



Center for
Research &
Security
Studies

*Pakistan-focused, Independent Questions,
Independent Answers*

Comparing Best Practices In Freedom for Information

Comparing Best Practices In Freedom for Information

A project of Human Rights Fund [HRF]

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CRSS: Introduction

Center for Research and Security Studies [CRSS] is one of Pakistan's independent think-tanks committed to the cause of independent research, socio-political advocacy on governance and security issues as well as non-partisan analysis.

Since its inception in January 2008, CRSS has been producing a weekly analysis/commentary – The Pager - on national and regional political and security issues. Besides holding the first ever national-level consultation commemorating the World Day for Water and a report titled 'Curriculum of Hate', the Centre conducted a non-scientific, personal-intercept survey in order to collect quantitative information from residents of the embattled Federally Administered Tribal Areas (FATA) to elicit their opinion about some of the pressing issues such as terrorism, girls' education, and the Taliban version of Islam. The Centre also produced a report titled 'Militant Movements in the Federally Administered Tribal Areas [FATA]'.

In 2009, the Center produced a report titled "The Cost of Conflict" that illustrates the consequences of the insurgency that spiked in that year, severely impacting the sociopolitical landscape and economy. It also published a compendium of reports on the 'Discussion Forum,' a monthly event held with the primary objective of collecting opinions and comments from various stake-holders, including policy-makers, bureaucrats, and intelligentsia.

As part of its humanitarian advocacy, CRSS partnered with the Internews in October 2009 to produce and broadcast over the state-run Radio Pakistan a daily 30-minute programme for the affectees of the Swat insurgency. In January, the Center began producing and broadcasting an hour-long programme over FM 96 Swat and Waziristan network. In March 2010, "Sabaoon," the programme being aired on Radio Pakistan's AM transmitter, was extended to 50 minutes.

In January 2010, the Centre completed a research project titled "Comparing Best Practices in Freedom for Information", supported by The Asia Foundation's Human Rights Fund. The objective of the project was to prepare a draft of Right to Information Act, which will provide people the right and access to information from government departments.

Germany's Heinrich Böll Stiftung, the Asia Foundation, Internews and GINI are among the lead partners of CRSS.

Acknowledgement

While preparing this report, we benefited from a variety of sources including research reports, discussions and seminars' proceedings, research and policy papers and newspaper reports. The CRSS thanks the organizations whose publications helped us greatly in preparing this report. Among others, these organizations included Consumer Rights Commission of Pakistan (CRCP), Center for Peace and Development Initiative (CPDI) Pakistan, Center for Civic Education (CCE), Institute of Social and Policy Sciences (I-SAPS) and Intermedia Pakistan. Various Government departments and ministries were also visited for collection of valuable material.

The Center owes special thanks to The Asia Foundation for reposing confidence in the CRSS for undertaking this study. Thanks also go to the concerned Foundation staff for their understanding and cooperation during and after the completion of the project.

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Executive Summary

The Center for Research and Security Studies [CRSS] in a project funded by The Asia Foundation (TAF) assessed the context and scope of freedom of information in Pakistan. Following are the project components adopted as strategy to bettering the understanding of the concept and furthering the cause on the issue in Pakistan:

1. Comparison of various FoI models in the “near-similar” democracies.
2. Review and analysis of the existing Pakistani law.
3. Taking and incorporating recommendations of the civil society organizations/activists, print and electronic media professionals, lawyers, and others.
4. Holding roundtables on the issue with across-the-board interlocutors to both present our findings and incorporate their recommendations.
5. Personalized interactions with parliamentarians from different political parties.
6. Working closely with a law firm specializing in human rights issues to accumulate the research and input, and conduct a proper legislative review of the existing ordinance

Three major documents arose out of the project as a result. They are included:

1. Comparative Study of Pakistan’s FoI 2002, with respect to Commonwealth Model of FoI and the respective laws of other South Asian Countries
2. The Freedom of Information Ordinance 2002: Understanding the causes of failure and exploring the solutions through legislative research
3. Draft Bill on Access to Information in Pakistan

Since the country lacks sound legislation on the issue, the final outcome of the project was to introduce a draft bill on the issue. However, many initial steps needed to be taken in ensuring that any draft prepared on FoI would surpass and innovate on efforts already undertaken in Pakistan. One of the key weaknesses identified by CRSS on efforts to improve the FoI situation in Pakistan in the past was that these attempts were not tailored to the unique cultural and political climate of Pakistan.

Previous draft bills have been based on standard models developed from other countries, with no additional background or legislative research accompanying the draft. In order to prepare such research and draft a sound bill, CRSS took the initiative to work with a team of two legal consultants who also have considerable experience and knowledge on the issue of freedom of information in Pakistan. It is significant to note that the partnership with the legal team emerged from CRSS’ initial research and networking.

Another outcome materializing from the preliminary literature review and readings was the analysis that freedom or access to information was often confused with the issue of freedom of expression or of the press, particularly by the media. In consequent seminars

designed to address the media, particular attention was paid to ensuring this distinction was explained and understood.

After completing the initial review of literature and a series of interviews with various civil society members and journalists, the CRSS team was well-prepared to design and hold seminars that would result into a fruitful consultative process. The culmination of this process was a final consultative seminar in Islamabad where the legislative research and review of the existing ordinance was presented. Different recommendations and proposals emanated during the consultative process were jotted down to be incorporated into the final draft of the law. A key achievement at this final seminar was that Federal Minister for Information and Broadcasting, Qamar Zaman Kaira promised to make the “annual meeting notes” (Minutes of the meetings) of all government departments available to the public. He also indicated that the matter may be included in the agenda of the parliament’s Constitutional Reforms Committee that has been engaged in holding consultations to introduce comprehensive amendments into the constitution for making it purely parliamentary.

The final report has been divided into different sections in order to explain the background of the FoI, present a draft of the Right to Information Law and to elaborate the activities undertaken during the course of the research.

Imtiaz Gul,
Chairman, CRSS

Legislative Research

Introduction

Information is considered as oxygen for democracy.¹ It is a prerequisite for participatory decision making and it empowers the citizens to hold their governments accountable. Right to Information is a fundamental human right and “touchstone of all the freedoms to which the UN is consecrated.”² It enables citizens to exercise their other fundamental human rights. Right to information means the right of the people to “seek, receive and impart information and ideas through any media and regardless of frontiers.”³ This right includes people’s access to information and records held by public bodies or by organizations that benefit from tax payers money. In countries, which have effective right to information legislation, individuals can easily seek and receive information from the government departments and public bodies. At present, more than ninety (90) countries of the world have enacted laws dealing with the right to information.

In Pakistan, the right to information remained in and out of the debates on human rights in the country. Though the Constitution of Pakistan 1973 seems to be silent regarding RTI, the apex Judiciary has treated this right as concomitant in the freedom of expression as enshrined in Article 19 of the Constitution. Nevertheless, no substantive legal development took place until 2002 when Musharraf government promulgated the Freedom of Information FoI Ordinance, 2002. The law was considered as a milestone in the struggle of civil rights in Pakistan⁴; however, it proved to be ineffective in ensuring right to information due to number of reasons. These reasons include limited scope and applicability of the law, excessive exemptions, complicated process, unnecessary documentary requirements for information request, and exorbitant amount of application processing fees, etc. The most pertinent reason of ineffectiveness of the law is absence of any supportive legislative research in this regard. The situation necessitates intensive study through legislative research of the existing legislative framework relating to the freedom of information to: highlight the issues and constraints in the existing system; and explore options to improve the situation.

This report aims at identifying the causes of failure of existing law, using modern techniques of legislative research. The report also intends to provide practical solutions for the causes of failures of the law through legislative research. The report starts with the background of state of right to information and its governing constitutional and legal framework in Pakistan. After making a reference to the international covenants, the report

¹ The Public’s Right to Know: Principles of Freedom of Information Legislation
(<http://www.article19.org/pdfs/standards/righttoknow.pdf>)

² The UN General Assembly adopted Resolution 59(1)

³ Article 19, Universal Declaration of Human Rights (UDHR)

⁴ Press release of the Consumer Rights Commission of Pakistan, September 21, 2002
(http://crpc.org.pk/pr_21_september_2002.htm)

explains ‘the problem’ with the existing framework. In next part, the report identifies the role occupants and implementing agencies whose behaviour constitute ‘the problem.’ An effort has been made to highlight the causes of behaviour of the role occupants and implementing agencies in this regard. In the end, the report discusses number of options to change ‘the behaviours’ of role occupants and implementing agencies. Recommendations for an enabling legislative regime on people’s right to information have been made in this part. In conclusion, a summary for the report is provided for reiteration of the findings of the report.

Background

Right to Information is a fundamental human right and touchstone of all the freedoms to which the UN is consecrated. Nevertheless, this is not explicitly mentioned in any of the articles of the Constitution of Pakistan, 1973. Besides, the country still lives with the legacy of British colonial regime in the shape of the Official Secret Act, 1923 that puts extreme restriction on citizens’ right to information. The absence of proper recognition of right to information in the Constitution and the presence of secrecy laws promoted a culture of secrecy and close-door decision making. The situation has led to the lack of transparency and corruption in public affairs. Beside the Official Secret Act, 1923, government officials can withhold information in the name of national security, national interest and privacy, etc. Moreover, misuse of provisions of the Maintenance of Public Order, 1960 has made the situation worse. All this necessitated to have a comprehensive legal instrument to promote freedom of information, openness, and transparency in the country.

In view of the above, the civil society started campaigning for a comprehensive legislative arrangement for right to information in Pakistan. The first significant initiative for the right to information dates back to 1990 when Professor Khurshid Ahmed, Naib Amir of Jamaat-i-Islami, introduced a private member bill in the Senate. The House, however, did not take it seriously; nor did the government pay any attention to it. Later in 1990s, the Prime Minister Benazir Bhutto established an anti-corruption committee, headed by late Malik Qasim, to look into the causes of corruption and make recommendations. One of the key recommendations of the committee was the enactment of a freedom of information law. Unfortunately, the recommendation was never implemented due to strong resistance by the vested interests. Next major development was the promulgation of the Freedom of Information Ordinance, 1997.⁵ The President of Pakistan promulgated the law on January 29, 1997 on the proposal of Justice (Retd.) Fakhruddin G. Ibrahim, the Federal Minister for Law in the Interim Government headed by Malik Miraj Khalid. This, however, proved to be a temporary success, as the succeeding government of former Prime Minister Nawaz Sharif failed to get the Ordinance enacted by the Parliament. Hence, the Ordinance lapsed.⁶

⁵ CPDI Manual on Right to Information and Investigative Journalism

⁶ CRCP’s Model Freedom of Information Act, 2001

Freedom of Information Ordinance 2002

In 2001, the Asian Development Bank (ADB) approved a comprehensive action plan for Pakistan, which covered the judicial and administrative reform in the country. The programme to improve the state of access to justice to the people included legislative arrangements for freedom of information. As a part of the programme, the military government of General Pervez Musharraf promulgated the existing Freedom of Information Ordinance in October 2002. It was later sanctified by the Parliament through a constitutional amendment that validated all laws promulgated by the military dictator.

Balochistan Freedom of Information Act 2005

After the promulgation of the Freedom of Information Ordinance, 2002 at Federal level, Balochistan was next province which took a step towards freedom of information. Provincial Assembly of Balochistan approved the Balochistan Freedom of Information Act and enacted it in December 2005. The law is almost a copy of the Federal law except a few structural changes keeping in view its jurisdiction.

Sindh Freedom of Information Act 2006

Similar to the law in Balochistan, the Sindh Provincial Assembly passed the Sindh Freedom of Information Act, 2006. As mentioned earlier, this Act too is a copy of the Federal Freedom of Information Law and Balochistan Freedom of Information Act. The only major difference between the Balochistan FoI law and Sindh FoI law is that the two have different jurisdictions. The provisions related to the office of Ombudsman in the two laws are also different.

Notwithstanding the weaknesses and lacunas of existing legislation on freedom of information, the Honourable High Court of Sindh in *Indus Battery Industries vs. Federation of Pakistan and others* (2008 PTD 240) has declared that “public has a right to know every thing that is done by public functionaries. The responsibility of public functionaries to disclose their acts works both against corruption and oppression.

Local Government system and Freedom of Information

The local government system is aimed at enabling access to information at district level. According to Local Government Plan 2000 the system is based on principles of public accountability, transparency, and good governance. Fundamentals of the system are laid down in Punjab Local Government Ordinance 2001. Thorough study of the Ordinance reveals that there are many provisions, which necessitate the system to ensure citizens’ access to information. For example, the Ordinance asks the district, tehsil and union councils to hold their meetings open for public participation. The Ordinance also requires the nazims to present the performance of their respective councils twice in a year. Furthermore, the dissemination of information on matters of public interest is one of the functions of union administration. The system requires the local governments and related offices to place statements of monthly and annual accounts, performance of the office and

such other necessary statements at a prominent place within the premises of the office for citizens' access. More importantly, the Ordinance empowers every citizen to access the information about any office of the district government, tehsil municipal administration and union administration while it is the obligation of respective government or office to provide such information.

International Covenants on Human Rights and Right to Information

The concept of right to information was for the first time internationally recognized in 1946 when the United Nations General Assembly passed one of its very earliest resolutions on freedom of information. The Resolution 59(1) of the UN General Assembly states:

“Freedom of information is a fundamental human right and ... the touchstone of all freedoms to which the United Nations is consecrated.

Article 19 of the Universal Declaration of Human Rights 1948, which is a subsequent international instrument on human rights, considers the right to information as part of the fundamental right to freedom of expression. The Article reads:

“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’.

The International Covenant on Civil and Political Rights 1966, which is another highly recognized international instrument, has a similarly worded freedom of information provision in its article 19. It states:

“2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

The UN Special Rapporteur on Freedom of Opinion and Expression, the Organization of Security and Co-operation in Europe Representative on Freedom of the Media and the Organization of American States Special Rapporteur on Freedom of Expression issued a joint declaration in November 1999, stating:

“Implicit in freedom of expression is the public's right to open access to information and to know what governments are doing on their behalf, without which truth would languish and people's participation in government would remain fragmented.”

Right to information is thus a core human right enabling citizens to more meaningfully exercise their rights, assess when their rights are at risk and determine who is responsible

for any violations. In 1993, the UN Commission on Human Rights established the office of the UN Special Rapporteur on Freedom of Opinion and Expression with a mandate to clarify the precise content of the right to freedom of opinion and expression. The Special Rapporteur in 1995 noted:

“The right to seek or have access to information is one of the most essential elements of freedom of speech and expression.”

Right to Information and Human Rights

There have been moves within the international community to recognise a special aspect of the right to freedom of information in relation to human rights. In 1998, the UN General Assembly adopted the Declaration on the “Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms” [the Declaration on Human Rights Defenders]. Article 6 specifically provides for access to information about human rights. The Article recognises that the right to seek, obtain and receive information on human rights is fundamental to the effective promotion and protection of human rights

Right to Information and Human Life and Liberty

Right to know is a prerequisite for right to life and liberty. It is considered as a touch stone of all freedoms and rights of the human beings. The right to life and liberty can be at stake without proper information about the laws and rules dealing with the day-to-day life of the people, and policies governing freedoms and liberties of the people.

Right to Information and Governance

Governance is all about decision-making affecting people and implementation of the decisions for optimum results. Good governance requires transparency in decision making process and participatory decision making. In order to effectively participate in the decision making process, easy and timely access to information is highly imperative. The information enables the citizens to effectively monitor the process of decision making. Unfortunately, decisions are made arbitrarily without any analytical assessment and public consultations in true spirit. Moreover, restrictions on the information availability limit the people’s ability to contribute to the decision making process as well as governance system. This also leads to mistrust of public in decision making process, opens avenues for corruption and corrupt practices, increases social injustice, and results in inefficient governance. Right to information and transparency plays a pivotal role in promoting participatory decision making and good governance.

Right to Information and Transparent Allocation of Resources

Scarcity of resources is one of the major problems. Our society is facing acute shortage of various food items, energy sources, and unemployment. All this has a direct connection with the allocation of resources. Non-transparent and arbitrary allocation of resources is

and has been resulting in a number of social and political issues. In the absence of information, people cannot understand the formulas for allocation of resources amongst the provinces and communities. Similarly, without information, people cannot analyse whether the allocation formulas were correct and truly followed. Financial embezzlement, unjustified allocation of funds, and malpractice of officials are mainly due to lack of transparency, denial of right to information.

The Problem

As the FoI law was promulgated through an Ordinance, it has never been debated on in the Parliament. The law remained inoperative for two years as its procedural rules could not be formulated till 2004. It was due to a continuous and comprehensive campaign of civil society that the FoI Rules were notified in 2004. Ironically, despite the promulgation of FoI law and its rules, the actual practice of FoI law remained very low.

Moreover, the response of government departments on information requests remained non-encouraging and non-promising. Furthermore, citizens have no idea where to go for the information quest. The law does not provide any guidance to the fact that which agency people have to file their request to. There is a possibility that a person may receive a response on his application that the request for information does not relate to their office.

The terminology used in the Freedom of Information FoI law is very vague. The very nomenclature of FoI is misleading. People generally link the FoI law with the media or Freedom of Expression only. Citizens' are not aware of the full aspects of the FoI Law and are unable to link or take benefit from the law.

There are very specific procedural issues with the FoI Law in its present form. The Performa to file a request for information is complicated and require unnecessary details. The submission of affidavit and mentioning the statement [in the affidavit] that "the information obtained would not be used for any purpose other than specified above" is inappropriate, redundant and rather frightening. This stringency would mean that the information sought for research purpose can not be used for journalistic reporting or court citation in public interest litigation. This may at times lead the people to make false/incorrect affidavits.

It is pertinent to mention here that there is a lack of awareness among the people about the scope and existence of their rights including right to know. One of the main reasons behind the lack of this awareness is time and again derailing of democracy and democratic process by dictators in past. Suspension of fundamental human rights and discontinuity of the democratic process by various regimes has led to ignorance about the fundamental human rights among the citizens. Nevertheless, even if a few are aware about the right to information, they are unable to link it with their fundamental human rights.

Citizens do not have a proactive approach towards acquiring and exercising the right to information. They have indifferent attitude towards FoI vis-à-vis their day to day issues, e.g. hunger, poverty, inflation, energy crises, availability of essential items, black marketing, disasters, health, food security, etc.⁷

Similarly, public officials are afraid to give information due to existing secrecy laws and similar legal provisions for example the Official Secret Act, 1923. Public officials also assume themselves superior to the ordinary citizens. They neither consider themselves accountable to the public nor want to invite their accountability at the hands of the people. As a result even the most effective legislation linked to transparency or accountability seldom sees enforcement.

Legislators lack the will and spirit to legislate enabling FoI laws. They have their own vested interests and are afraid of transparency and accountability. Political parties have shown little interest in the promotion of right information. It is evident from the fact that out of 112 political parties registered with the Election Commission of Pakistan (ECP) only a few have made some reference to transparency and right to information in their manifestoes.⁸

The FoI law does not provide any implementing agency for its enforcement and effective implementation. Ombudsman office, somehow, provides relief to the applicants who are denied access to information. However, absence of an independent and autonomous agency/commission that deals with the operation of FoI law has making this law ineffective. There is no institutional frame work for implementation of the law.

Beside all above, the FoI Law gives very little room to the Judiciary to play its institutional role. The denial of information requests are not subject to judicial reviews or appeals. Due to the absence of judicial role there is little development and interpretation of FoI law as court interpretation, constitutional reference. Therefore, the connection of FoI with other laws remains missing. It is important to recall that our Constitution does not have any specific provision which deals with the right to information.

In addition to the above, following are also the major reasons of ineffectiveness of the law:

- Limited scope and application;
- Excessive exemptions; and
- Exorbitant amount of fees.

⁷ It has been observed that a very few individuals and civil society organizations have tried to access information under the FOI Ordinance. These civil society organizations include the Consumer Right Commission of Pakistan (CRCP), the Centre for Peace and Development Initiative (CPDI) Pakistan, the Centre for Civic Education (CCE), and Shehri. Informally collected data from the above organizations shows that since 2002, less than 500 hundred information requests have been submitted so far.

⁸ The Institute of Social and Policy Science (I-SAPS) studied the manifestos of political parties before the general elections 2008.

In coming paragraphs of the report, an effort has been made to identify the role occupants and implementing agencies whose behaviours cause failures of existing FoI law. This part of the report also explores the causes of these behaviours.

Whose behaviour constitutes the problem?

Right to information is right of every individual. It has a direct relation with the public officials who hold public record and information. Media play a vital role in informing and educating the citizens; therefore, need access to the record and information. Legislators ensure protection of people's rights including right to information through pro-people legislation. Political parties are a major institution in a democratic process and represent people's aspiration. In the view this, followings can be considered as primary role occupants whose behaviours cause 'the problem.'

- Citizens
- Public Officials
- Media
- Legislators
- Political Parties

Behaviours that constitute the problem:

Citizens:

- Citizens are not aware of their rights including right to information. Those, who are aware of the right to information, are unable to link it with their fundamental human rights.
- Citizens do not have a proactive approach towards acquiring and exercising the right to information.
- Citizens have indifferent attitude towards FoI vis-à-vis their day to day issues, e.g. hunger, poverty, health, food security, inflation, energy crisis, availability of essential items, black marketing, disasters, etc.

Public officials:

- Public officials are afraid to give information due to existing secrecy laws and provisions.
- Public officials assume themselves superior to the ordinary citizens.
- Public officials do not consider themselves accountable to the public.
- Public officials do not want to hold themselves accountable the public.

Media:

- Media is spreading confusion by linking FoI only with freedom of expression

Legislators

- Legislators lack the will and spirit to legislate enabling FoI laws.
- Legislators have their own vested interests and are afraid of transparency and accountability.

Political Parties

- Political parties have shown little interest in the promotion of right information. Out of 112 political parties registered with the Election Commission of Pakistan (ECP) only a few have made some reference to transparency and right to information in their manifestoes.

Problematic Behaviour of Implementing Agencies

There is no implementing agency for the purpose of FoI in Pakistan. Ombudsman office, somehow, provides relief to the applicants who are denied access to information. Nevertheless, there is no independent and autonomous agency in the country that deals with the operation of FoI law.

Causes for the Problematic Behaviour (Role Occupants)

Cause 1

- Illiteracy
- Absence of mass awareness campaigns about fundamental human rights
- State did not promote the awareness of the rights of the citizens
- Citizens do not have critical understanding of fundamental human rights and how their right to know is connected with the realization of their other fundamental human rights.
- Right to information (RTI) has not been mentioned expressly in any of the provisions of the constitution of Pakistan.
- RTI is not a priority for political parties and the fact is evident from mentioned only in the manifesto of a few political parties mentions of RTI
- No promotion of RTI in formal education system of Pakistan.
- The very nomenclature of FoI is misleading and is generally linked with freedom of expression.

Cause 2

- Citizens do not have a proactive approach towards acquiring and exercising the FoI.
- Citizens do not want to go through the lengthy and complicated procedure of filing information.
- The amount of fee is excessive for an ordinary citizen.
- The FoI law does not allow inspection of documents as the law only allows copies of relevant record.

- Citizens are afraid of abuse of powers by executive.
- The law does not provide redress to grievances of citizens.
- When a citizen goes to a ministry or department he does not know where to go?
- From whom and where to acquire information from?

Cause 3

- Indifferent attitude of citizens towards FoI vis-à-vis common person's day to day issues.
Citizens have indifferent attitude towards FoI vis-à-vis their day to day issues, e.g. hunger, poverty, health, food security, inflation, energy crisis, availability of essential items, black marketing, disasters, etc.

Cause 4

- Public officials are afraid to give information due to existing secrecy laws and provisions.
- Public officials do not consider themselves accountable before the public.
- Colonial thinking and mind set is inherent to the officials.
- Public officials assume themselves superior to the ordinary citizens.
- Public officials do not want to hold themselves accountable before the public
- Public officials know that information is power; therefore, they do not want the public to have access to information.

Cause 5

- Media is spreading confusion by linking FoI with freedom of expression

Cause 6

Legislators lack the will and spirit to legislate enabling FoI laws.

- Legislative process and legislation does not reflect people's aspiration in letter and spirit. Usually laws are made under donors influence or to promote dictators agenda.
- Legislators do not want to hold themselves accountable
Legislators have their own vested interests and are afraid of transparency and accountability.

In addition to the causes of problematic behaviour of the above role occupants, the absence of the role of following institutions in the implementation process is equally contributing as causes of the failures of the law.

Absence of Judicial Recourse

No role has been assigned to the judiciary under FoI legislation. There is no development and interpretation of FoI law. As a result, one cannot easily develop a link between the FoI and other laws. Due to absence of court interpretation, constitutional reference and connection with other laws, the FoI seems to operate in isolation.

Absence of Monitoring and Evaluation Process

The law does not provide any mechanism to monitor and evaluate the operation and effectiveness of the law.

Causes for the problematic behaviour (Implementing Agencies)

No implementing agency has been proposed or established for the purpose of this law. Therefore, absence of such agency itself is a problem and cause of the problems of ineffectiveness of the law.

Beneficiaries and sufferers from the existing situation

Beneficiaries

Followings are the beneficiaries of the existing situation:

- State functionaries are primary beneficiaries of the current situation
- Citizens are the least beneficiaries of existing situation
- Public Servants (may or may not be)
- Legislators
- Political Parties. There are two categories of political parties:
 - Those who have representation in the Parliament (Beneficiaries); and
 - Those who do not have any representation in the Parliament (may not be beneficiaries).
- Media:
 - Media is beneficiary of the situation as citizens have little access independent sources of information to challenge or verify the facts and information given in the media.
 - As FoI is not directly applicable to the private sector under the current situation, no one has the right to access information about the recently emerged private media in the country.

Sufferers

- Media: Media requires information promptly whereas the current law does not allow any special provision to the media.
- Citizens: Citizens are the 'most suffers' role occupant of the existing situation.

In the light of above discussion, it can be stated that there are enormous problems with the existing law on freedom of information. From the identification of role occupants and implementing agencies to exploration of causes of their problematic behaviour and realization about the beneficiaries and sufferers, it has appeared that citizens are the most affected role occupant in this case. There is a need of serious efforts to change the situation and make it enabling for the exercise of citizens' right to information. In below paragraphs, an effort is made to find out practical solutions to the current problem.

Comparative study of FoI laws

The South Asian countries have many common characteristics. Although the legal and institutional structure of India, Pakistan, Bangladesh varies to each other based on their respective political system; however, for having a common colonial history, they all inherited certain laws regarding restricting people's access to the information held by government departments.

A few years back, Pakistan, India and Bangladesh launched efforts to formulate Freedom of Information laws. India and Bangladesh have succeeded in legislating FoI laws, while Pakistan, ironically first among the South Asian countries to introduce FoI laws, still has pending efforts to have an Act regarding FoI by its parliament. Nevertheless, in 2002, President Musharraf promulgated FoI Ordinance, largely on the urge of Asian Development Bank.

In Sri Lanka, it is the Official Secrets Act No. 32 of 1955 that restricts disclosure of information and records held by public bodies.”⁹ Other laws that restrict information disclosure include Press Council Law No. 5 of 1973, Official Publications Ordinance No. 47 of 1946, Public Security Ordinance No. 25 of 1947 and Prevention of Terrorism Act No. 48 of 1979.”¹⁰

We have held a comparative study of Pakistan's Freedom of Information Ordinance 2002 with FoI laws of the other South Asian countries. The study has been conducted within the parameters of Freedom of Information act given by Commonwealth as a model Act.

Methodology

For this report, we have analyzed Commonwealth Model Bill for Freedom of Information and pinpointed certain control variables. These are:

- Distribution of power; i.e., to which parts of the countries and levels of government the legislation extends
- Responsible authority and information providing units; i.e., what authority of the government are responsible for providing information under the Act or Ordinance
- Applicability of Act to stakeholders; i.e., what the different committees or organizations or parts of government affected by the Act or Ordinance is expected to do regarding publishing and availability of their information.

⁹ Global Trends on the Right to Information: A Survey of South Asia, by Article 19, CHRI, CPA and HRCF, July 2001, p. 132

¹⁰ Ibid, pp. 132-134.

- Definition of information; i.e., whether or not the legislation defines information in such a way that does not exclude anything or does not leave loopholes which allow the government to refrain releasing certain information
- Definition of public domain information; i.e., whether or not the legislation actually defines what information is considered to be public domain information, thereby limiting the amount of information that is available to the public.
- Costs associated with information; i.e., how costs for providing information will be assessed, and whether or not there should be a cap on how much the information requested can cost.
- Consideration of disabilities; i.e., whether or not the legislation keeps in mind the diversity of its population and provides necessary assistance
- Procedures for obtaining access
- Response time obligations; i.e., the amount of time within which the concerned authority must respond to a request for information.
- Conditions for refusal of information and definition of exempt documents; i.e., what kinds of applications may be denied. Also, whether or not exempt documents are expressly and specifically defined and categorized so as to leave no doubt as to what an exempt document consists of.
- Definition of personal information; i.e., information pertaining to the rights and privacy of a person. Since many documents can become classified as exempt by virtue of containing personal information, it is important to have a set, specific definition of personal information that leaves no doubt when it comes into question.
- Partial Disclosure; i.e., if parts of a document are exempt, does the act/ordinance allow for at least the parts that do not contain exempt information to be released?
- Appeal/complaint procedure; i.e., how the applicant can go about filing an appeal or a complaint, and also the reasons why an applicant could file an appeal or complaint.
- Associated fines/penalties; i.e., what kind of behavior can be fined or penalized according to the legislation.
- Frivolous, vexatious or malicious complaints; i.e., whether or not the legislation penalizes the public for filing complaints.
- Regulations related to the Act; i.e., what kinds of regulations the responsible authority is permitted to make and enforce, under the Act or Ordinance.

Key Findings of Comparative Study

- The FoI Ordinance in Pakistan is extremely limited in its scope, especially in comparison to the Indian and Bangladeshi Right to Information Acts. The Ordinance only applies to a very limited number of agencies, all of which are federal agencies, unlike the Indian and Bangladeshi Acts and the Commonwealth Model, which applies to all public agencies at all, levels. The amount of exemptions greatly outweighs the amount of information that is considered to be public domain information.
- The definition of ‘information’ in the FoI Ordinance of Pakistan is extremely limited compared to the recommendation of the Commonwealth and compared to the definitions provided by Right to Information Acts of India and Bangladesh.
- Pakistan is the only country that has actually defined ‘public domain information’. Thus, not only is there a restriction on what kind of federal information may be accessed, there is, within this restriction, the further restriction of exempt documents.
- While the Indian and Bangladeshi Right to Information Acts override the Official Secrets Act of 1923, The Pakistani Freedom of Information Ordinance acts as a supplement to all current and existing laws. It does not override any existing legislation, thus further limiting its scope.
- There is a lack of implementation strategy in the FoI Ordinance of Pakistan. Compared to India and Bangladesh, under whose Right to Information Acts entire Information Commissions are created solely to deal with the responsibility of providing information to the public, the Pakistan’s FoI Ordinance simply calls for a single person from each federal authority to be given the responsibility of dealing with information requests. That is, there is only one person within each federal authority who is responsible for dealing solely with requests for information, compared to India, where as many officers are appointed as are necessary to deal with the responsibility. When a responsible officer is not appointed, the head of the authority becomes the default responsible officer. In this case, the head of the authority ends up taking on the responsibility of dealing with requests for information, in addition to his/her previous, unrelated responsibilities. This can only result in requests for information being sidelined or not given full importance, which is certainly a hindrance for the smooth implementation of the Freedom of Information Ordinance. The head of each public authority is also the person who hears complaints or appeals regarding requests for information. Again, in this case, the head of the authority ends up taking the responsibility of dealing with complaints or appeals in addition to his/her previous responsibilities, which again hinders the smooth implementation of the Freedom of Information Ordinance.

- Additionally, the responsible officers appear to have much more discretion regarding requests for information than those under the Indian and Bangladeshi RTI Acts. Under the FoI Ordinance of Pakistan, responsible officers have a large say in deciding whether or not the requested information is included in exempt information or does not constitute public record. Since exempt documents like those affecting national security are so vaguely defined, it seems that too much is left up to the responsible officers' discretion than should be. Even the responsible officers' bases for rejecting requests are vague and left to their discretion, as the Ordinance states that "in case the designated official is of the opinion that" the request deserves a rejection.
- The FoI Ordinance of Pakistan does not impose any time constraints on federal authorities with regards to publishing, categorizing, properly maintaining, or making electronic their records. Whereas in India and Bangladesh, public authorities were given a certain number of days, following the implementation of each country's respective Acts, to publish all valid information about themselves so that the public could easily access it, the only time constraint imposed on federal authorities in Pakistan is a 'timely fashion'. This open-ended time constraint not only fails to provide impetus and incentive for public authorities to comply to the FoI Ordinance, but it also provides public authorities with a convenient and legal excuse for failing to publish their information as soon as they can.
- Nor does the FoI Ordinance of Pakistan take into account that the population of Pakistan is extremely diverse. There are many different languages and dialects spoken in Pakistan. Whereas in the Indian RTI Act, there is a provision which states that public authorities must publish information about themselves in the official language of each respective region, the FoI Ordinance of Pakistan does not encourage public authorities to take any such measures. Additionally, no provisions are made under the FoI Ordinance of Pakistan for people who cannot submit their requests or complaints in writing, nor is there a provision in the FoI Ordinance of Pakistan for people who are sensorial disabled and who are, therefore, unable to properly access certain kinds of information. Under the Indian and Bangladeshi RTI Acts; the responsible officer is required to provide assistance to any person who is sensorial disabled. While the Commonwealth Model states that responsible officers must help the applicants to the best of their abilities, the Indian and Bangladeshi RTI Acts go one step further and clearly define the scope of help that responsible officers are required to give.
- Although the Pakistani FoI Ordinance gives a time limit for the responsible officers to respond to an application for information, it does not give a time limit in the case that the application has to be transferred within the public authority or to another public authority. This provides for the opportunity for applications to be shuffled around indefinitely. It also provides a convenient excuse in the case that an application is not dealt with in a timely fashion.

- The Pakistani FoI Ordinance not only prescribes punishment for abuse of power by those in charge of providing information to the public, but it also, unlike the Commonwealth model, or the Indian or Bangladeshi RTI Acts, prescribes a punishment for the public itself. Under the Ordinance, a member of the public can be penalized for filing a “malicious, vexatious, or frivolous” complaint. This is discouraging to anyone who may want to apply for information, in case the responsible official uses this section of the Ordinance against him/her. It also suggests that the government does not welcome requests for information from its public. No provision is made for responding within a matter of hours or days to information that affects a person’s life or liberty – a fact that also attests to the government’s lack of concern for its public.
- The Pakistani FoI Ordinance does not have a provision that calls for giving access to an exempt document if there is evidence of corruption or human rights violations, unlike the Indian and Bangladeshi RTI Acts, and the Commonwealth Model.
- Regarding cost, all the legislation discussed in this report says that information should be provided in the cheapest way possible. But, whereas in the other Acts there are provisions that say the cost to an applicant for information should not be more than it costs to provide it, the FoI Ordinance of Pakistan only says that information should be provided at the lowest possible cost; a provision that can be interpreted in various ways by the responsible authority, even at a detriment to the public.
- One loophole that all three pieces of legislation have, which was specifically addressed in the Commonwealth model, is that ‘personal information’ is not defined. As personal information is considered exempt information, this lack of a definition gives the responsible official the opportunity to manipulate the definition to suit an agenda. Additionally, in the FoI Ordinance of Pakistan especially, the lack of a specific definition of national security makes it very easy for the officer in charge to declare almost any kind of information as a threat to national security.
- Neither Pakistan nor India takes into account in their respective laws the Commonwealth Model Bill’s provision for correcting personal information. Under this provision, a person is able to correct any personal information about him/her that may be incorrect or outdated. Only Bangladesh included this recommendation in its Right to Information Act.
- India and Bangladesh go beyond the Commonwealth Model Bill with the provisions in their respective Acts which state that any applicant for information need not include a reason for explanation for his/her request.
- One provision that the Bangladeshi RTI Act has that none of the other pieces of legislation have is regarding the appointment of women to the Information

Commission. According to the Act, at least one of the Information Commissioners under the Chief Information Commission must be a woman.

Options to Address ‘the Problem’

In order to address the problem, there are two possible options:

- (a) To make amendments in the existing law; and
- (b) To replace the existing law. Nevertheless,

The first option seems to be ineffective as the structure of existing law is flawed and it cannot be improved through the amendments. Therefore, there is a need to change the structure and purpose of the law and this possible only through a new legislation. A legislative arrangement that ensures exercise of citizens’ right to information and, for that matter, incorporates the below recommendations is imperative.

Solutions/Recommendations

The list of the recommendations is based on various reports and consultations with the stakeholders. An effort has been made to mention all possible solutions herein; however, any workable and relevant idea is equally welcomed as the list is not exhaustive.

- Introduce enabling laws with minimum exclusions and simplest processes to ensure people’s right to information.
- The terminology and nomenclature must be changed from FOI to RTI. This will help reducing the impression that it is a media law only.
- The law must provide for the establishment of independent and autonomous institutional framework such as Federal/Provincial Information Commission.
- At all public organizations, Right to Information (RTI) counters - along with the existing front desks - must be established that work under the supervision of proposed Federal/Provincial Information Commission.
- Process flow for lodging a request must be developed and made public by every possible means. For example Banking Mohtasib Posters should mandatorily display in every branch of a bank and non-compliance is a penalty item.
- The RTI law must provide judicial recourse to the applicants.
- The law must provide a mechanism for monitoring and evaluation of the implementation of the law.
- The law must enable citizens to link right to information with the fundamental human rights.
- Right to information must be linked with the day to day issues of the people.
- E-governance should be developed and promoted.
- Secrecy laws including the Official Secret Act, 1923 and rule relating thereof either abolished or reviewed keeping in view the people’s right to information.
- Public officials should be made accountable to public.
- Promote openness and transparency in official functioning
- Promote participatory decision making

- Citizens need to be aware of their rights including right to information.
- Sensorily disabled persons should register their application through a system of photo id
- Citizens must have a proactive approach towards acquiring and exercising the right to information.
- Build trust between the citizens and state functionaries.
- Ensure accountability across the board including the accountability of decision makers.
- Political parties and legislators should promote pro-people agenda and their efforts should reflect people's aspirations.

Section II

Proposed Draft Bill of

The Right to Information Act Pakistan, 2010

Preamble

WHEREAS democracy in Islamic Republic of Pakistan has been overshadowed by the military rule in most of the years since 1947

WHEREAS access to and exercise of the fundamental human rights of citizens of Islamic Republic of Pakistan have been affected by absence of democracy

WHEREAS democracy and democratic processes should be promoted

WHEREAS participation of citizens must be ensured in all decision making processes

WHEREAS to provide the citizens with information is vital to ensure transparency in the functioning of Governments and to hold the institutions accountable

WHEREAS access to information to citizens is necessary to eliminate corruption and corrupt practices

NOW, THEREFORE, it is expedient to provide access to certain information to citizens who desire to have it.

It is hereby enacted as follows:

An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Federal Information Commission and Provincial Information Commissions and for matters connected therewith or incidental thereto.

1. Short title, extent, and commencement: (1) This Act shall be called the Right to Information Act, 2010.

(2) This Act shall apply to the whole of Pakistan.

(3) This Act shall come into force at once except the provisions relating to functioning of the Federal and Provincial Information Commission that shall come into force upon the notification of the Government to establish the Commissions within the three months of the enactment of the Act.

2. Definition.

In this Act, unless the context otherwise requires: –

- (a) “Complainant” means
 - (i) a Requester, or
 - (ii) any person acting for and on behalf of requester, or
 - (iii) a third party, or
 - (iv) any voluntary public interest group registered under any law for the time being in force, or
 - (v) one or more Requesters, where there are numerous requesters having the same interest;

Explanation: Voluntary public interest group referred in (iv) above has independent locus standi on a complainant to file a complaint on behalf of one or more requesters whether or not a requester is a party to the complaint.

- (b) “Federal Information Commission” means the Federal Information Commission constituted under section 8;
- (c) “Federal Information Officer” means the Federal Information Officer designated under sub-section (1) and includes a Federal Assistant Information Officer designated as such under sub-section (2) of section 5;
- (d) “Federal Information Commissioner” and “Information Commissioner” mean the Chief Right to Information Commissioner and Information Commissioners appointed under section 8;
- (e) “Complaint” means any grievance in writing made by a complainant, to the effect that
 - (i) access to record has been wrongfully denied to him/her by a public body;
 - (ii) access to and/or correction of his personal information has been wrongfully denied to him/her by a public body having the custody or control of the record;
 - (iii) where he/she is a third party, that personal information or commercial information about himself or about the business has been or will be wrongfully disclosed to a Requester by a public body having custody or control of such information;
 - (iv) information requested by him has been unduly delayed by a public body; or
 - (v) public body has charged unreasonable fees for giving the information or has not waived the fees in accordance with the provisions of this Act.
- (f) “Information” means any material in any form, including records, documents, memos, emails, opinions, advices press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

- (g) “Right to information” means the right to information accessible under this Act and includes the right to.
- (i) inspection of work, documents, records;
 - (ii) taking notes, extracts or certified copies of documents or records;
 - (iii) taking certified samples of material;
 - (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.
- (h) “Public Body” means any authority, or body, or institution of the Government, established or constituted:
- a) by or under the Constitution of Islamic Republic of Pakistan;
 - b) by any Federal/Provincial law;
 - c) by the notification of Federal/Provincial Government; and includes:
 - (i) a body which is
 - a. owned, controlled or substantially financed by the Government; or
 - b. non-government organization substantially financed, directly or indirectly by funds provided by the Government;
 - (ii) a private body that provides services of a public nature which are essential to the welfare of society;
 - (iii) a private body where access to that information is necessary for the exercise or protection of any right.
- (i) “Prescribed” means prescribed by the rules made by Federal Information Commission or the Provincial Information Commission, as the case may be for the purpose of this Act;

3. Digitalization/Computerization of all record which can be accessed under the Act. - (1) Every public body shall-

- (a) maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised/ are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated;
- (b) publish all relevant facts while formulating important policies or announcing the decisions which affect public;
- (c) provide reasons for its administrative or quasi-judicial decisions to affected persons.

(2) For the purposes of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible to the public.

(3) All materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronic format with

the Federal Information Officer or Provincial Information officer, as the case may be, available free or at such cost of the medium or the print cost price as may be prescribed.

Explanation.-For the purposes of sub-sections (2) and (3), "disseminated" means making known or communicated the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means, including inspection of offices of any public authority.

4. Access to Information not to be denied except in the cases mentioned in this section. - Subject to the provisions of the Act, a request of information may be denied if it is about the access to:

(a) information, disclosure of which would prejudicially affect the sovereignty and integrity of Pakistan, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;

(b) information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;

(c) information, the disclosure of which would cause a breach of privilege of Parliament or the Provincial Legislature;

(d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;

(e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;

(f) information received in confidence from foreign Government;

(g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;

(h) information which would impede the process of investigation or apprehension or prosecution of offenders;

(i) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Federal Information Officer or Provincial Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information which cannot be denied to the Parliament or a Provincial Legislature shall not be denied to any person.

(2) Notwithstanding anything in the Official Secrets Act, 1923, nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

(3) Subject to the provisions of clauses (a) and (c) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under the Act shall be provided to any person making a request under the Act:

5. Designation of Public Information Officers.- (1) Every public body shall designate as many officers as the Federal Information Officer or Provincial Information Officer as the case may be, in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under this Act.

(2) Without prejudice to the provisions of sub-section (1), every public body shall designate an officer at each sub-divisional level or other sub-district level as a Federal Assistant Information Officer or Provincial Assistant Information officer, as the case may be, to receive the applications for information or appeals under this Act for forwarding the same forthwith to the Federal Information Officer or Provincial Information officer, or senior officer specified under sub-section (1) of section 19 or the Federal Information Commission or the Provincial Information Commission, as the case may be:

(3) Every public body shall also establish information desks at each of its administrative units and offices, supervised by the Federal Information Officer or Provincial Information Officer, and shall be linked with the Federal Information Commission or the Provincial Information Commission, as the case may be, through internet/intranet. The information desk shall receive information requests, intimate about the same to the Federal/Provincial Information Commission and send the request to concerned department for processing.

Provided that where an application for information or appeal is given to a Federal Assistant Public Information Officer or a Provincial Assistant Public Information Officer, as the case may be, a period of five days shall be added in computing the period for response specified under sub-section (1) of section 7.

(4) Every Federal Information Officer or Provincial Information Officer, as the case may be, shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information.

(5) The Federal Information Officer or Provincial Information Officer, as the case may be, may seek the assistance of any other officer as he or she considers it necessary for the proper discharge of his or her duties.

(6) Any officer, whose assistance has been sought under sub-section (5), shall render all assistance to the Federal Information Officer or Provincial Information Officer, as the case may be, seeking his or her assistance and for the purposes of any contravention of the provisions of this Act, such other officer shall be treated as a Federal Information Officer or Provincial Information Officer, as the case may be.

6. Request for obtaining information.- (1) A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to-

(a) information desks established under sub-section 3 of section 6 of this Act.

(b) the Federal Information Officer or Provincial Information Officer, as the case may be, of the concerned public authority;

specifying the particulars of the information sought by him:

Provided that where such request cannot be made in writing, Federal Information Officer or Provincial Information Officer, as the case may be, shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

(2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.

(3) Where an application is made to a public authority requesting for an information,-

(i) which is held by another public authority; or

(ii) the subject matter of which is more closely connected with the functions of another public authority;

the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:

Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.

7. Disposal of request.- (1) Subject to the proviso to sub-section (3) of section 5 or the proviso to sub-section (3) of section 6, the Federal Information Officer or Provincial Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within twenty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 4;

Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.

(2) If the Federal Information Officer or Provincial Information Officer, as the case may be, fails to give decision on the request for information within the period specified under sub-section (1), the Federal Information Officer or Provincial Information Officer, as the case may be, shall be deemed to have accepted the request.

(3) Where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Federal Information Officer or Provincial Information Officer, as the case may be, shall send an intimation to the person making the request, giving-

(a) the details of further fees representing the cost of providing the information as determined by him, together with the calculations made to arrive at the amount in accordance with fee prescribed under sub-section (1), requesting him to deposit that fees, and the period intervening between the despatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of twenty days referred to in that sub-section;

(b) information concerning his right with respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms.

(4) Where access to the record or a part thereof is required to be provided under this Act and the person to whom access is to be provided is sensorily disabled, the Federal Information Officer or Provincial Information Officer, as the case may be, shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection.

(5) Where access to information is to be provided in the printed or in any electronic format, the applicant shall, subject to the provisions of sub-section (6), pay such fee as may be prescribed:

Provided that the fee prescribed under sub-section (1) of section 6 and sub-sections (1) and (5) of section 7 shall be reasonable and no such fee shall be charged from the persons who are of below poverty line as may be determined by the appropriate Government.

(6) Notwithstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1).

(8) Where a request has been rejected under sub-section (1), the Federal Information Officer or Provincial Information Officer, as the case may be, shall communicate to the person making the request,-

- (i) the reasons for such rejection;
- (ii) the period within which an appeal against such rejection may be preferred; and
- (iii) the particulars of the appellate authority.

(8) An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.

8. Constitution of Federal Information Commission.-(1) The Federal Government shall, by notification in the Official Gazette, constitute a body to be known as the Federal Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The Federal Information Commission shall consist of-

- (a) The Chief Information Commissioner; and
- (b) Seven Federal Information Commissioners in which 2 shall be women.

(3) The Chief Information Commissioner shall be appointed by the President on the recommendation of a committee consisting of:

- (i) the Prime Minister, who shall be the Chairperson of the committee;
- (ii) the Leader of Opposition in the National Assembly; and
- (iii) the Chief Justice of Supreme Court.

The Federal Information Commissioners shall be appointed by the President on the recommendation of a committee consisting of:

- (i) the Prime Minister, who shall be the Chairperson of the committee;
- (ii) the Leader of Opposition in the National Assembly;
- (iii) the Chief Justice of Supreme Court; and
- (iv) the Chief Information Commissioner.

(4) The general superintendence, direction and management of the affairs of the Federal Information Commission shall vest with the Chief Information Commissioner who shall be assisted by the Federal Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the Federal Information Commission autonomously without being subjected to directions by any other authority under this Act.

(5) The Chief Information Commissioner and Federal Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law,

science and technology, social service, management, journalism, mass media or administration and governance.

(6) The Chief Information Commissioner or an Information Commissioner shall not be a Member of Parliament or elected representative of Local Government or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

(7) The headquarters of the Federal Information Commission shall be at the Federal Capital and the Federal Information Commission may, with the previous approval of the Federal Government, establish offices in the Provincial capitals in Pakistan.

9. Term of office and conditions of service.-(1) The Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment.

Provided that no Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.

(2) Every Federal Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such Federal Information Commissioner:

Provided that every Federal Information Commissioner shall, on vacating his office under this sub-section be eligible for appointment as the Chief Information Commissioner in the manner specified in sub-section (3) of section 8:

(3) The Chief Information Commissioner or an Information Commissioner may, at any time, by writing under his hand addressed to the President, resign from his office:

Provided that the Chief Information Commissioner or a Federal Information Commissioner may be removed in the manner specified under section 10.

(4) The salaries and allowances payable to and other terms and conditions of service of-

(a) the Chief Information Commissioner shall be the same as that of the Chief Election Commissioner;

(b) a Federal Information Commissioner shall be the same as that of an Election Commissioner.

Provided that if the Chief Information Commissioner or a Federal Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability pension, in respect of any previous service under the Government of Pakistan or under the Government of a State, his salary in respect of the service as the Chief

Information Commissioner or an Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity.

Provided further that if the Chief Information Commissioner or a Federal Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Federal Act or Provincial Act or a Government company owned or controlled by the Federal Government or the Provincial Government, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits.

Provided also that the salaries, allowances and other conditions of service of the Chief Information Commissioner and the Information Commissioners shall not be varied to their disadvantage after their appointment.

(6) The Federal Government shall provide the Chief Information Commissioner and the Federal Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

10. Removal of Chief Information Commissioner or Information Commissioner.-(1) Subject to the provisions of sub-section (3), the Chief Information Commissioner or any Federal Information Commissioner shall be removed from his office only by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Chief Information Commissioner or any Federal Information Commissioner, as the case may be, ought on such ground be removed.

(2) The President may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the Chief Information Commissioner or Federal Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Chief Information Commissioner or any Federal Information Commissioner if the Chief Information Commissioner or a Federal Information Commissioner, as the case may be,-

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the President, involves moral turpitude; or

(c) engages during his term of office in any paid employment outside the duties of his office; or

(d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Information Commissioner or a Information Commissioner.

(4) If the Chief Information Commissioner or a Federal Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of Pakistan or participates in any way in the profit thereof or in any benefit or emolument arising there from otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

(Next part is meant for the provincial legislation and federal law may not have next three sections)

11. Constitution of Provincial Information Commission.-(1) Every Provincial Government shall, by notification in the Official Gazette, constitute a body to be known as the (name of the Province) Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The Provincial Information Commission shall consist of-

(a) The Provincial Chief Information Commissioner, and

(b) Seven Information Commissioners in which two must be women.

(3) The Provincial Chief Information Commissioner and the Provincial Information Commissioners shall be appointed by the Governor on the recommendation of a committee consisting of-

- (i) the Chief Minister, who shall be the Chairperson of the committee;
- (ii) the Leader of Opposition of the Provincial Assembly; and
- (iii) and Chief Justice of the High Court (of the Province).

The general superintendence, direction and management of the affairs of the Provincial Information Commission shall vest with the Provincial Chief Information Commissioner who shall be assisted by the Provincial Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the Provincial Information Commission autonomously without being subjected to directions by any other authority under this Act.

(5) The Provincial Chief Information Commissioner and the Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law,

science and technology, social service, management, journalism, mass media or administration and governance.

(6) The Provincial Chief Information Commissioner or a Provincial Information Commissioner shall not be a Member of Parliament or representative of Local Government, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

(7) The headquarters of the Provincial Information Commission shall be at the Provincial capital the Provincial Information Commission may with the previous approval of the Provincial Government, establish offices at other places in the Province.

12. Term of office and conditions of service.-(1) The Provincial Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:

Provided that no Provincial Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.

(2) Every Provincial Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such Provincial Information Commissioner:

Provided that every Provincial Information Commissioner shall, on vacating his office under this sub-section, be eligible for appointment as the Provincial Chief Information Commissioner in the manner specified in sub-section (3) of section 11:

Provided further that where the Provincial Information Commissioner is appointed as the Provincial Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the Provincial Information Commissioner and the Provincial Chief Information Commissioner.

(3) The Provincial Chief Information Commissioner or Provincial Information Commissioner may, at any time, by writing under his hand addressed to the Governor, resign from his office:

Provided that the Provincial Chief Information Commissioner or a Provincial Information Commissioner may be removed in the manner specified under Section 13.

(4) The salaries and allowances payable to and other terms and conditions of service of-

(a) the Provincial Chief Information Commissioner shall be the same as that of an Election Commissioner;

(b) the Provincial Information Commissioner shall be the same as that of the Chief Secretary to the Provincial Government:

Provided that if the Provincial Chief Information Commissioner or Provincial Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability, in respect of any previous service under the Government of Pakistan or under the Government of Pakistan, his salary in respect of the service as the Provincial Chief Information Commissioner or a Provincial Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that where the Provincial Chief Information Commissioner or a Provincial Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Federal Act or Provincial Act or a Government company owned or controlled by the Federal Government or the Provincial Government, his salary in respect of the service as the Province Chief Information Commissioner or the Provincial Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the Provincial Chief Information Commissioner and the provincial Information Commissioners shall not be varied to their disadvantage after their appointment.

(6) The Provincial Government shall provide the Provincial Chief Information Commissioner and the Provincial Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

13. Removal of Provincial Chief Information Commissioner or Provincial Information Commissioner.-(1) Subject to the provisions of sub-section (3), the Provincial Chief Information Commissioner or a Provincial Information Commissioner shall be removed from his office only by order of the Governor on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the Governor, has on inquiry, reported that the Provincial Chief Information Commissioner or a Provincial Information Commissioner, as the case may be, ought on such ground be removed.

(2) The Governor may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the Provincial Chief Information Commissioner or a Provincial Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the Governor has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the Governor may by order remove from office the Provincial Chief Information Commissioner or a Provincial Information Commissioner if a Provincial Chief Information Commissioner or a Provincial Information Commissioner, as the case may be,-

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Governor, involves moral turpitude; or

(c) engages during his term of office in any paid employment outside the duties of his office; or

(d) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Provincial Chief Information Commissioner or a Provincial Information Commissioner.

(4) If the Provincial Chief Information Commissioner or a Provincial Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of the Province or participates in any way in the profit thereof or in any benefit or emoluments arising there from otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

14. Powers and functions of Information Commissions.-(1) Subject to the provisions of this Act, it shall be the duty of the Federal Information Commission or Provincial Information Commission, as the case may be, to receive and inquire into a complaint from any person,-

(a) who has been unable to submit a request to a Federal Information Officer or Provincial Information Officer, as the case may be, either by reason that no such officer has been appointed under this Act, or because the Federal Assistant Public Information Officer or Provincial Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information appeal under this Act for forwarding the same to the Federal Information Officer or Provincial Public Information Officer or senior officer specified in sub-section (1) of section 17 or the Federal Information Commission or the Provincial Information Commission, as the case may be;

(b) who has been refused access to any information requested under this Act;

(c) who has not been given a response to a request for information or access to information within the time limit specified under this Act;

(d) who has been required to pay an amount of fee which he or she considers unreasonable;

(e) who believes that he or she has been given incomplete, misleading or false information under this Act; and

(f) in respect of any other matter relating to requesting or obtaining access to records under this Act.

(2) Where the Federal Information Commission or Provincial Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.

(3) The Federal Information Commission or Provincial Information Commission, as the case may be, shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;

(b) requiring the discovery and inspection of documents;

(c) receiving evidence on affidavit;

(d) requisitioning any public record or copies thereof from any court or office;

(e) issuing summons for examination of witnesses or documents; and

(f) any other matter which may be prescribed.

(4) Notwithstanding anything inconsistent contained in any other Act of Parliament or Provincial Assembly, as the case may be, the Federal Information Commission or the Provincial Information Commission, as the case may be, may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.

15. Penalties.- (1) Where the Federal Information Commission or the Provincial Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Federal Information Officer or the Provincial Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees

each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:

Provided that the Federal Information Officer or the Provincial Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Federal Information Officer or the Provincial Public Information Officer, as the case may be.

(2) Where the Federal Information Commission or the Provincial Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Federal Information Officer or the Provincial Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Federal Information Officer or the Provincial Public Information Officer, as the case may be, under the service rules applicable to him.

16. Offences. (1) Any person who destroys a record which at the time it was destroyed was the subject of a request, or of a complaint with the intention of preventing its disclosure under this Act, commits an offence punishable with imprisonment for a term not exceeding two years, or with fine, or with both.

Federal Information Officer or the Provincial Public Information Officer, as the case may be, who, without reasonable excuse, fails or refuses to provide inspection or disclose records under this Act shall be liable on summary conviction to a fine not exceeding Rs 25,000.

17. Appeal.-(1) Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Federal Assistant Information Officer or Provincial Assistant Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer as the case may be, in each public authority:

Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Where an appeal is preferred against an order made by a Federal Public Information Officer or a Provincial Information Officer, as the case may be, to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.

(3) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Federal Information Commission or the Provincial Information Commission:

Provided that the Federal Information Commission or the Provincial Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) If the decision of the Federal Public Information Officer or a Provincial Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Federal Information Commission or Provincial Information Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party.

(5) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.

(6) An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

(7) The decision of the Federal Information Commission or Provincial Information Commission, as the case may be, shall be binding.

(8) In its decision, the Federal Information Commission or Provincial Information Commission, as the case may be, has the power to-

(a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including-

- (i) by providing access to information, if so requested, in a particular form;
- (ii) by appointing a Federal Information Officer or Provincial Information Officer, as the case may be;
- (iii) by publishing certain information or categories of information;
- (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;
- (v) by enhancing the provision of training on the right to information for its officials;

(vi) by providing it with an annual report;

(b) require the public authority to compensate the complainant for any loss or other detriment suffered;

(c) impose any of the penalties provided under this Act;

(d) reject the application.

(9) The Federal Information Commission or Provincial Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority.

(10) The Federal Information Commission or Provincial Information Commission, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.

(11) The complainant may file an appeal to the High Court against the decision of the Federal Information Commission or the Provincial Information Commission, as the case may be.

18. Whistle blowers in the public departments must be protected

(1) No one may be subject to any legal, administrative or employment-related sanction, regardless of any breach of a legal or employment obligation, for releasing information on wrongdoing, or that which would disclose a serious threat to health, safety or the environment, as long as they acted in good faith and in the reasonable belief that the information was substantially true and disclosed evidence of wrongdoing or a serious threat to health, safety or the environment.

(2) For purposes of sub-section (1), wrongdoing includes the commission of a criminal offence, failure to comply with a legal obligation, a miscarriage of justice, corruption or dishonesty, or serious maladministration regarding a public body.

19. Act to Over-ride other laws. The provisions of this Act shall override all other provisions contained in any other law for the time being in force.

20. Rules. - The Federal Information Commission or the Provincial Information Commission, as the case may be, may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(i) the cost of the medium or print cost price of the materials to be disseminated under sub-section (3) of section 3;

(ii) the fee payable under sub-section (1) of section 6;

(iii) the fee payable under sub-section (1) of section 7; and

(iv) any other matter which is required to be, or may be, prescribed.

21. Repeal. The Freedom of Information Ordinance 2002 stands hereby repealed.

Preliminary Conclusion

Freedom of Information Ordinance was promulgated in 2002. Since then, a number of civil society organizations and individuals have tried to access information under the law. Nonetheless, the law has proved to be ineffective due various reasons, discussed above. As per the preliminary conclusions:

- There is a very serious lack of awareness among the people about their right to information.
- Citizens have little information whether any law exists that deals with their right to know. Hence, they are unable to link it with transparent governance or their human rights.
- The basic terminology and nomenclature of Freedom of Information FoI law is vague, misleading and creating confusion with Freedom of Media and Freedom of Expression.
- The procedural defects in the FoI rules have actually made the law fruitless. The excessive fees, affidavit requirements, and discretionary prerogative of the officials as well as many other procedural ills have brought serious blow to the purposes of the FOI law.
- The law operates in addition to other laws as it does not have overriding effect on the laws such as the Official Secrets Act, 1923.
- The law does not provide an independent and effective institutional frame work for implementation, monitoring and evaluation of the law
- The law does not provide judicial recourse for redress of grievances of applicants whose applications are rejected.

Section III

1. Activities

This component of the project consists of three parts involving review of the available literature to help understand importance of the existence of an FoI Act in the context of Pakistani democratic development. In addition to the review, various FoI models/laws in comparative democracies were studied with a view to evolve an understanding to help developing, if not an ideal, but a better law. The third and the final part of the research component were built upon the available work already achieved by the Pakistani nongovernmental organizations.

1.1. Literature Review:

The literature review established the contextual framework for an approach to drafting an effective bill in Pakistan according to the socio-political requirements of Pakistan's democracy.

CRSS reviewed the following sources to build an understanding of the concept of FoI in the regional and global context:

- Global Survey FoI – 2006.
- Commonwealth Model Act (of FoI).
- The Bangladesh Right to Information Act 2009.
- Indian Right to Information Act 2005.
- Official Secret Act 1923.
- Model Freedom of Information Act, 2001 (Consumer Rights Commission of Pakistan).
- Hamaray Huqooq, Hamari Maloomat (Our Rights and Our Information), a book launched by CHRI (the Commonwealth Human Rights Initiative).
- Various Relevant Research Papers Written by Scholars including A. Salman Hamayun, Mukhtar Ahmad Ali and some others.

This review helped the CRSS conclude that the existence of this literature establishes a clear precedence for supporting the establishment of a similar law in Pakistan. However, the unique political climate of the country and the cultural/political challenges that will be faced in introducing the legislation would need special attention to ensure its implementation and effectiveness for broader segments of the Pakistani society.

This part of the research also served as a preparatory phase for the later interaction with journalists and civil society members. Focused interviews were designed taking into consideration the comparative perspective gained from the initial research stage. This informed analysis also led to the partnership with the law firm ALPH, whose two advocates were knowledgeable in the issue and had

already completed considerable research in drafting a bill on FoI. Unlike other organizations in Pakistan which have produced draft laws in FoI, CRSS ensured that any legal consultation was made on the basis of an analytical process to ensure that the challenges and problems facing uniquely in Pakistan could be addressed.

1.2. Comparative Study of FoI laws:

In order to assess the needs and vulnerabilities of FoI in Pakistan, a comparative study of the various available legislations was conducted. This study examined different bills and acts existing in Bangladesh and India, along with studying the Commonwealth FoI model, probably the best among all the referred resources.

These were then analyzed against a set of variables taking into consideration the cultural and political climate in the Pakistani democracy. The study also suggests the ways to improve existing legislation in Pakistan and advocates the cause to making the FoI Ordinance into an Act of the Parliament. The underlying understanding is that enactment of the FoI would assist the Parliament inching forward on the scale of legislation along with providing an accountability tool to the civil society activists and commoners of the Pakistani society that they could exercise on the legislators they elect.

1.3. Mapping of Available Resources:

Given the challenging nature of the task, just a few nongovernmental organizations in Pakistan have taken up this issue. CRSS conducted a brief survey on the scope of the existing work and the milestones that these organizations have already achieved. This interactive survey was essential to determine the best possible way to build the project-team knowledge base to proceed on the project along with providing guidelines to engage with the experts on the subject.

Following NGOs and their relevant officers were contacted:

- Consumer Rights Commission of Pakistan.
- Center for Civic Education.
- Center for Peace and Development Initiatives.

In addition to contacting various office bearers of the abovementioned organizations, CRSS actively took part in the events that these organizations arranged during the project cycle. This helped in fostering a better sense of both their efforts as well as incorporating the views and expert opinions of various subject specialists with whom the team interacted on the side of these events.

These participations helped immensely in mapping the existing law along with building up the essential knowledge and methodology to approach the project activities. As a result of this participation, CRSS was able to identify and build a

relationship with a small law firm specializing in human rights issues, whose members have actively taken up the issue of freedom of information in the past.

2. Interaction

The Center identified civil society activists and journalists as the most relevant role occupants in the non-existence of a FoI law in Pakistan. Realizing their direct connection with the law and its importance, the team conducted standard interviews with representatives of each of these groups.

This was done in a bid to determine their awareness of the issue and incorporate their thoughts as to how FoI could be improved in Pakistan and that how the presence of an effective law could assist them do their “job” better in terms of development democratic checks on the State and other relevant authorities. Amazingly, the media community was found unaware of the presence and importance of the law and the project team also provided quick reasons about the benefits of having an enacted FoI in Pakistan.

2.1. Interaction with Journalists:

CRSS picked up a careful mix of young, experienced, print and electronic media professionals so that nearly all possible sides of the divide could be covered. A total of five interviews with representatives of print and electronic media were conducted with the following:

- Zafar Abbas, Resident Editor, Dawn
- Salim Safi, Columnist/Anchor, Jang/Geo
- Kashif Abbasi, Anchor, ARY OneWorld
- Javed Siddique, Resident Editor, Nawai Waqat
- Khalid Jamil, Bureau Chief, Aaj TV

*A summary of these interviews is attached under the head of appendix.

2.2. Analysis of the Interviews:

Despite their intelligence and vast knowledge of the ins and outs of Pakistani politics, most journalists in Pakistan are surprisingly unaware of the concept of FoI. Furthermore, because of their experience in covering and dealing with the government and politicians, many journalists cannot understand the benefit of having a legal right of access to information, as their own experience has shown that corruption and lack of professionalism within the bureaucracy often stands in the way of enacting any legislation or acting upon legislation. Many journalists were also unable to understand FoI from a human rights perspective, as media professionals in general in Pakistan tend to confuse the issue with freedom of the press.

From the interviews conducted, journalists were also slow in making the connection between access to information and the greater accountability and transparency within the government, and the role that FoI legislation can play in combating corruption. It was only when this significance of FoI was pointed out by the interviewers that journalists expressed more enthusiasm in supporting the development of FoI in Pakistan.

2.3. Further Interviews:

In order to reach out to a broader base of the Pakistani society, more interactive interviews were conducted to obtain a variety of views and understandings on the issue of FoI. The project team discovered that Dr. Donya Aziz, PML MNA on reserved seats had been campaigning on the subject but has found little support and assistance. Her opinion greatly helped the team to further understand the prevailing political culture and the mindset prevailing in the Parliament. This understanding would prove pivotal to formulating a strategy while pushing the legislation through the party ranks of different political stakeholders in the Pakistani democracy.

CRSS collaborated with another civil society organization, Individual Land, and jointly reached out to the following prominent civil society and media actors.

- Zafarullah Khan, Executive Director Center for Civic Education Pakistan
- Fauzia Shaheen (Ms.), Editor DASTAK & Executive Director Women Media Center
- Mukhtar Ahmad Ali, Executive Director Center for Peace and Development Initiatives
- Ronald Desouza, Former Chairperson, Shehri
- Malik Siraj Akbar, Quetta Bureau Chief, The Daily Times
- Ghazi Salahuddin, Senior Columnist, The News & peace activist
- Dr. Donya Aziz (Ms.), PML, Member National Assembly

2.4. Seminars and Workshops:

Having compiled a solid research base and with a set of recommendations as a basis for discussion, four public awareness activities were conducted. Various media representatives were also invited as multipliers of the message.

Following is the information on the events held:

Subject of event	Terrorism and Freedom of Information
Date and venue	October 12, 2009, Serena Hotel, Islamabad.
Main speaker	<ul style="list-style-type: none"> ▪ Mr. Clifford D. May President, Defence of Democracies Washington

Subject of event	Freedom of Information – Civil Society’s Perspective
Date and venue	December 30, 2009, Islamabad Hotel
Main speaker	<ul style="list-style-type: none"> ▪ Mr. Mukhtar Ahmed Ali Executive Director, CPDI (Center for Peace and Development Initiatives, Islamabad)

Subject of event	Freedom of Information – Responsibilities of Media
Date and venue	January 4, 2010, Peshawar Press Club
Main speakers	<ul style="list-style-type: none"> ▪ Mian Iftikhar ud Din, Provincial Minister for Information ▪ Iqbal Khatak, Bureau Chief, Daily Times, Peshawar ▪ Mr. Mohammad Ali Sahib, General Secretary, Peshawar Press Club ▪ Mr. Shaukat Khattak, Bureau Chief Peshawar, Sama TV ▪ Mr. Wasim Ahmad Shah, Journalist, Dawn ▪ Mr. Shamim Shahid, President, Peshawar Press Club’s President

Subject of event	Freedom of Information – Responsibilities of Media
Date and venue	January 12 th , Lahore, Holiday Inn
Main speaker	

Subject of event	Freedom of Information – Responsibilities of Media
Date and venue	January 21st, 2010, Islamabad Press Club
Main speaker	<ul style="list-style-type: none"> ▪ Chair: Shahid-ur-Rehman, Senior journalist and author

2.4 (a). Peshawar Seminar: Freedom of Information in Pakistan and responsibilities of media:

On January 4, 2010, the Center for Research and Security Studies [CRSS] conducted a seminar titled “Freedom of Information in Pakistan and responsibilities of media,” at the Peshawar Press Club.

The main speakers included:

- Mr. Mian Iftikhar ud Din, Provincial Minister for Information

- Mr. Iqbal Khatak, Bureau Chief, Daily Times, Peshawar
- Mr. Mohammad Ali Sahib, General Secretary, Peshawar Press Club
- Mr. Shaukat Khattak, Bureau Chief Peshawar, Samaa TV
- Mr. Wasim Ahmad Shah, Journalist, Dawn
- Mr. Shamim Shahid, President, Peshawar Press Club's President

Mr. Iqbal Khatak, Bureau Chief, Daily Times, Peshawar started by referring to an encounter between the then President Pervez Musharraf and journalists. During that encounter, he recounted; as President Musharraf asked the journalists how corruption could be eradicated from the country, Mr. Khattak asked him to introduce an FoI law as the prevailing culture of secrecy lies at the root of corruption. Elaborating his point, Mr. Khattak said, when information would be accessible to the common man about how decisions affecting his fate were made at different tiers of government, it would definitely help in curbing corruption. He further said that the mindset in Pakistan was not such as would be conducive for the promotion of FoI and it would take years to change. In the context of FoI, Mr. Khattak also spoke about freedom of media, but with a cautionary note that media should execute its role in a very responsible manner so that it could live up to the expectations of the general public. Towards the end of his presentation, Mr. Khattak lauded the efforts of CRSS and its Chairman, Mr. Imtiaz Gul, for raising public awareness about the critical issues of governance and security.

Following this, Mr. Mohammad Ali Sahib, General Secretary, Peshawar Press Club expressed his thoughts. He was of the view that the importance of FoI legislation could not be overestimated, but still efforts were being made by certain quarters to hinder its progress. Mr. Sahib said the improvement in the FoI legislation was the need of the hour. Referring to the promulgation of FoI Ordinance in 2002, he pointed out that Pakistan was the first country in South Asia to promulgate such an ordinance, even before the UK which did it in 2005. However, Pakistan lacked effective and good leadership to carry the issue forward. He also lamented the fact that the FoI Ordinance was not implemented throughout the country.

Mr. Sahib continued by highlighting the inadequacy in the implementation of the Ordinance by noting that though journalists would usually succeed in obtaining information, they would do this through their personal contacts rather than through any recourse to the FoI Ordinance. The law, however, suffered from several lacunae, he said. In this regard, he particularly mentioned the provision of several exemption clauses which, he said, made the Ordinance appear more a tool to withhold information than the one to reveal it. In the end, Mr. Sahib lauded the role played by the former Information Minister, Ms. Sherry Rehman in tabling the FoI bill. He underlined the need for making concerted efforts to pressure the government to introduce an effective FoI law.



Mr. Shaukat Khattak, Samaa TV's Peshawar Bureau Chief, was the next speaker who started by highlighting the problems faced by journalists in the context of the prevailing security situation in the area. Far from being facilitated, he complained, journalists are, in most of the cases, pressured into not divulging certain information. He said some information was the exclusive preserve of certain powerful quarters and it was not accessible even to the relevant government officials. In this regard, he mentioned his personal experience when once he invited a DG of the FATA Media Cell to a program officer who did not provide answer to any of his queries. However, he said, later on it became clear that the said officer himself was not privy to the information.

Mr. Khattak was also critical of the irresponsible behaviour by the media. In this context, he cited an incident of bombardment in Orakzai Agency wherein 20-30 innocent people, including women and children, were killed but a TV channel portrayed the deceased as the terrorists.

The media, he complained, faced several constraints in their reporting of war on terror. Citing a personal example, he said he had received threats from certain quarters who wanted him to give only the government's version while reporting on Waziristan.

Next to speak was Mr. Wasim Ahmad Shah from daily Dawn. Mr. Shah started by lamenting the fact the FoI Ordinance did not apply to all the four provinces of the country, noting that though the MMA government in NWFP had committed to introduce the Ordinance in the province, this did not happen. Mr. Shah requested the incumbent government to introduce the FoI Ordinance 2002 in the provincial assembly. As far as journalists accessing information was concerned, Mr. Shah observed that most of the journalists did it by using their personal contacts rather than under the FoI as that would entail lengthy procedures. NGOs, he suggested, should highlight this issue. He lauded the efforts by Ms. Sherry Rehman for introducing the FoI law in the National Assembly, though, he said, it was not without any shortcomings. In the end, Mr. Shah urged upon his fellow journalists

to utilize the provisions of FoI Ordinance whenever they wanted access to any information instead of resorting to their personal contacts.

Peshawar Press Club's President, Mr. Shamim Shahid also spoke on the occasion. He urged the civil society and the NGOs to play a more effective role in promotion of FoI in the country. Mr. Shahid's comments, however, were more about the role being played the media in the current circumstances. He was particularly critical of the trend of 'breaking news' which, he said, often lead the TV channels to act irresponsibly in order to claim to be the first to report a particular incident. Instead of sensationalizing issues, Mr. Shahid said, media ought to play a more active role in combating social evils and crimes. He said media should play its role in de-legitimizing the glorification of violence as was being done in the case of suicide attacks by portraying them as heroic Islamic acts or as a form of revenge against the alleged atrocities by the state. Another issue he identified where media could play an effective role was highlighting the problem of hostage taking for ransom which is becoming increasingly rampant in this society.

The Chief Guest, Mian Iftikhar ud Din, Provincial Minister for Information, said in his remarks that the provincial government would definitely fulfil its responsibilities towards promoting freedom of information in the province. He said information should be accessible to all, but at the same time, media too should observe some limits and refrain from sensationalizing issues which is harmful for the government as well as for the society. He added that there must be some rules and regulations vis-à-vis the people's access to information so that they know about the facts and behave responsibly. He admitted that there was a certain level of secrecy in the affairs of the government and it was usual with every government. He wondered why the non-governmental organizations were not required the give people access to information. He added that legal norms should be observed by average citizens of Pakistan, that there should be an end to bribery. He reiterated his commitment that the provincial government would take some meaningful steps towards promoting FoI in the province and would also ask the federal government to do the same.



In his concluding remarks, Mr. Imtiaz Gul, Chairman CRSS thanked the participants and the speakers. He urged the people to write letters to the editors to promote FoI in the country. He also urged journalists to handle information carefully and dispassionately. Finally, he underlined the need to critically analyze information that is obtained from sources, which, he lamented, was not done in most of the cases.

2.4.(b). Lahore Roundtable: Freedom of Information:

The opening remarks were delivered by CRSS Chairman, Mr. Imtiaz Gul, who urged civil society, parliamentarians, and journalists to unite under this platform and suggest ways and means to improve the existing FoI Ordinance. Following his remarks, Ms. Sana Khan, CRSS, gave an overview of FoI in Pakistan and asked the participants to put forward suggestions, which, she hoped, would be helpful in improving the draft FoI Bill being prepared by the CRSS.



In his remarks, Prof. Dr Ahsan Iftikhar, Punjab University, traced the roots of the prevailing culture of secrecy among government officials to the

subcontinent's colonial experience, lamenting that the mindset that had developed as a colony persisted even more than six decades after independence. He pointed to the fact that the clause barring the disclosure of any official secret which was there in the Official Secret Act 1923 is present in the FoI Ordinance 2002 and also in the 1973 Constitution. He was of the view that the FoI Ordinance 2002 was meant only to make people believe that the right to access information was given, whereas in effect it had not made any tangible difference. Professor Iftikhar said although everyone lambastes the government for not doing enough to make access to information easy, the real culprit was the bureaucracy which was not willing to part ways with the previous practices and let people access information. Professor Iftikhar also criticized the provision which allowed officials to withhold any information by describing it as classified.



The next speaker was Prof. Dr. Anjum Zia, Dept. Head at Lahore College for Women University. Professor Zia described FoI as an essential component of democracy. She underlined the importance of freedom of media because, she said, media could play its role only if it was free. She said FoI could be divided into three components: access to information, which, she said, was not always absolute; dissemination of information and the follow up. Regarding the second component, she said almost everyone used only personal contacts to obtain any information instead of resorting to the prescribed procedures. Follow up, she said, was nil. Appreciating the hard work done by journalists, she suggested there must be a media council to keep a check on journalists to ensure reporting remains as objective and fair as possible. She stated that personal bias often clouds reporting in Pakistan.

BBC's Ali Salman was the next speaker who read one of his columns highlighting the irresponsible attitude of media. He was particularly critical of the race among TV channels to break news. Citing an example, he pointed out how a TV channel had run a ticker about the death of famous poet Ahmad Faraz while he was still alive; forcing the channel to run another ticker informing viewers that he was alive. Such irresponsible attitude of journalists and news channels for the sake of their ratings was beyond the limits of morality.

Mr. Iftikhar Ahmad of Geo TV was the next speaker who started by advising Mr. Salman to read article 19 of the Constitution again which, he observed, had granted the right of expression “but subject to law.” He was of the view that a transparent government in Pakistan was still a dream and a lot needed to be done to realize that dream. Talking about the FoI Ordinance 2002, he mentioned clauses 8,137, 9 which were all about information which was exempt for disclosure. He further said the list mentioning exempted information was a lengthy one. Mr. Ahmad then asked the participants if they had any role in the law enforcement? Finally he asked CRSS to consult lawyers and circulate their findings among the media and civil society and lobby with parliamentarians to improve the Ordinance. He also suggested publishing Urdu version of the amended law because majority of our people could not read, write or speak English.

Mr. Imtiaz Alam, Sectary General, SAFMA, was the next speaker who said SAFMA had proposed a freedom of information law in 2004 after reviewing all the relevant laws. The law, he said, was approved by the ministry of law without any amendments and was also tabled in the assembly. Mr. Alam urged to lobby for that law and promised to offer any sort of help. He underlined the need to simplify the methods to obtain information, besides urging the journalists to properly utilize the law as it was useful for them. He asked media to behave responsibly to dispel the impression that they had crossed all the limits of media ethics.

The next speaker was Samaa TV’s Bureau chief, Mr. Habib Akram who was of the view that there was a culture of secrecy in the country. Pointing to the lengthy exemption list in FoI Ordinance 2002, he said, the ordinance appeared to be more a tool to conceal information rather than to reveal it. He said it was ironic that the freedom of expression was there in the Constitution, yet there was still no way for citizens to access information. In the end, he quoted a lesson from Machiavelli; if your ruler is less educated than you, get rid of him, and if he is more educated than you even then get rid of him as he would hide something or hatch some conspiracy.

Vice President Lahore Press Club Mr. Aamir Waqas was the next speaker who was of the view that it should be public prerogative to decide what should be broadcast. In a sarcastic tone, he said journalists could not write against army and the government, nor could they write the truth but what they could do was only propagate. In fact, he said, the journalists could not write against corporate interests as well such as Pepsi and Nestle.

The News One’s Mr. Amjad Warraich was of the view that the journalists were getting only filtered information and the commercial interests of the owners was a major stumbling block in the way of disseminating information. He mentioned also the serious dangers being faced by the journalists in the execution of their duties which was evidenced by the high rate of casualties of the journalists.

Mr. Raza Kharal and Mr. Ahmad Shiekh were of the view that freedom of information is a basic human right. They too mentioned the grave threats being faced by journalists and urged some sort of platform to protect journalists. Mr. Ahmad Shiekh added that in India free flow of information is widespread. They both said, however in no situation, the national interest should be compromised.

The Nation's Brig. Farooq Hamid was of the view that in many countries information is de-classified after 20 or 25 years but not in Pakistan. People wanted to know about important past events like Zia ul Haq's crash and also about government spending. He too called freedom of information ordinance as denial of information.

Ms. Sadia Salahudin (News on Sunday) urged private bodies to provide their information on their websites to promote transparency.

Dr. MuGhees –ud-Din, referring to the point raised by Ahmad Sheikh, said free flow of information in India was not at all good news for Pakistan; rather it was bad news. He suggested having a public debate and launching a new amended improved draft. He said journalists often receive selected information even in the US. He agreed with the statement about media freedom being overshadowed by the dominance of corporate interests. He also stated that commercialization is a big threat to independent and watchful media. Having said all that, he concluded, the biggest challenge was to rectify the irresponsible media and the day when we would be able to do that would be the celebration day.

2.4 (c). Islamabad Roundtable on Freedom of Information:

The event held at the Islamabad Press Club was chaired by Mr. Shahid-ur-Rehman, well-respected journalist and authors. Mr. Rehman opened the session by outlining his own experiences with various governments requesting information for research on two of his books. One book was on Pakistan's sovereignty laws, and the other was on Pakistan's nuclear program. For both of these books, Mr. Rehman made requests through the FoI 2002 Ordinance to the Pakistan government, as well as requests to US and British governments. His requests to the Pakistan government went unanswered, while he did receive information from the US and British governments. He emphasized that the credibility of his research was greatly enhanced by having access to these primary sources. Despite the fact that he did not receive a response from the Pakistani government, Mr. Rehman encouraged all the journalists present to use the law that does exist in order to draw attention to the issue of freedom of information in Pakistan.

Mr. Haroon Rashid, correspondent for the BBC, responded to Mr. Rehman's sentiments of the FoI Ordinance in Pakistan being an underutilized law. He admitted that as a working journalist in Pakistan, he was also guilty of being unaware of the possibilities (or lack thereof), of the right to access information.



He said journalists in Pakistan should feel guilty for not using the law that was in existence in the first place. He added that the FoI Ordinance, although a bad law, is one avenue available to journalists in accessing information and it should be used in order to draw more attention to the issue. Mr. Rashid cited India's right to Information Act as an example of a good law. Unlike India, Pakistan's FoI Ordinance with its requirement to provide a purpose and affidavit was binding and restrictive. He said that the requirement to state a purpose often gives the authorities as a basis to deny or delay access to information. Mr. Rashid concluded his remarks by outlining previous attempts in Pakistan to establish an effective access to information law, all of which failed. He cited the fact that no funds were allocated for this purpose and it was a severe handicap. Using the example of People's Party MNA Ms. Sherry Rehman's draft FoI bill in 2004, which was drafted while the People's Party was in opposition, Mr. Rashid pointed out the binding exigency of bureaucracy, as by the time the bill was tabled by the party when it formed the government in 2008, many of its most effective clauses had been removed.

Ms. Asma Shirazi, host of a current affairs program on ARY, admitted that she was unaware of the FoI Ordinance in Pakistan. She expressed doubt that a freedom of information would be a concept that would be understood in Pakistan, as first it was necessary to examine the culture of secrecy that has developed within the civil service and bureaucracy. In this environment, she said the type of information that prevails is important to examine. What really stops access to information in Pakistan is the lack of a definition of national interest. She said that lack of awareness of the importance of FoI is a serious issue, because it prevents a clear articulation of the problem. Only then can clear language be developed that would lead to the development of an effective law. She ended by saying it should be the media's responsibility to take up the issue.



Mr. Mazhar Abbas, journalist and activist, outlined several examples in Pakistan linking freedom of information to the right to life and liberty. He said the lack of access to credible information in Pakistan has led the media to develop a mentality of “he said/she said” journalism, where journalists are forced to rely on their own sources and methods of gathering information. He also said that introducing the concept of FoI in Pakistan is challenging because of contracting and confrontational laws in Pakistan such as the Official Secrets Act, the Anti-terrorism Act, and even Article 19 of the Constitution which guarantees freedom of expression carries restrictions. Mr. Abbas elaborated on Ms. Shirazi’s view of the culture of secrecy that has developed within the bureaucracy. He expressed that the lack of clear definition of national interest has allowed the misuse of access to information by officials. Mr. Abbas cited the example of routine committee meetings often being declared in camera, and the denial to journalists of meeting minutes and agendas. He added that poor record keeping and lack of accountability contribute to corruption. Mr. Abbas concluded his remarks by reflecting on the fact that cross media ownership in Pakistan was becoming a threat to press freedoms, and journalists should act with responsibility by doing more investigative and analytical pieces rather than reactionary journalism.

The session began to wrap up with recommendations from Ms. Anjum Rahman of Express 24/7 citing the example of the Canadian Access to Information Act, which delineates the responsibility to an Information Commission. Mr. Reza ul Hassan Lasghar of Press Trust of India, elaborated on the Indian Freedom of Information Act and its effectiveness through a stipulated time frame, punitive measures and the establishment of information officers. Mr. Javed Siddique of Nawai-waqt emphasized that a definition of national security was absolutely necessary in ensuring better access of information to citizens, who on their part needed to be better informed on the issue.

Mr. Aftab Iqbal, Advocate at ALPH, summarized the outstanding issues in the FoI Ordinance 2002, which he will be taking up in the legislative research to be held in collaboration with the CRSS.

2.4 (d). Outcome:

The seminar once again highlighted that the prevailing attitude among journalists in understanding FoI is along the lines of freedom of the press. It was noted that these types of discussions with journalists often need to be strictly moderated to dispel the confusion between freedom of information and freedom of the press, although there is a link between the two. The most interesting angle raised in the seminar was the idea that greater access to information would lead towards sophistication of journalism practice in Pakistan by allowing more investigative and analytical reporting. The input from this seminar was included in the legislative research and options presented by the lawyers.

2.5. Youth Parliament:

In order to introduce and promote the concept of Freedom of Information among youth, the CRSS team took the initiative to lobby for FoI legislation in the Youth Parliament of Pakistan, a mock House working under PILDAT (Pakistan Institute of Legislative Development and Transparency).

The Prime Minister of the Youth Parliament was briefed by one of our CRSS team members about the usefulness of Freedom of Information in democracy. He was updated about the developments regarding Freedom of Information in Pakistan.

The Prime Minister of the Youth Parliament allowed our team member to brief the Blue Party (Ruling Party) regarding importance of Freedom of Information law in combating corruption and promoting transparency in governance. After two days lobbying on FoI, the members were made highly motivated to take initiative and play their best role in promoting the concept of FoI in Pakistan.

The ruling party of the Youth Parliament agreed to allow legislation on Freedom of Information and for that purpose a draft bill on 'Freedom of Information' prepared by CRSS was provided to all the members for study. The ruling party included the bill on FoI in the business of upcoming session of Youth Parliament in March 2010. Hopefully, the bill will be passed unanimously during next session after a useful debate in the Youth Parliament of Pakistan.

2.6. Public awareness campaign:

Television shows and radio PSA (public service announcements):

Television program	Live with Talat (Talat Hussain, Aaj TV)
Guests	<ul style="list-style-type: none">▪ Senator Tariq Azeem Khan, PML-Q,▪ Senator Zafar Ali Shah, PML-N, Chairperson National Assembly Standing Committee on Information and Broadcasting.▪ Begum Beelum Hasnain, PPP▪ Sadia Mumtaz, Consultant-Advocate for Public Policy and Human Rights.

Television program	Live with Talat (Talat Hussain, Aaj TV)
Guests	<ul style="list-style-type: none">▪ Ms Fauzia Wahab –PPP▪ Ms Bushra Rehman PML-Q▪ Mr. Imtiaz Gul, Chairman, CRSS▪ Mr. Mukhtar Ahmad Ali, Executive Director, CPDI (Centre for Peace and Development Initiatives)
Description	

Television program	Point of View (Imtiaz Gul, Hum TV)
Guests	<ul style="list-style-type: none">▪ Mr. Reza Ul-Hassan Lasghar, Journalist, Press Trust of India,▪ Aftab Alam, Advocate, ALPH,▪ Sana Khan, Program consultant, CRSS

Television program	The Other Line (Anjum Rahman, Express 24/7)
Guests	Dr. Donya Aziz, MP Mukhtar Ahmed, Executive Director, Centre for Peace and Development Initiatives Aftab Alam, Advocate, ALPH

2.6 (a). Live with Talat:

The Centre for Research and Security Studies [CRSS] arranged a show on Freedom of Information in Pakistan in “LIVE WITH TALAT” on Aaj TV. The panellists were: Senator Tariq Azeem Khan, PML-Q, Senator Zafar Ali Shah, PML-N, Chairperson National Assembly Standing Committee on Information and Broadcasting Begum Beelum Hasnain, PPP and Sadia Mumtaz Consultant-Advocate for Public Policy and Human Rights.



The information dissemination is usually hampered in our country as we are unaware of even the rules and regulations governing our lives due to the laws in vogue, which are strict and deny access to information. The proposed law about freedom of information has been put in abeyance

Pointing to the poor mechanisms for information dissemination in the country, Mr. Talat Hussain set the stage for the discussion, asking whether we shared information with people or concealed it. Answering the question, Begum Beelum Hasnain said though there were a large number of media outfits still people in Pakistan did not get complete information. Ms. Sadia Mumtaz opined that although we had huge amount of information but whether it was factual or not was the point, noting that only a law regarding the authentic information would determine whether we were provided factual information or not. Senator Tariq Azeem too underlined the need of providing factual information to the people. Senator Zafar Ali Shah was of the view that though the constitution of Pakistan regarded access to information subject to reasonable restriction as the fundamental right of every citizen, the restrictions in place were beyond what could be termed as reasonable.

Mr. Hussain then asked if there were any loopholes in the access to information system. In replying to this question, Begum Hasnain said people too were responsible for the illegal conduct of public servants as they were willing to bribe public servants to avoid difficult course which was the legitimate way. She, when asked why the journalists did not get minutes of the meetings with IMF? Said sometimes the circumstances did not allow the government to make information available to the media. Senators Shah and Azeem both said they were not aware of who gave permission to the US for launching drone attacks.

Mr. Hussain then asked whether it was justified to hold back the information in the name of national interest, noting that information such as weather forecast could be beneficial for the farmers. The participants agreed there was a tendency to conceal the information in the name of national interest but they did not condone the practice, except Begum Husnain. The participants, with the exception of Begum Husnain, also agreed that freedom of information could provide an ideal means for accountability of politicians and public servants.

2.6 (b). Live with Talat:

The Centre for Research and Security Studies [CRSS] arranged a show on Freedom of Information in Pakistan in “LIVE WITH TALAT” on Aaj TV. The panelists were: Ms Fauzia Wahab -PPP, Ms Bushra Rehman PML-Q, Mr. Imtiaz Gul, Chairman CRSS and Mr. Mukhtar Ahmad Ali, Executive Director CPDI.

Mr. Talat Hussain, in his opening remarks, wondered that even in the present age of technology, people in Pakistan did not have access to simple public documents. He then asked the participants to share their assessment of the current status of freedom of information in the country. Mr. Mukhtar Ahmad Ali was the first to respond to the question who noted that though the government had made several commitments, it had failed to introduce any implementation mechanisms vis-à-vis freedom of information. He mentioned the bill moved by Ms. Sherry Rehman, noting with concern that there was not any progress on it ever since Ms. Rehman’s party came to power. In the absence of any progress, he said, the FoI Ordinance 2002 still held the ground.

Ms. Fauzia Wahab was of the view that the government was confronted with many other issues such as the 17th amendment so FoI was not our first priority. Ms. Bushra Rehman highlighted the need to prioritize FoI, particularly in an atmosphere where corruption was rampant. Mr. Imtiaz Gul too was of the view that the general public had all the rights to hold accountable the officials.

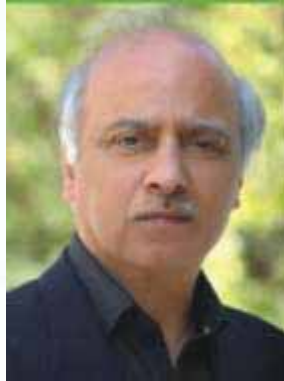
Mr. Hussain then asked whether we had too many expectations from the present government. In answering this question, Mr. Ali said yes we did have expectations because FoI was mentioned in the Charter of Democracy as oxygen for democracy. He was of the view that it was a sunshine law which served as antiseptic for corruption.

Mr Hussain ended the discussion by asking the solutions for the issue. All of the panellists recommended enactment of a comprehensive law to empower common citizens by ensuring for them easy access to information Ms Fafuzia agreed that it would be better to lobby around and suggested that pressure should be built on government so that it proactively take practical steps to improve the existing law.

2.6 (c). Point of View:

CRSS arranged a debate under Hum TV talkshow Point of View hosted by Mr. Imtiaz Gul . The guests were; Mr. Reza ul-Hassan Lasghar of Press Trust of India, Mr. Aftab Alam, advocate; and Ms. Sana Khan of CRSS. Mr. Gul took the perspective of looking at the issue of Freedom of Information from different countries. Mr. Lasghar talked about the Freedom of Information Act in India, explaining as to why it was so effective and how the movement for FoI gained such ground in India. Ms. Khan stated that the Access to Information Act in

Canada has been part of the country's legislation since the 1980s, and is constantly reviewed.



Like the Indian Act, the Canadian Act also establishes a body similar to the Central Information Commission. In addition, the judiciary has also established a separate branch to handle access to information requests. Mr. Alam provided a critique of the existing FoI Ordinance in Pakistan, expressing that it was in fact a restrictive law.

The program also included a pre-taped interview with PPP MNA Ms. Sherry Rehman, in which she stressed the need for having an effective FoI law in Pakistan.

2.6 (d). The Other Line:

CRSS arranged for the issue of FOI to be taken up on the Other Line, an English language current affairs discussion-based program on Express 24/7. The guests included were: Dr. Donya Aziz, MP, Mr. Mukhtar Ahmed, Executive Director Center for Peace and Development Initiatives, and Mr. Aftab Alam, Advocate. Mr. Ahmed provided a brief overview of the FoI situation in Pakistan, while Mr. Alam critiqued the existing ordinance. Dr. Aziz narrated her efforts taken to brief about amendment to existing ordinance, highlighting the fact that gaining the support of fellow legislators on the issue is difficult. The show also discussed FoI from the angle of human rights.

2.6 (e). Radio PSAs (public service announcements):

Public service announcements in Urdu ran on FM 100 in Islamabad, Karachi and Lahore during the month of February. In these announcements, the people were informed about an ordinance that gives them right to seek information from government departments. However, the ineffectiveness of the ordinance, issues to be taken up in an access to information request and the link between freedom of information and the right to life and liberty were also highlighted in these PSAs.

2.6 (f). Outcome:

These coordinated public awareness activities produced concentrated attention on the subject of FOI in Pakistan for roughly four weeks. The television programs received a favourable response from their viewers. Furthermore, the hosts of the programs were open to discussion and further research on the subject. With the depth on the issue that emerged as a result of the discussion on the television programs, all of the hosts expressed interest and a will to pick up the issue again.

The project team's effort to engage talk show hosts proved successful in expanding the focus of debate on the current affairs talk show circuit in Islamabad. Furthermore, the discussion which took place on these programs provided an opportunity for viewers to hear about FOI in plain language and understand how FOI relates directly to them in their daily lives.

These public awareness activities coincided with the seminars arranged by CRSS to gain feedback for the draft bill. These seminars also received media coverage. The overall result was that FOI became part of the news cycle, leading up to the presentation of the legislative research and basis for a draft bill.

2.7. Legislative Research:

A draft bill backed by legislative research will also find more support among parliamentarians in terms of presenting such a bill in the House. The engaged legal team from Advocates at Law, Public Policy and Human Rights (ALPH) prepared a draft bill and legislative research based on recommendations proposed by CRSS after consulting with a wide range of civil society, media, political and social activists.

2.7 (a). Seminar on FoI - Islamabad:

Subject	Freedom of Information in Pakistan
Date and venue	February 4 th , 2010, Islamabad Hotel
Main speakers	<ul style="list-style-type: none">▪ Mr. Qamar Zaman Kaira, Federal Minister for Information and Broadcasting▪ Mukhtar Ahmed, Executive Director Peace and Development Initiatives▪ Ahmed Bilal, Executive Director, PILDAT▪ Aftab Alam, Advocate, ALPH▪ Saadia Mumtaz, Advocate, ALPH

The culmination of the research and input gathering from various groups was in the final seminar held on February 4th at the Islamabad Hotel. The chief guest was the Federal Minister for Information and Broadcasting, Qamar Zaman Kaira.



CRSS invited representatives of non profit organizations, journalists and other civil society groups to share the legislative research and options proposed by CRSS and the legal team hired to examine the issue.

Mr. Mukhtar Ahmed, Executive Director, Peace and Development Initiatives, opened the session with a brief overview of the FOI situation in Pakistan. This was followed by a brief Q&A session to ensure the issue was clearly understood by the audience. The decision to include a Q&A session was based on the experience of previous sessions, where it was found that the discussion was often side-tracked because the issue of FOI was confused with freedom of expression or freedom of the press. Allowing a Q&A session at the introductory stage helped focus the discussion and clear this misconception from the beginning.

Mr. Aftab Alam and Ms. Saadia Mumtaz, advocates with ALPH then took over the bulk of the seminar and presented the findings of the legislative research. The legislative research was based on an analysis of the problem with the FOI Ordinance, which was presented as:

- FOI law as an Ordinance
- Limited scope and application
- Misleading nomenclature and vague terminology in FOI law
- Non-encouraging and non-promising response of government departments
- Complicated procedure for information request
- Public officials and Secrecy Laws

Mr. Alam and Ms. Mumtaz then identified the key behaviours of the following role occupants: Citizens, media, public officials, legislators, political parties. Implementing agencies' behaviour was also examined but was deliberately kept separate from role occupants. After an in depth discussion of these behaviours and their causes, the following recommendations were presented:

- Introduce enabling laws with minimum exclusions and simplest processes
- The terminology and nomenclature must be changed from FOI to RTI.
- The law must provide for the establishment of independent and autonomous institutional framework such as Federal/Provincial Information Commission.
- At all public organizations, Right to Information (RTI) counters - along with the existing front desks - must be established.
- The RTI law must provide judicial recourse to the applicants.
- The law must provide a mechanism for monitoring and evaluation of the implementation of the law.
- The law must enable citizens to link right to information with the fundamental human rights.
- Right to information must be linked with the day to day issues of the people.
- Ensure accountability across the board including the accountability of decision makers.
- Promote openness and transparency in official functioning.
- Promote participatory decision making.
- Build trust between the citizens and state functionaries.
- Political parties and legislators should promote pro-people agenda and their efforts should reflect people's aspirations.
- Secrecy laws including the Official Secret Act, 1923 and rule relating thereof either abolished or reviewed keeping in view the people's right to information.

A discussion based on these recommendations followed, with further comments and input gathered from the audience by the lawyers for the eventual draft bill.



Minister Kaira then addressed the participants. He emphasized his will as Information Minister to make information held by the government more accessible to the public, and highlighted the fact rights are not simply given to the masses they are earned. He urged the people present to encourage public debate and more awareness on the right to access information so that more determination would be created within the government. In a surprising but welcome gesture, the Minister promised in front of everyone present that he would make public all annual reports from government departments.

The Minister then responded to the recommendations proposed and questioned posed by the audience. Key concerns from journalists and civil society members present were the release of minutes and meeting agendas of government agencies, and more cooperation from the government regarding cases of missing persons.

The session concluded with the Minister's promise being taken into serious consideration and with his willingness to see a draft bill once it was prepared.

Section IV

Press Coverage

The seminars/roundtables conducted by the CRSS on the FoI received wide coverage in the print media. The following chart gives a reflection of the press coverage.

Lahore Roundtable

PAPER	PAGE	TITLE
BUSINESS RECORDER	General News	Seminar on "Freedom of Information" held
THE NATION	City	Freedom Of Information a right & responsibility
THE NEWS	City News	Freedom of Information stressed
DAILY TIMES	National News	Civil groups demand freedom of information
DAILY EXPRESS	City	Press information act need to be reviewed says Dr. Mughees-ud-Din
PAKISTAN ROZNAMA	City	Freedom of information is not only a right but also a responsibility

January 13, 2010

Peshawar Seminar

PAPER	PAGE	TITLE
Daily times	National News	Journalists want legislation for access to information
THE NEWS	National	Time to directly hit militants, says Mian Iftikhar
THE NATION	NWFP	Iftikhar assures access to information

January 5, 2010

Islamabad Seminar

PAPER	PAGE	TITLE
THE NEWS	National	Kaira assures of access to information
DAILY TIMES	Late News	Annual reports of govt depts. To be made public: Kaira

February 5, 2010

Islamabad Roundtable

PAPER	PAGE	TITLE
DAWN	Metropolitan	Right to information pivotal to all other rights

January 22, 2010

Daily Times

Friday, February 5, 2010

Annual reports of govt depts to be made public: Kaira

ISLAMABAD: Annual reports of government departments will soon be made public to promote transparency, Information Minister Qamar Zaman Kaira said on Thursday.

The minister said this while addressing a seminar on "The freedom of information in Pakistan: challenges and solutions" organised by the Centre for Research and Security Studies.

Kaira said positive points of the

Pakistan Electronic Media Regularity Authority (PEMRA) law should remain intact, which included not glorifying terrorists in the electronic media. He said the Official Secrets Act will also be amended but it might take some time.

The minister said the government should be credited for allowing the media to cover the proceedings of the parliamentary committees. **STAFF REPORT**

INTERNATIONAL

THE NEWS

Wednesday

January 13, 2010

CITY NEWS

Freedom of information stressed

By Our Correspondent

LAHORE

FREEDOM of information is a prerequisite for the social, economic, democratic and institutional development of a nation provided that people, the press and the government respect it and behave in a responsible way.

This joint statement came from a roundtable on "Freedom of Information" organised by Centre for Research and Security Studies (CRSS) at a local hotel here on Tuesday. In his inaugural talk, Imtiaz Gul, a renowned journalist and the author of the book *The Al-Qaeda Connection*, said freedom of information was basic right of the people at large and the information should not have been limited to journalists only, rather it should be justifiably disseminated among the masses.

The News International, Tuesday, January 5, 2010

INTERNATIONAL
THE NEWS

NATIONAL

Time to directly hit militants, says Mian Iftikhar

Bureau report

PESHAWAR: NWFP Minister for Information Mian Iftikhar Hussain Monday said that peace in the country could be restored only if all the terrorists' organizations and their training centres and dens were eliminated.

He was talking to reporters after addressing a roundtable discussion on "Freedom of information in Pakistan". The minister said the time had come to directly hit the militants and terrorists instead of adopting defensive posture.

Mian Iftikhar said the terrorists would continue hitting the general public if their hideouts and training centres were not destroyed.

The ANP leader said that general public, media and security forces were on hit-list of the militants because they were blocking the way of anti-state elements.

Earlier, addressing the roundtable discussion organized by the Center for Research and Security Studies, the information minister supported access to information for good governance, as it would present clear picture of the government. But he said it should not be confined to the government's departments alone. The access to information was the right of media but there should be a sense of responsibility, he said.

President Peshawar Club Shamim Shahid, chairman CRSS Imtiaz Gul and others also addressed the function.

City

Freedom of information a right & responsibility

OUR STAFF REPORTER

LAHORE - Freedom of Information is not just a right but also a big responsibility that must be handled with care. This is what participants of a round-table on the "Freedom of Information (FoI) and the Pakistani Society" agreed.

The Centre for Research and Security Studies (CRSS), an Islamabad-based research and advocacy outfit, organised the round-table here at a local hotel on Tuesday.

A large number of academics, senior journalists, and columnists drawn from the print and electronic media participated in round-table on freedom of press.

Professor Dr. Mugheesuddin Sheikh, Punjab University, said commercialization has emerged as a big threat to independent and careful media.

Military and multi-national companies attempt to block flow of information that they consider as damaging.

"All media organization must form working groups on each clause of the Freedom of Information Ordinance 2002 to remove restrictive content of this law," said Prof.

Jmtiaz Alam, secretary general of the South Asia Free Media Association, pointed out that his organization had already prepared a draft law on the subject, which the government had adopted as such.

Iftikhar Ahmed anchor of a local TV channel, acknowledged the need to raise public awareness and suggested amending the existing Freedom of Information Ordinance, which he said needed many improvements.

Imtiaz Gui, executive director, CRSS, requested all participants to propose amendments and ideas for a Freedom of Information/Right to Information law so that could help in preparing a comprehensive draft for the parliamentarians.

Speaking on the occasion, Ch Aamer Waqas, Vice Presi-

dent Lahore Press Club & Senior Reporter The Nation, said the government should do away with the Punjab Information Department which safeguarding the interests of only a section of journalists' community, which works for its vested interests. About restraints on the freedom of press, Ch Aamer Waqas said there are many "sacred cows" for media organizations like army, religious parties, multinational companies and terrorists groups and media prefers to remain silent despite seeing corruption or wrongs in their affairs.

"The journalists are compelled close their eyes due to pressure of the "sacred cows" due to pressures from media organization or possible life threats to journalists from the concerned parties," Aamer Waqas regretted. He said it's a bad joke with freedom of press/ media because and if the journalists dare to go in the prohibited quarters they often lose their lives.



Wednesday January 13, 2010

General News

Seminar on 'Freedom of Expression in Pakistan' held RECORDER REPORT

LAHORE (January 13 2010): Participants of the seminar on "Freedom of Expression in Pakistan" said that parliamentarians must form a committee to examine implementation gap and weakness of freedom of information ordinance 2002 and to bring a new improved bill. The seminar was organized by Center for Research and Security Studies (CRSS) on Tuesday.

They urged that a long-term awareness campaign must be designed and undertaken by the concerned public institutions in co-ordination with the civil society and media. They said that efforts must be made to translate the freedom of information law into the local languages to ensure good understanding of the law. They also urged that information seeking procedure needs to be made hassle free, quick and facilitating.

The connection between the government and civil society organizations needs to be strengthened to the level that they jointly take up the issue of freedom of information. Speaking on the occasion famous journalist Iftikhar Ahmed said that the ordinance should be discussed clause by clause by the press clubs, journalists organizations, civil society organizations and then the recommendations will be put forward before the government.

Secretary general South Asia Free Media Association, Imtiaz Alam said that the recommendations put forward by South Asia Free Media Association (SAFMA) after consultations with the media organizations were recommended by law ministry should be presented in the parliament. Seminar was addressed by eminent media expert Mughis-ud-din Sheikh, Head of Department of Mass Communication Anjum Zia and representatives from print and electronic media.

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NWFP

Ifkhar assures access to information

WAJIDULLAH

PESHAWAR: Participants at a seminar urged the government to ensure easy and timely access to public information in government organisations if they are convinced to credence the veracity of our institutions and accountability of the institutions, while provincial Minister for Information, Mian Ifkhar Hussain assured these government would make hectic efforts for legislations and ensuring access to information in the province.

Speaking at a seminar titled "Freedom of Information in Pakistan" organised by the Center for Research & Society Studies (CRSS) at Peshawar Press Club on Monday. Participating in the seminar NWFP Information Minister assured that the ANP led provincial government would definitely include views of the journalists' community in the formulation of any law in this regard. Among the speakers were Chairman CRSS, Justice Gul, President Peshawar Press Club (PPC) Shamim Shahid, senior journalists Wasim Ahmad Shah, Iqbal Khattak, Shoukat Khatkhat and press club general secretary Muhammad Ali also spoke on the occasion.

The provincial minister was of the opinion that all people should have free and easy access to information about policies of the government,

represents some secrecy. Some information, he said, the government discriminate for the facilitation and benefit of the people.

Mian Ifkhar Hussain who is also the official spokesman of the ANP for provincial government, said, as remaining part of the opposition for long, we stand for the access to information of all and satisfy, however, he said that besides access to official documents, access to private sector/institutions is also necessary.

He was also critical of the discrimination in access to information, saying in this regard the journalists are required to create confidence in them and national interest should be kept above all and there should also be some moral obligations the freedom of access to information.

The freedom of access to information, he said, help in curbing corruption and every government would be required to take steps in this regard. It is necessary for every government to simplify access to information for all. In present era of new media, he said nothing could be looked at the freedom is information but had become a good option for the countries' and nations of the world. He said that the provincial government would do any thing possible in this regard and bring condition partner to central govern-



PESHAWAR: Minister for Information Mian Ifkhar Hussain addressing a seminar on Monday. Staff photos

also linked with the exhibiting of the persons of responsibility. He identified the existence of some obstacles and distance in electronic and bringing politicians into power. But, he

are not only making efforts for guaranteeing access to information for journalists, rather in electronic is simple example of it.

The minister said that they should be at least some kind of

ment, they would also asked every legislature, and cooperate all the institutions to follow the suits.

Earlier, Wasim Ahmad Shah, a senior journalist said that though the law did not cover provincial subjects, the previous MMA led government pledged the introduction of law at provincial level but was not given practical shape.

He said that access to information under the existing ordinance take long period in which most of the journalists did not apply for getting information through it. In most corners of the world, the non-governmental organisations files applications for the access to classified documents. Peshawar Press Club, President, Shamim Shahid urged journalists and civil society organisations to justify pressure for guaranteeing access to information.

Chairman, CRSS, Justice Gul said that access to information is the right of media and its handling with responsibility is their duty.

He said that emotions go high in our society resulting in giving due attention to human resource.

Besides the government institutions press would also exerted on private institutions for access to information and for better service of the common people, he said.

NATIONAL NEWS

Journalists want legislation for access to information

Staff Report

PESHAWAR: Journalists at a seminar on Monday demanded legislation for freedom of expression and access to information while pushing legislators and civil society members for making efforts in this respect.

The chief guest, provincial Information Minister Mian Iftikhar Hussain, said the government would play its due role in making laws for freedom of expression and access to information.

He, however, said the media should work serve national interest while being within the legal framework. He said journalists should file reports with full responsibility and good intentions.

Centre for Research and Security Studies (CRSS) organised the seminar titled 'Freedom of Information' at the press club.

CRSS Chairman Imtiaz Gul said the civil society and the media should begin a campaign to create public awareness of freedom of expression and access to information. He said lawmakers should form a committee to find weaknesses in the lapsed Freedom of Information Ordinance 2002, and bring in an improved bill.

He said a new draft bill on access to information was need of the hour.

Khatab Gul, a journalist, said regardless of race, religion and area, citizens had the right to get access to information and the government was duty bound to make it possible.

Iqbal Khattak, a journalist, said basic thing for journalists was access to information so that they could highlight issues of national interest and importance, and unmask those involved in corruption. He said Indian citizens had the right to know and Kargil war was the case where journalists openly expressed opinion.

He said the situation was altogether different in the country.

He said journalists could not write about corruption, kidnapping for ransom and other crimes if they did not have access to information.

Another journalist, Shaukat Khattak, said local media had no access to information and journalists were not allowed to file investigative stories.

NATIONAL 3

Kaira assures of access to information

ISLAMABAD: Minister for Information and Broadcasting Qamar Zaman Kaira said on Thursday that the government would amend Freedom of Information Ordinance 2002 and Official Secrets Act to ensure masses access to information that is their basic right.

Addressing a seminar on "The Freedom of Information in Pakistan: Challenges and Solutions" organised by Centre for Research and Security Studies here he said that Freedom of Information law had been promulgated in 2002 and there was need to review it with the input of the stockholders.

That's why this government has tabled the Freedom of Information Bill in the National Assembly. About the Official Secrets Act he said that it was implemented during colonial era in 1923 and there is need of changing it to the present democratic times.

He said that access of the masses to the information was a key to transparency and the people's government was taking several steps to bring transparency in the governance. He said besides other steps, one measure taken in this regard is e-governance, the project already launched, though there is need to speed up the process of shift to e-governance.

Kaira said that access to information is the right of the people but even the advanced democracies the public had to struggle for centuries to get their basic rights. Our civil society and media should play pro-active role in creating awareness among the general public for their basic rights including right to information. — APP

Appendix

Annexure 1

1. Questionnaire for Journalists

- Zaffar Abbas – interview
- Kashif Abbassi – interview
- Khalid Jamil - interview
- Salim Safi – interview
- Javed Siddique – interview

Annexure 2

Interviews in collaboration with Individual Land

Annexure 3

Comparative Study Illustrated in Tables

Questionnaire for Journalists

1. How could a RIT act affect the people/media of Pakistan?
2. What are some things you would be interested in investigating if such an act were to be enforced?
3. Has the acquisition of information become easier since the ordinance came into effect?
4. What do you find are the most common excuses for refusal of information?
5. Do you think that the loose definitions of national security and/or personal information make it easier for the government to control information? That is, does it give the government the flexibility to call just about anything a threat to national security?
6. What is at stake with this RTI act? Do you think it could be harmful or beneficial to the public and/or the country?
7. Do you think, assuming that all measures were taken to inform all citizens of Pakistan of an RTI Act, that many people would make use of it, or be affected by it?
8. Who do you think the act would most benefit?
9. Are you optimistic about the future of an RTI act?
10. What kind of impetus do you think the government needs for it to actually enforce an RTI act? Like in Bangladesh it was civil groups, in India it was a grassroots movement etc.
11. What do you think is the best way to go about getting an act like this enforced?
12. They say things like he who has information has everything, that information is power. Do you think that the media is lacking in power? If so, do you attribute any part of this lack of power to the lack of readily available information?
13. Do you think a FOI act would make the government more transparent?

ZAFAR ABBAS

Resident editor
DAILY DAWN

Q- Do you think, 'freedom of information law' is important and viable for an effective democracy?

A- Extremely important, if the information is not there, the issues that are raised by various departments are not highlighted and the problem remains there so unless there is access to information democracy cannot be strengthened.

Q- Do you agree that 'freedom of information ordinance 2002' is a positive development in Pakistan?

A- Yes it is a positive development and will become more effective if it is turned into an act of the parliament then it becomes effective with a message to the bureaucrat that they are duty bound to provide the information.

Q- Do you know that journalists are sufficiently aware of their rights to access to official information under freedom of information ordinance 2002?

A- Many of the journalists are and some tried as well but the problem remained there as most of the bureaucrats and officials are unaware that this law exists.

Q- What do you think, how could the public awareness about freedom of information can be enhanced?

A- More than the public, government should become proactive and they are duty bound to provide information under this law. Once the process is expedited the public will become aware that there exists a procedure. If you apply for certain information for example from interior ministry, secretary of interior, foreign ministry or the bureaucrat they don't entertain your request even if it was made formally, the law remain meaningless.

Q- Do you think that, as a result of freedom of information ordinance, the federal government has become more accountable and public records more accessible?

A- In theory it has become very accountable because if one follows the spirit of the law then he can access information and can hold any government accountable for only saying and not practicing. The problem remains there that the law exist but it is not been put into effect and till that time the law remains on the book and have no meaning.

Q- In your opinion, how often the journalists do try to access official information under freedom of information ordinance?

A- Initially when the law was promulgated a number of journalists, researchers and scholars tried to use this law to get information from various government departments.

Journalists were the first one to be disappointed and dejected, even they were provided with the information they requested it took too long that the story they were working on became irrelevant. In many cases the civil servants are not sure what their duty is under this law. Therefore, the law is there some people tried and benefited but they are very few.

Q- How often you did try to get access to the information under the ordinance?

A- I did once but it took so long that the information requested became irrelevant. Our culture is of secrecy, confidentiality and all the information is not classified and the documents itself are not classified. There should be direct instruction or guideline from parliament to the government and from government to the officials that there is a law and whenever a request come in within a stipulated period they are suppose to provide that information.

Q- What do you find the common excuses for refusal of information?

A- In most of the cases excuses are 'they have to look into the matter'; 'they have to talk to their superiors', 'such information is still not on the desk' etc. The fundamental problem is that the official sitting on the desk are not sure whether they are suppose to provide information requested or not.

Q- In your opinion, to what extent, freedom of information ordinance has succeeded in weakening the traditional culture of 'secrecy' prevalent in official circles?

A- It has not weakened anything; some documents are classified as exempt even then the culture of secrecy is still there.

Q- What kind of impetus do you think the government needs for it to actually enforce Right to information act? Like in Bangladesh it was civil groups, in India it was a grassroots movement etc.

A- Civil society should be active in to bring in the notice of the present government that despite the existence of this law it has not been put into effect and unless that pressure is built up the document will remain on the paper.

Q- According to your understanding, how could a right to information act if enacted and implemented will positively affect the media of Pakistan?

A- It is certainly going to affect the media. The real challenge for most media organization is to get hold of documents or information before the people of Pakistan whether through paper or electronic media. Once this improved version of act is passed and categorization is done it can revolutionize journalism and the dissemination of information culture in Pakistan.

Q- Are you optimistic about the future of right to information act?

A- Yes, things are improving gradually few years back we were not even sure about the law. Things move very slowly in Pakistan but I am pretty hopeful and we have direction.

Q- What do you think, how could the public awareness about freedom of information can be enhanced?

A- Public awareness can be enhanced through media, journalists, bigger debate on TV that how one can approach particular department and off course if we involve the general public.

KASHIF ABBASI

Journalist/Anchor

ARY NEWS

Q- Do you think, 'freedom of information law' is important and viable for an effective democracy?

A- Its very critical. For a vibrant democracy it is very important that people should be aware of the law and there has to be basic access to all information that goes in the power corridors.

Q- Do you agree that 'freedom of information ordinance 2002' is a positive development in Pakistan?

A- It is just symbolic in more ways then one, just to tell people that we have the ordinance. Is it implemented or not it's a different debate altogether. I don't think it is followed in Pakistan it is just in a documented shape.

Q- What do you think, how could the public awareness about freedom of information can be enhanced?

A- Awareness would come in if the bill is implemented in an enlighten spirit. Other mediums are media, newspapers and off course civil society.

Q- How often you did try to get access to the information under the ordinance?

A- No I haven't tried to access information as such. Many of my friend who are also journalists, we do share information sometimes but usually we get most of the information from our personal sources. I will give you my personal example I went to FBR for politician's tax statements and to foreign office for President's foreign tours and how much money spent on it. I was given a run around saying 'we will get back to you' or 'sorry this information we may not be able to find' etc. Therefore, there are many loopholes and can't hold any single person responsible for this and there are no complaint cell where I can go and register my complaint.

Q- Do you think the acquisition of information become easier since the ordinance came into effect?

A- A common man can't even walk through the gates of any ministry. How can they get any information they even don't know how to get to the right person. We as a journalists it's easier for us to obtain information from our personal links as compare to an ordinary person.

Q- Are you optimistic about the future of right to information act?

A- I am not optimistic about it may be after 20, 30 years probably. Government only talks about transparency they don't believe in it. Our government is not very open the culture of secrecy is there which creates hurdles in sharing information with general public.

Q- What do you find the common excuses for refusal of information?

A- The very common excuses for refusal of information are 'we will see', 'we have to look for it', 'it's not public yet', 'we don't have it' or 'come later on' etc. I was looking for the Nawaz Sharif and Shabaz Sharif election statements. They said no because they are not printed yet as these were the public documents when they were filing the nomination papers and could not get them.

Q- What kind of impetus do you think the government needs for it to actually enforce Right to information act? Like in Bangladesh it was civil groups, in India it was a grassroots movement etc.

A- A civil right movement where people can actually come together and pressurize the government bodies to provide the information to general public.

Q- According to your understanding, how could a right to information act if enacted and implemented will positively affect the media of Pakistan?

A- If this act will be enacted and implemented it will definitely positively affect the media of Pakistan. It will become easier for media to work and will be better for policy making.

KHALID JAMIL

Bureau Chief

AAJ TV

Q- Do you think, 'freedom of information law' is important and viable for an effective democracy?

A- It is effective but it is not implemented. There are many drawbacks as well. Besides, the law is not fully implemented.

Q- Do you know that journalists are sufficiently aware of their rights to access to official information under freedom of information ordinance 2002?

A- Majority of the journalist is unaware of it so they use their personal contacts to obtain the required information. Though, some of the journalists who are active in press and union clubs might have some knowledge about the law.

Q- How often did you try to get access to the information under the ordinance?

A- Whenever I tried, I did not get the required information due to the concerned officials' delaying tactics. Besides, due to the security concerns, it's quite difficult to reach the ministries and one can only use one's personal contacts to get the information.

Q- What do you find the common excuses for refusal of information?

A- Very common excuses are that it's a secret; it's not published or the information is denied on the pretext of national security.

Q- Do you think that, as a result of freedom of information ordinance, the federal government has become more accountable and public records more accessible?

A- No, the government should have a political will to be accountable; there is no implementation of the law that's why government is not really transparent.

Q- What kind of impetus do you think the government needs for it to actually enforce Right to information act? Like in Bangladesh it was civil groups, in India it was a grassroots movement etc.

A- Media and civil society can help.

Q- How can media play its role in promotion of a culture of transparency in Pakistan?

A- Media can raise issues and debate. Our media usually criticizes more rather than giving solution. They are not educating general public; they are just discussing the issues.

SALEEM SAFI

Anchor/Analyst

GEO NEWS

Q- Do you think, 'freedom of information law' is important and viable for an effective democracy?

A- Yes, it is important for an effective democracy.

Q- Do you agree that 'freedom of information ordinance 2002' is a positive development in Pakistan?

A- Yes, it was a positive development but was not sufficient.

Q- Do you think the acquisition of information become easier since the ordinance came into effect?

A- No, people are not aware of this ordinance not even journalists took advantage of it as it was promulgated in the Musharaf period and the democratic institutions were not functional therefore, nobody could utilize it properly.

Q- Do you think that, as a result of freedom of information ordinance, the federal government has become more accountable and public records more accessible?

A- Technically, it is just a facility for civil society, general public and media but as I mentioned that at that time the government was not democratic this ordinance could not exert additional pressure on the government nor it acted as a facilitator for media. In fact, media became more confident as a result of this ordinance.

Q - In your opinion, how often the journalists do try to access official information under freedom of information ordinance?

A- In Pakistan everything is unusual and in west everything is done according to the law. Our media is independent and any constitution or any law never ever became a hurdle or an obstacle in the way of media.

Q- How often you did try to get access to the official information under the ordinance?

A- I never tried to access any information. Whenever I wanted any sort of information I got it from my personal contacts or from other sources.

Q- In your opinion, to what extent, freedom of information ordinance has succeeded in weakening the traditional culture of 'secrecy' prevalent in official circles?

A- This ordinance did not make any difference. It only gave a moral courage to the media.

Q- How can media play its role in promotion of a culture of transparency in Pakistan?

A- Media has played an important role in promotion of a culture of transparency in Pakistan.

Q- Are you optimistic about the future of right to information act?

A- Yes I am optimistic about the future of this act, as we have direction and only need to give it a legal cover.

Q- What kind of impetus do you think the government needs for it to actually enforce Right to information act? Like in Bangladesh it was civil groups, in India it was a grassroots movement etc.

A- In Pakistan there is a need for collective efforts in which the civil society, politicians, judiciary and media can play its role.

Q- What do you think, how could the public awareness about freedom of information can be enhanced?

A- Public awareness can be enhanced through civil groups, media etc.

JAVED SIDDIQUE

Resident Editor
NAWAI WAQT

Q- Do you think, 'freedom of information law' is important and viable for an effective democracy?

A- Yes, I think it is important and has strengthened democracy.

Q- Do you agree that 'freedom of information ordinance 2002' is a positive development in Pakistan?

A- Yes, it was a positive development. Government always mistrusted media; if you say something wrong about politicians they will label it as against the interest of the state. Therefore, it was a positive development.

Q- Do you know that journalists are sufficiently aware of their rights to access to official information under freedom of information ordinance 2002?

A- No, very few journalists know about this ordinance. They are not utilizing it properly even though its there legal right and they never challenged it in the court of law.

Q- How often you did try to get access to the information under the ordinance?

A- I never tried to access information under this law. But it was not a problem for me as; whenever I wanted any information I got it from my personal contacts.

Q- What do you find the common excuses for refusal of information?

A- National interest is very ambiguous I-e in the garb of national security they hide genuine information.

Q- Do you think that, as a result of freedom of information ordinance, the federal government has become more accountable and public records more accessible?

A- Yes, there is a change in the attitude of ministers and government bodies as they are ready to share information but before it was quite tuff.

Q- In your opinion, to what extent, freedom of information ordinance has succeeded in weakening the traditional culture of 'secrecy' prevalent in official circles?

A- Yes, the culture of secrecy is lessened to some extent but the mind set is there and the personal interest is being promoted at the cost of public interest.

Q- What kind of impetus do you think the government needs for it to actually enforce Right to information act? Like in Bangladesh it was civil groups, in India it was a grassroots movement etc.

A- In Pakistan, the civil groups, journalist unions, press clubs should come on the frontline.

Q- What do you think, how could the public awareness about freedom of information can be enhanced?

A- Public awareness can be enhanced through media, civil society and secondly any ordinary citizen through various forums for example through seminars, journals by writing in the newspapers.

Q- Are you optimistic about the future of right to information act?

A- I am very optimistic about the future of this act as for new generation it is very easy to obtain information which for us was very difficult. If information sharing and accessing information becomes easier then it would be very tuff for anyone to cheat general public.

Interviews in Collaboration with Individual Land

Summary:

As part of the project, several leading media and civil society personalities were interviewed. Prominent among the interviewees was Mr. Zafarullah Khan (Executive Director Center for Civic Education) who viewed freedom of information as hugely important, arguing that the citizens of Pakistan had full right to know where and how the money they paid as taxes was allocated. In fact, he said, this was a basic human right and could go a long way in curbing the phenomenon of corruption in the country. He suggested that the FoI law should be translated in Urdu so that it became comprehensible for a vast majority of the country which otherwise could not access it due to the language barrier. Further more, he said, the responsibility for raising public awareness about the existing law rested with the government which had at its disposal means of vast outreach like Pakistan Television and Radio Pakistan which it could effectively deploy towards that end. Ms. Fauzia Shaheen (Editor DASTAK & Executive Director Women Media Center) shared Mr. Khan's concern about the low level of public awareness about FoI law. She too hoped that media can greatly help in making public more aware about the issue.

Mr. Mukhtar Ahmad Ali (Executive Director Center for Peace and Development Initiatives) found fault with the government for not doing enough to promote the existing FoI law. He lamented that the government had repeatedly failed to fulfill its promise to introduce a new improved FoI law. However, Mr. Ronald Desouza (Former Chairperson, Shehri) was of the view that laying the entire blame at government's doorstep would not help. Instead, he suggested, citizens should themselves spring into action and make pressure groups to pressurize the government to implement this law properly.

Malik Siraj (Bureau Chief Daily Times, Quetta) too was of the view that the government should not be singled out for the less than proper implementation of FoI law as even journalists would not resort to FoI law when they could or should. Rather, they would prefer to get the required information through their personal contacts, he said. FoI, he said, could play an important role in creating a bridge between the government and the common citizens. The absence of whistle blower protection was identified by Mr. Siraj as a major lacuna in the law.

Senior journalist and peace activist Ghazi Salahuddin concurred with Mr. Zafarullah Khan in describing freedom of information as a basic human right, and deemed it extremely important for the progress of a democratic culture. Mr. Salahuddin also underlined the importance of freedom of information in curbing the corruption. He was of the view that social activists can play an important role in creating awareness about FoI. He criticized the obtaining culture of secrecy in the officialdom and the policy of exempting any information under the pretext of national security. Journalist Adnan Rahmat too was critical of the culture of secrecy that has permeated the government departments which debars them from proactively sharing information with the public.

Noted lawyer Barrister Zafarullah Khan suggested that the name of the freedom of information law be replaced by 'Right to Information' as it would convey the impression that it was one's right to access any piece of information. He further suggested establishing a special organization to facilitate ordinary people in their quest to access any information. Or, alternatively, he added, a proper hierarchy of employees can be established for this purpose.

Member National Assembly, Dr. Donya Aziz was of the view that the real issue was with the implementation of the FoI law, which left a lot to be desired. She said civil society and parliamentarians could unite and try to introduce a new improved bill on which cross party consensus could be built. When asked why the FoI bill she had moved was not considered, she said the government had promised to bring their own bill. But, she added, in fact government had no such plans.

1.1 Comparative Study Illustrated in Tables

Table.1.1

Country	Distribution of power	Applies to all levels of government	Response time in case of no transfer of application	Response time in case of transfer of application	Response time in case life/liberty of a person is at stake
India	All of India excepting Jammu and Kashmir	Yes	30 days	35 days	48 hours
Bangladesh	All of Bangladesh	Yes	20 working days	30 working days	24 hours
Pakistan	All of Pakistan	Federal level only	21 days	N/A	N/A
Commonwealth Model Bill	N/A	yes	30 days		To be determined by responsible authority

Country	Thoroughness of definitions of exempt information	List of exempt intelligence and security organizations	Penalty for withholding /altering information	Penalty for consistently withholding /altering information	Public authorities must publish information regarding the public authority within a certain time frame
India	Very thorough; exempt information is clearly defined, except regarding personal information.	In the second schedule	250 rupees per day; maximum of 25,000/- rupees.	Information Officer subject to disciplinary action.	Yes
Bangladesh	Very thorough; exempt information is clearly defined, except regarding personal information.	In the schedule	50 Taka per day; maximum of 5,000/- Taka	Information Officer subject to disciplinary action.	Yes
Pakistan	Open-ended, can be interpreted in numerous ways.	No such list/schedule	2 years imprisonment and/or a fine.	2 years imprisonment and/or a fine.	No
Common-wealth Model Bill	Very thorough; exempt information is clearly defined, except regarding personal information.	N/A	Responsible minister to come up with suitable penalties	Responsible minister to come up with suitable penalties	yes

Table 1.2

Country	Definition of public domain information	Partial disclosure of requested documents having been severed from exempt information	Consideration of disabilities and/or diversity of population	Definition of personal information	Provisions regarding frivolous, vexatious or malicious complaints by the public
India	No; all information that is not exempt is considered public domain information.	Yes	Yes	No	No
Bangladesh	No; all information that is not exempt is considered public domain information.	Yes	Yes	No	No
Pakistan	Yes; has specifically defined public domain information, thus limiting amount of information that may be accessed.	No	No	No	Yes
Commonwealth Model Bill	No; all information that is not exempt is considered public domain information.	Yes	Not specifically; this is up to the discretion of the responsible authority.	Yes	No

Table 1.3

Country	Responsible authority	Officials responsible for receiving applications within each public authority	Officials responsible for responding to applications within each public authority	Reasons for rejection of application	Definition of information
India	State Information Commissions and Central Information Commissions	Central/State Assistant Public Information Officer/s	Central/State Public Information Officer/s	Request for exempt information Processing of request is at a detriment to smooth functioning of public authority	Thorough, includes all forms of documentation and methods of recording information.
Bangladesh	Central Information Commission	Responsible Officer/s	Responsible Officer/s	Request for exempt information	Thorough, includes all forms of documentation and methods of recording information.
Pakistan	Federal Government	Appointed officer	Appointed officer/s		Not as thorough; much more limited.
Commonwealth Model Bill	Responsible Minister	Appointed officer/s	Appointed officer/s	Request for exempt information	Thorough, includes all forms of documentation and methods of recording information.

Table 1.4

