

MONITOR

**The State of Right to
Information in Pakistan**
July 2015

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The Monitor on the **State of Right to Information Legislation in Pakistan** has been prepared and published by PILDAT under the **More effective Right-To-Information (RTI) at Federal and Provincial level (Sindh and Punjab) Project**, for which it has received financial support from the **Development Alternatives Inc. (DAI) under the Enhanced Democratic Accountability and Civic Engagement (EDACE) Project**. PILDAT team has made every effort to ensure accuracy of the publicly-available data and analyses based on it. Any omission, or error, therefore, is not deliberate. The views and analyses in this Monitor do not necessarily represent the views of the **Development Alternatives Inc. (DAI)**.

Pakistan Draft RTI Law could potentially top CLD's Global RTI Rating¹

The Canada-based Center for Law and Democracy (CLD) has examined Pakistan's draft Right to Information (RTI) Act and concluded that it will be the best law in the world if passed in its current form. Under the Global RTI Rating project, CLD rates and ranks RTI laws around the world based on various indicators.

The draft RTI law prepared by the Government of Pakistan has scored remarkable 146 points on the RTI international rating, putting Pakistan potentially ahead of the next best right to information law (Serbia) by 11 points. Pakistan, with its current outdated Freedom of Information Ordinance 2002, is placed at 83rd position out of 102 countries with a score of 66. India is in the 3rd position with a score of 128.

PILDAT has already congratulated the Government of Pakistan,² for this remarkable achievement, and further calls on it to enact the draft law at the earliest. PILDAT also appealed to the **Provincial Governments of Sindh and Balochistan** to replace their current outdated laws with progressive RTI legislation that is in tune with the current times.

Public Wins Appeal on Disclosure of MNAs' Attendance Records³

The President of Pakistan has rejected a long-pending plea of National Assembly of Pakistan to deny public access to attendance record of its members. In accordance with this decision, the attendance records of the public representatives have begun to be posted online since June 5, 2015, covering the entire 23rd and 24th Sessions of the National Assembly.⁴ The appeal was made to the President by the National Assembly against orders of the Federal Ombudsman issued in October 2013, which required disclosure of Assembly attendance records in response to PILDAT's information request. In his July 6th verdict on *Ahmed Bilal Mehboob v. National Assembly Secretariat*, President of Pakistan rejected the National Assembly complaint and upheld the Ombudsman's earlier decision regarding disclosure of Assembly attendance records, ruling that such records should be voluntarily disclosed to the public within 15 days of a session's adjournment.⁵

Islamabad Local Government Act 2015 Ensures Citizens' Right to Information⁶

The Senate of Pakistan passed the Islamabad Local Government Bill 2015 on July 9, which, among other things, guarantees an individual's right to access information held by local Government in the capital. The Bill currently awaits Presidential Assent to be passed into law.⁷ Section 113 of the law requires the Local Government to maintain records of all decisions and actions it makes, and places special emphasis on the use of electronic record keeping. It also outlines the procedure by which designated information officers within Local Government Bodies must process and handle requests for the information they possess.

This is an important milestone in the promotion of an effective RTI regime within the country, since it provides guarantees for the access of information held by local government in the capital. It also obliges all relevant local government bodies within the capital to proactively disclose information, thus bringing it in line with international standards. If enacted into law by the President of Pakistan and followed through meaningfully by national political leadership and relevant civil society organizations, this move will strengthen the standards and procedures governing record production and management in Government departments in the capital. It will also enable concerned citizens to monitor and participate more actively and effectively in decision-making processes.

The Provincial Assembly of Khyber Pukhtunkhwa no longer bound by Khyber Pukhtunkhwa Right to Information Act 2013⁸

Khyber Pukhtunkhwa's (KP) RTI law, recognized this year by World Bank as "one of the best" in the world,⁹ was dealt a critical blow recently when the Provincial Assembly of Khyber Pukhtunkhwa passed an amendment Bill on June 23, 2015, effectively removing itself from purview of the law.¹⁰

1. For details please see "Pakistan draft RTI law on lead at global ranking", Daily Times, July 22, 2015, as accessed on July 24, 2015, at: <http://www.dailytimes.com.pk/national/22-Jul-2015/pakistan-s-draft-rti-law-on-lead-at-global-ranking>
2. For details please see "PILDAT Lauds Pakistan's Lead in the Global RTI Ranking; Demands early Passage of RTI Law at the Centre and in Sindh and Balochistan Provinces", PILDAT E-news, July 22, 2015, at: <http://pildat.org/eventsdel.asp?detid=764>
3. For details please see "Public wins right to see attendance record of MNAs", Dawn, updated on July 11, 2015, as accessed on August 07, 2015, at: <http://www.dawn.com/news/1193772/public-wins-right-to-see-attendance-record-of-mnas>
4. For details please see "Attendance of Members", as accessed on August 15, 2015, at: <http://www.na.gov.pk/en/attendance.php>
5. For details please see "President allows access to MNAs' attendance record", The Nation, July 11, 2015, as accessed on August 07, 2015, at: <http://nation.com.pk/national/11-Jul-2015/president-allows-access-to-mnas-attendance-record>
6. For Details please see Islamabad Capital territory Local Government Act-2015. It can be accessed at: http://www.senate.gov.pk/uploads/documents/1428491077_893.pdf
7. For details please see "Acts of Parliament", as accessed on August 15, 2014, at: <http://www.na.gov.pk/en/acts-tenure.php>
8. For details please see "KP Steps back on RTI law", The News, June 25, 2015, as accessed on July 26, 2015, at: <http://www.thenews.com.pk/Todays-News-13-38231-KP-steps-back-on-RTI-law>
9. For details please see "KP info bill a catalyst for change", The News, August 20, 2013, as accessed on August 10, 2015, at: <http://www.thenews.com.pk/Todays-News-2-196823-KPK-info-bill-a-catalyst-for-change>
10. Further noteworthy amendments that were passed include: i) a reduction in number of members in the Khyber Pukhtunkhwa Information Commission from three to two, and ii) the designation of public information officers in government departments instead of information officers. For details please see "K-P Assembly excluded from RTI Act" The Express Tribune, June 24, 2015, as accessed on August 15, 2015, at: <http://tribune.com.pk/story/908664/k-p-assembly-excluded-from-rti-act/>

The amendment, which follows a previous move exempting the Peshawar High Court from disclosure obligations, curtails the fundamental right of citizens to monitor and question the performance of their political representatives in the Assembly, therefore weakening the province's otherwise robust RTI law which was passed in 2013.¹¹

The Provincial Assembly of Khyber Pukhtunkhwa was first among the provinces to pass RTI legislation¹² in line with international standards.¹³ Given the province's historic role in promoting national transparency and accountability, PILDAT views this regressive amendment with concern.

Many observers have criticized these amendments and the manner in which they were passed. Reports have emerged that the draft of the amended bill that was passed had not been provided to the members of the Provincial Assembly and that the clause exempting Assembly from information disclosure obligations was introduced without notice, at the eleventh hour. Further, reports have emerged that the amended law was enacted without seeking civil society input.¹⁴

After passage of the controversial Amendment, the Provincial Assembly of Punjab is now the only provincial legislature in Pakistan that is legally obligated to disclose information according to directives of the Punjab Information Commission. Further, despite pressure from the bureaucracy, Chief Minister Punjab Shahbaz Sharif has reportedly turned down several proposals to reduce scope of the province's RTI law. Moreover, Punjab Assembly has also taken the lead in making MPAs' attendance record available on the Assembly website. Terming it as a significant step towards greater transparency and public openness, PILDAT has demanded that the other Legislatures of the country should follow the lead of the Provincial Assembly of the Punjab.¹⁵

Thus, the Provincial Assembly of Khyber Pukhtunkhwa, in accordance with the positive example set by Punjab, must renew its commitment towards open and transparent government. Repealing amendments to KP Right to Information Act 2013 is a necessary first step in restoring public trust in KP Government's longstanding commitment to transparency and accountability in the province.

KP Right to Information Rules still not notified¹⁶

Despite the passage of KP's Right to Information Act more than one and a

half year ago, the government of KP has yet to notify Rules for it. The Act was passed by the Provincial Assembly in November 2013. Following the passage, the Khyber Pukhtunkhwa RTI Commission was established as an independent oversight and coordination mechanism, responsible for notifying standards and procedures public bodies must follow in meeting disclosure obligations, and hearing of non-disclosure related complaints within the province.

The Government of Khyber Pukhtunkhwa's failure to notify RTI Act 2013 Rules of Business and the KP RTI Commission's failure to notify rules and minimum standards of public record management¹⁷ are both concerns for the establishment of an open information regime in the province.¹⁸ Without notification of such Rules, the KP RTI Commission is significantly handicapped in ensuring consistent compliance with disclosure obligations imposed on public bodies in the province.

PILDAT urges Sindh Government to share draft of new RTI Bill with public¹⁹

PILDAT has urged the Sindh Government to pass RTI legislation in line with international standards, and has called on the Government to share the draft for new RTI legislation with public at large for feedback and input. Commentators have also expressed concern at Sindh Government's reluctance in sharing the draft Bill with the citizenry. However, the Advisor to Chief Minister Sindh, Ms. Sharmila Farooqi, in response to the criticism, has assured the public that the draft bill is still under consideration and will be shared with the civil society stakeholders only after has been finalized.²⁰

Since the effective implementation of any law requires widespread public support and legitimacy, the Sindh Government must undertake meaningful steps to invite public participation in redrafting the province's outdated RTI law.

KP RTI Commission fines university registrar in Mardan²¹

The KP Information Commission recently issued a landmark judgment in response to a public complaint regarding non-disclosure of information pertaining to the administration of Mardan's Abdul Wali Khan University.

10. Further noteworthy amendments that were passed include: i) a reduction in number of members in the Khyber Pukhtunkhwa Information Commission from three to two, and ii) the designation of public information officers in government departments instead of information officers. For details please see "K-P Assembly excluded from RTI Act" The Express Tribune, June 24, 2015, as accessed on August 15, 2015, at: <http://tribune.com.pk/story/908664/k-p-assembly-excluded-from-rti-act/>
11. Please also see "Press Note on the Amendments to Khyber Pukhtunkhwa's RTI Act", Commonwealth Human Rights Initiative, July 7, 2015, as accessed at: <http://humanrightsinitiative.org/pressrelease/Press%20note%20on%20KP's%20amendment%20to%20RTI%20Act.pdf>
12. Only Khyber Pukhtunkhwa Right to Information Act 2013 and Punjab Transparency and Right to Information Act 2013 are considered to be in line with international standards, as the Freedom of Information Ordinance 2002, and its replicas in the provinces, Sindh Freedom of Information Act 2006 and Balochistan Freedom of Information Act 2005, have scored poorly on CLD's Global RTI Rating. For details please see "Country Data: Global RTI Rating Series", as accessed on August 10, 2015, at <http://www.right2info.org/resources/publications/rti-and-citizenship-mendel>
13. Government of Khyber Pukhtunkhwa passed the Khyber Pukhtunkhwa Right to Information Ordinance 2013 into an Act on October 31, 2013, and the Act was formally signed by Governor of Khyber Pukhtunkhwa on November 4, 2013. Provincial Assembly of Punjab, on the other hand, enacted the Punjab Transparency and Right to Information Ordinance 2013 into law on December 12, 2013, with the Governor of Punjab formally signing the Act on December 14, 2013. For details please see: "History of Freedom of Information Legislation in Pakistan", as accessed on August 13, 2015, at <http://www.shehri.org/rti/legislation.html>
14. For details please see "CRTI Rejects amendments to KP RTI law", The News, July 25, 2015, as accessed on July 28, 2015, at: <http://www.thenews.com.pk/Todays-News-7-330509-CRTI-rejects-amendments-to-Right-to-Information-Act>
15. For details please see "PILDAT welcomes Provincial Assembly of Punjab's move to make Members' Attendance Record Public", April 15, 2015, as accessed at: <http://www.pildat.org/eventsdel.asp?detid=748>
16. For details please see "KP RTI still running sans rules of business", The Frontier Post, July 11, 2015, as accessed on July 23, 2015, at: <http://thefrontierpost.com/article/318441>
17. According to Section 32 of the Khyber Pukhtunkhwa Right to Information Act 2013, the Government, upon advice of the province's Information Commission, may make rules for carrying out the purposes of the Act. Whereas according to Section 25(1)(a) of the Act shall set rules and minimum standards regarding the management of records, which is the obligation of all public bodies under Section 4. For details please see "Khyber Pukhtunkhwa Right to Information Act 2013", as accessed on August 15, 2015, at: <http://www.kprti.gov.pk/rti/page.php?PageId=41&MenuId=5>
18. The Khyber Pukhtunkhwa Information Commission has issued three notifications since inception according to its website, none of which pertain to rules and minimum standards pertaining to the management of public records. For details please see "Downloads/Notifications: RTI Notifications", as accessed on August 15, 2015, at: <http://www.kprti.gov.pk/rti/downloads.php>
19. For details please see "PILDAT Lauds Pakistan's Lead in the Global RTI Ranking; Demands early Passage of RTI Law at the Centre and in Sindh and Balochistan Provinces", PILDAT E-news, July 22, 2015, at <http://pildat.org/eventsdel.asp?detid=764>
20. For details please see "Share draft of bill with public, says CPDI", The Express Tribune, July 15, 2015 as accessed on July 28, 2015, at: <http://tribune.com.pk/story/921647/share-draft-of-bill-with-public-says-cpdi/>
21. For details please see "In first: RTI Commission Penalises AWKUM registrar", The Express Tribune July 16, 2015, as accessed on August 06, 2015, at: <http://tribune.com.pk/story/921621/in-a-first-rti-commission-penalises-awkum-registrar>

The Commission fined the university's registrar, Sher Alam Khan, Rs. 25,000/- for refusing to provide information pertaining to staff recruitment in response to a public request. This is the first time the Commission has imposed a fine on a public official for breach of disclosure obligations under KP's RTI Act 2013.

The censured registrar had not only failed to provide the requested information within the prescribed period, but had also failed to respond to a show-cause notice issued to him by the Commission on June 17, 2015. PILDAT believes that the decision has set a strong precedent which will firmly establish the Commission's authority on matters of information disclosure within all government offices in the province.

PILDAT believes it will also aid the process of investigating allegedly illegal appointments made within the university, initiated by the National Accountability Bureau, and therefore serve as a lesson to public officials seeking to cover up evidence of corruption or other wrongdoing.

KP RTI Commission complaints proceedings status for the month of July 2015²²

According to a report on "Statement of Complaints – 2015" released by the KP RTI Commission, 117 complaints related to non-disclosure of public information were processed in the month of July. Out of these complaints, 10 cases were closed, primarily on the grounds that they fell beyond the Commission's jurisdiction or mandate. Regarding the remaining cases still in the hearings stage, letters have been issued to concerned departments for disclosure of requested information within 15 working days.

PILDAT welcomes the release of the report, which furnishes details of the Commissions actions and decisions issued throughout the year, as per its legal obligations, as an important sign of effective implementation of RTI legislation within the province. PILDAT hopes that the federal and provincial FOI/RTI mechanism in other provinces will also release such timely information in the interest of transparency and for generating greater public interest in the RTI process and institutions.

Indian Supreme Court notice brings political parties under RTI Act purview²³

The Indian Supreme Court has asked the Central Government, the Election Commission and six major political parties, including the Congress, Bharatiya Janata Party, Bahujan Samaj Party, Communist Party of India (Marxist), Communist Party India and Nationalist Congress Party, to respond to a petition submitted by the civil society organizations seeking all political outfits to be brought under the purview of the Indian Right to Information Act 2005. The petition, in this regard, calls for the mandatory and proactive disclosure of information pertaining to income and expenditure of political parties.

The plea was heard in the Supreme Court after said political parties had refused to comply with directives issued by the Central Information Commission for disclosure of income and expenditure information. PILDAT believes this is an important milestone for the implementation of RTI legislation within India and the larger South Asian region. Being a standard-bearer for RTI in South Asia, India's commitment to imposing

public disclosure obligations on political parties – which have a central role in the functioning of government – is likely to reverberate meaningfully within the region and ensure transparency and accountability within all public bodies and Government offices. Pakistan, however, already has a mechanism under which all political parties submit their audited annual statements of accounts to the Election Commission of Pakistan which makes this information public every year.

Access to information clause in UN-SDG talks could be discarded in further negotiations²⁴

Deliberations have resumed in New York on the United Nation's Sustainable Development Goals (SDGs), with observers noting that Goal 16.10 on access to information is still uncompromised. In the latest version of the SDGs, issued on July 8, 2015, Goal 16.10 remains unchanged.

However, some observers fear that the Goal is under threat of being changed if substantive negotiations are opened during the seventh and eighth session of the intergovernmental talks on SDGs and the post-2015 development agenda for the world.

Media reports claim that concerns related to measurement of progress on Goal 16.10 may ultimately result in it being changed. Issues of measurement and evaluation of progress aside, PILDAT believes that by fully endorsing the above Goal, the UN and other intergovernmental organizations must take necessary steps to ensure recognition and implementation of RTI around the world. Given the strong links between RTI promotion and public and private-sector efficiency, a strong endorsement of the right to information by the above organizations will go a long way in securing a prosperous future for citizens of the world.

USA to pilot innovative Freedom of Information response system²⁵

On July 15, 2015, the Obama administration announced that it would pilot an innovative online response system for Freedom of Information requests submitted to seven selected government agencies.

The pilot project called "Release-to-One: Release-to-All" will run for 6 months and then be evaluated, according to a press release issued by Justice Department Office of Information Policy on July 10. If piloted successfully, the response system will ensure automatic online disclosure of the government's replies to all information requests it receives.

Representatives of civil society around the country have lauded this step. Many observers hope it will improve American government's compliance with the law, which has generally been poor according to an audit conducted in March 2015, which revealed that over 60% of government agencies were complying with the law's provisions completely.

If successful, the pilot project could be a watershed moment in the history of RTI implementation in the US and may be around the world, as it will ensure transparency and accountability within the government's system of handling information requests.

22. For details please see "Statement of Complaints – 2015", as published by Khyber Pukhtunkhwa Information Commission, which can be accessed at:

23. For details please see "No Private Republic", The Indian Express, July 07, 2015

as accessed on August 06, 2015, at: <http://indianexpress.com/article/opinion/editorials/no-private-republic/>

24. For details please see "UN SDG Talks Continue; Access Clause Still There", Freedomofinfo.org, July 23, 2015, as accessed on August 9, 2015, at: <http://www.freedominfo.org/2015/07/un-sdg-talks-continue-access-clause-still-there/>

25. For details please see, "US to Experiment with Releasing FOIA Replies", Freedomofinfo.org, July 16, 2015, as accessed on August 9, 2015, at: <http://www.freedominfo.org/2015/07/us-to-experiment-with-releasing-foia-replies/>