation of data processes easier.



The SRTI Act 2016 states that if information obtained is used "malafidely purpose with ulterior motives with facial, fabulous design", a fine of Rs1 00,000 or three months of imprisonment would be imposed on the requestor. This statute, making the act of obtaining information criminal, has made citizens weary in obtaining information via legal channel using SRTI, 2016.



According to a recent notification, dated 2nd June 2022, the government of Sindh has taken away the power of the Sindh Information Commission to impose fines and punish officers who do not comply with the RTI request. They can only recommend disciplinary proceedings against the officers. This has, yet again, made the commission powerless.



There is no provision in SRTI Law 2016 which would give the whistle blowers protection against legal, administrative, employment-related sanctions or retaliation from the public or government. Afraid of repercussions that may follow, people don't pursue the truth even while being aware of possible misdemeanors in the system.



There are no service rules for the SIC— yet. Hence there is little to no implementation of the law. The government should take steps to draft, approve and notify service rules for SIC on an urgent basis so that the commission can recruit staff to carry out its functions.



There is no provision in the SRTI, 2016 which binds the PIOs to assist the applicants in filling out RTI applications. Khyber Pakhtunkhwa RTI Act 2013 and Punjab Transparency and RTI have bound PIOs to help illiterate and disabled people in filing requests.



There is little to no fund allocation for the Sindh Information Commission. Hence, they are unable to effectively perform their statutory responsibilities in terms of public awareness and capacity building of the PIOs. The government needs adequate funds so that the commission can do its job without any excuses.



The SRTI, 2016 law is restricted in the sense that citizens cannot take certified samples of material. Hence, using the information for legal actions becomes a difficult task.

In a nutshell, the SRTI, 2016, needs to be improved by removing blemishes. This, however, can only be done by civil society groups that can pressurize the information commission to perform its duty and ensure effective operationalization of the law.

However, true enactment of the law will only come with people's will to use the law to fight injustices in the system.

# IMPLEMENTING RIGHT TO INFORMATION LAW

# 4 CHAPTER

## IMPACT OF RTI LAW

Access to information has led to changes on how things should be run in the government system. It has led to litigation by citizens seeking to make functionaries comply with standards and use their discretion within the strict limits of fairness, rationality and accountability.

### INCLUSIVE DEMOCRACY & TRANSPARENT GOVERNANCE

Democracy was founded on the notion that the people of a country should remain informed about decisions taken to run the state and take active part in its governance through their representatives.

Here, RTI plays a vital role as a tool which helps citizens equip themselves with information to decide whether their representatives have fulfilled their promises or not. It helps citizens evaluate the strengths and weaknesses of policies and / or decisions taken by the elected representative. If the information for that evaluation is unavailable, then the voting of the electable falls back onto the basis of religious, tribal or class affiliations, instead of experience and demonstrated capacity.

Apart from elections, access to information is also vital to fill the gap between the public and bureaucracy. With RTI law in place, there can be an active communication which allows the public to participate in the development and implementation designed for their benefit.

Policies of openness promote greater trust between the government and public. This trust will aid the implementation of laws, protect disenfranchised citizens and weaken perceptions of exclusion from opportunities or unfair advantage of one group over the other.



## • KEEPING AN EYE ON THE GOVERNMENT ASSETS

Earlier this year, freelance journalist Rana Abrar Khalid, based in Islamabad, filed an RTI request to the cabinet division, requesting access to information regarding the 'gifts' received by then Prime Minister Imran Khan from the heads of foreign states, governments and other dignitaries from 18 August 2018 to 31 October 2020. The appellant also sought the specification of each gift retained by the ex-premier and the rules under which these gifts were retained.

However, his request was repeatedly denied. The applicant, subsequently, approached the Pakistan Information Commission (PIC) which ordered the cabinet division to cite reasons for the non-disclosure of said information. The latter responded that the information was "classified". For its part, the commission, in its order, observed that the cabinet division had not provided any reasons to exempt the requested information from disclosure in the instant.

It further stated that the availability of the certified information about the gifts deposited in 'Tosha Khana' in public domain would not only make the entire process about the management of these gifts transparent, but would also contribute to reducing the trust-deficit between citizens and public institutions contributed by the opacity and secretive ways of the functioning of public institutions.

Even citizens of the states, on whose behalf gifts are received and public officials, will find out whether their gifts were properly managed and consequently strengthen people-to-people and inter-state relations.

It was only when the matter went to court that the cabinet's hand was forced to reveal the information.

And when the secrets were unleashed, it was found that the gifts received by Khan were obtained from the '*Tosha Khana*' (national gift reserve) by paying a negligible cost. He however paid a heavy price in terms of his reputation being compromised.

The court had also ordered the cabinet to set rules, under which gifts were retained by the recipients, on its website along with all categories of information mentioned in Section 5 of the Right of Access to Information Act 2017. These categories include organization's functions, directory, budget, performance audits and reports, facts, background information on decisions and policy making procedures, investigation reports, etc.

## TACKLING CORRUPTION

CHRI in a publication, quoted that World Bank states, corruption can reduce a country's growth rate by 0.5 to 1.0 percentage points every year. Amid these estimates, the RTI has proven to be an effective tool to combat corruption. It serves as an instrument, using which civilians, parliamentarians, anti-corruption bodies and public bodies can breakdown walls of secrecy.

Moreover, the knowledge that records will be available to the public for scrutiny, deters government officials and public representatives from acting dishonestly.

### • TAX EVASIONS BY LAWMAKERS

A 2011 study titled 'Representation without Taxation' by investigative journalist Umar Cheema revealed that more than 70 percent of Pakistan's cabinet and two-thirds of its federal lawmakers paid no tax in 2010 despite an estimated average net wealth of \$882,000.

The Right to Information request to the Election Commission Pakistan (ECP) asking for the nomination papers of the Members of Parliament played a crucial role in the investigation. The ECP provided the requestee nomination papers of 52 Members of Parliament (MP) from which their NTN's and CNICs were extracted and used to access their tax records.

Information Requests to FBR were also filed under Freedom of Information Law. The investigating team requested the authority to verify if the tax records of the MPs, whose records were not found on the Tax Payer Facilitation Portal, were registered with the authority or not.

The report created a political firestorm in Pakistan, as MPs were questioned about tax evasion for the first time by media, civil society, and voters. Some MPs started attacking Cheema and even proposed a new law to impose new restrictions on the media. Meanwhile, the National Assembly proposed a controversial tax amnesty bill. But these efforts only contributed to citizen outrage.

Cheema's investigation managed to do what before seemed impossible. The report revived a dormant tax debate in the country, prompting the ruling Pakistan Muslim League to instruct its members to file their tax returns. Then, in 2014, Pakistani officials took the bold step of making tax records public. The records showed that less than 10 percent of the MPs had not filed their tax returns.

## EQUALITY IN DEVELOPMENT

Even though Asian countries have demonstrated impressive development over the last few decades, the progress of poverty — stricken nations remains the same. The reason, as stated by numerous activists and parliamentarians, is that policy building and execution of programs is done behind closed doors. Instead of taking the opinion of the people for whom the projects are being designed, 'experts' are hired for consultation. However, these experts often have no idea of the on-ground situation.

For instance, despite sizable funds being allotted for programs and development of marginalized groups, their condition more or less remains the same all because of the lack of transparency and zero accountability.

The Right to Information Law will act as a tool for marginalized groups to access information about their development rights, as well as the projects and programs directed towards them. Minority groups can use this law to ensure they receive proper entitlements.

### • MINORITY TASK FORCE

On June 19, 2014, former Chief Justice of Pakistan Tassaduq Hussain Jilani passed a 32 — page judgment, ordering the constitution of a national council of minorities' rights for monitoring the practical realization of rights and securities provided to the minorities under the Constitution and law.

The judgment was hailed as a landmark but saw little implementation in the eight years since it was passed. In June 2019, Mr. Boota, a government employee and an activist in Hyderabad, filed a Right to Information request in this regard and asked for details of the work that had been done to date by the government on the formation of the minorities' task force.

The application stirred up a discussion about the delay in the formation of the task force — which could be classified as contempt of court.

After a long struggle, a resolution was passed by the National Assembly on May 9, 2022 and the prime minister approved the constitution of the task force on minorities to oversee the implementation of their rights.

## EQUAL RIGHTS

Open and free access to information is valuable for ensuring equality. Right to information will allow people to ensure that they are being given their due rights which have been guaranteed to them in the Constitution or by law.

For instance, all government departments in Pakistan are required to set a 5% quota for hiring vulnerable groups i.e., women, people from minority communities and disabled persons. However, often reserved seats are not filled and stay vacant.

Similarly, the government has also set the minimum wage to be Rs. 25,000 per month. However, the decision lacks implementation.

Right to information has played a significant role in ensuring that these rights are being implemented.

### ILLEGAL LOW WAGES

Government departments in Pakistan have often been reluctant to release 'information' to a point of resentment. In this scenario of 'information shielding', RTI has proven to be a silver lining for people whose rights have long been denied by the powerful segments.

The Civil Aviation Authority (CAA) was paying its contracted janitors salaries which were less than the minimum wage. A civil society group, Citizens for Equal Rights, took up the matter and demanded copies of the contracts under the Right to Information Law. However, the CAA refused to give up information despite numerous requests, complaints and letters.

The matter was then referred to the Pakistan Information Commission, where it was decided that the CAA had no valid reason to conceal the information and the applicants were provided contracts.

A study of the contracts revealed that while the CAA paid close to Rs. 20,000, the janitors only received Rs. 14,000. This was a blatant violation of the minimum legal wage defined by the federal government. The NGO wrote to the CAA and demanded compliance with the minimum wage for all its contracted janitors.

The CAA undertook the matter and resolved it with praiseworthy steps. The third-party contractor was fired and the employees were re-hired on a retainership basis. Moreover, the monthly wages of all janitors were increased from Rs. 20,000 to Rs. 25,000.

## BUDGET ACCOUNTABILITY

The government's money is the citizens' money, hence the government is obliged to provide an account of how public funds are raised, allocated and used. A government collects the majority of its revenue through resources that are domestically generated — which means that they are produced within the country's territory. There are two ways to generate that money: tax revenues (direct and indirect taxation of citizens) and non-tax revenues (aid and rent of state-owned enterprises).

It is the citizens' responsibility to ensure that the budget is being rightfully spent by public officials who have been given authority. The citizens can play the role of oversight by filing Right to Information requests regarding the expenditure of the allocated budget in the proposed budget for the year.

### • HOLDING LOCAL GOVERNMENT ACCOUNTABLE

Sher Khan\* is a journalist and social worker belonging to Burewala Tehsil, a sub-district of Vehari Punjab. He frequently observed that public institutions meant to serve residents fail to deliver on their responsibilities. He noticed inefficient performance, unnecessary red tape, obvious corruption and wasted resources. Whenever he attempted to confront officials, he was met with the same response: "These are government matters and we are not answerable to you." Yet these were institutions funded by taxes collected from the residents of Burewala Tehsil.

Sher Khan, filed three Right to Information applications: one to the Provincial Highway Department inquiring about its budget for road development, and two to the Town Municipal Administration asking about the budget for paving. His requests were delayed several times.

When he finally received the official contacts after eight months.

It revealed that contracts had been awarded for a range of work that had not been carried out, including an extended railway crossing gate, traffic signs, street lights and new paving tiles.

He filed complaints with both agencies over failure to carry out the work and followed them up, together with civil society members and other citizens. The jobs were completed and the local community benefitted from fewer accidents and delays, as well as better streets for pedestrians.

\*Names have been changed to maintain confidentiality.

## ADDRESSING SOCIAL ISSUES

Access to data has helped highlight social issues in the society and address issues that otherwise would have remained hidden.

Information accessed through the Right to Information Act has helped think tanks, civil society, stakeholders and parliamentarians conduct research, find solutions and legislate laws and policies that help solve problems faced by the citizens.

### • DOMESTIC VIOLENCE BILL

In 2019, the Sustainable Social Development Organization (SSDO) filed several RTI requests for the collection of data for their study titled 'Tracking Numbers: State of Violence Against Women and Children in Pakistan, January- June 2020'. In the request, they inquired about the number of cases against child abuse, child labor, child marriage, domestic violence, kidnapping of women, rape of women, violence against women and honor killing of women.

The report revealed that there had been an alarming 200% increase in cases of violence against women in Pakistan over the past three months.

This data highlighted the need to address domestic violence on a policy level. Consequently, the Domestic Violence Bill, 2021, was introduced in the assembly. The lower house passed the bill, however, the upper house raised several objections. The bill has currently been halted by the Council of Islamic Ideology (CII).

## BIBLIOGRAPHY

- Article 19 (2016). The Public's Right to Know: Principles on Right to Information Legislation.
- Asia Disclosed: A review of Right to Information across Asia (2015).
- Commonwealth Human Right Initiative. (2012). The Right to Information: An aid for litigation for lawyers and human right defenders. New Delhi.
- Government, S. (2017). The Sindh Transparency and Right to Information, Act, 2016, Authority.
- Pakistan, F. G. (2017). Federal Right of Access to Information Act, 2017. Authority.
- Sindh, G. to. (2006). The Sindh Freedom of Information Bill. Authority.
- United Nations Educational, Scientific and Cultural Organization, Peace and Justice Network. (N. D.). Right to Information.
- Zahid Abdullah, A. R. (2019). Right to Information Legislation in Pakistan.

## ABOUT THE AUTHOR

---



Hawwa Fazal graduated from Institute of Business Management in 2020 with a BS (Honors) Degree in Media Studies. Both her thesis articles have been published in Daily Pakistan and Newslane Magazine. After her graduation, she delved into the world of journalism as a reporter and sub-editor for Automark Magazine. After gaining a year of experience, she shifted to freelance journalism. She talks about social, development and governance issues. Since then, her work has been published Dawn, Safety & Security Magazine Today, Techweez.com, etc.

She is currently working as a volunteer at Shehri-Citizens for a Better Environment, performing as a research analyst, communication expert, assistant editor of Shehri — CBE magazine and project coordinator of programs that are executed in collaboration with Friedrich Naumann Foundation (FNF). She has also co-authored a toolkit titled 'Engaging Constituents in the Legislative Process'.

## SHEHRI-CITIZENS FOR A BETTER ENVIRONMENT

Shehri-Citizens for a Better Environment was formed in 1988 (based in Karachi City), as a non-political, noncommercial, non-governmental organization (under the Societies Registration Act XXI of 1860) by a group of concerned citizens to provide the citizens with a platform to effectively voice their concerns in determining their future and taking action in arresting the deterioration in their living environment and propose reform with a view to improve the same. Shehri-Citizens for a Better Environment is now fighting at the forefront of various issues of public concern related the environment. The organization is actively engaged in areas of work like public advocacy and public interest litigation, right to information, good governance, community policing, police reforms, urban mobility, climate change and last but not the least institutional reforms

### OBJECTIVES

- Establishment of an aware and pro-active civil society, good governance, transparency and rule of law
- Promotion of research, documentation, dialogue and influence of public policies
- To provide technical assistance and guidance to local area citizens groups on their local area and environment
- Setting up an effective and representative local government system, e.g., capacity building and training
- Preparation of a proper master plan/zoning plan for Karachi and effective implementation of the same

### HOW IS SHEHRI RUN

A volunteer Managing Committee, duly elected by the General Body for a term of two years, there-by functioning in an open and democratic manner. Membership is open to all who subscribe to its objective and memorandum

### SUSTAINABLE DEVELOPMENT GOALS (SDGs) FOCUS

Shehri-CBE brings a focus in all its works on the 17 Sustainable Development Goals (SDGs) that define the global development agenda for today. This Publication 'Engaging Constituents in the Legislative Process - A Parliamentarians Toolkit for Inclusive Legislation', creates strong linkages with the targets of Goal 16 (Peace, Justice and Strong Institutions), other than finding cross linkages with the remaining goals as well



### **SHEHRI-CITIZENS FOR A BETTER ENVIRONMENT**

88-R, Block 2, P.E.C.H.S, Karachi 75400-Pakistan

Tel: +92-21-34530646, 34382298

Email: [info@shehri.org](mailto:info@shehri.org) Web: [www.shehri.org](http://www.shehri.org)

Facebook: [www.facebook.com/shehri.citizens](https://www.facebook.com/shehri.citizens) Twitter: @ShehriCBE