

MONITOR

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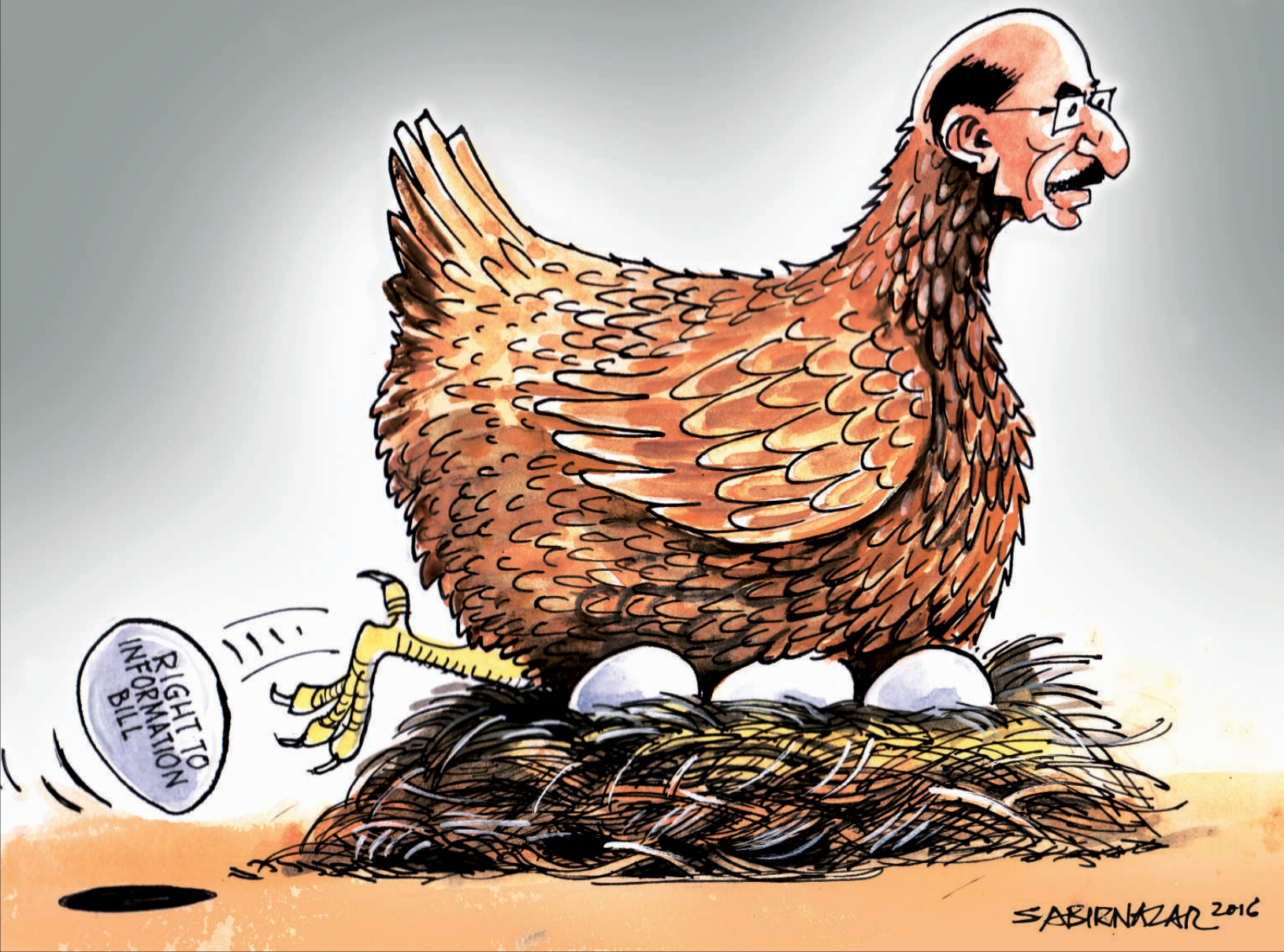
Knowing your Right to Information December 2015

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Federal Government unable to fulfil most recent promise for tabling of RTI Bill

Two sessions of the National Assembly and one session of the Senate of Pakistan have been adjourned since Barrister Zafarullah Khan, Special Assistant to the Prime Minister on Parliamentary Affairs, promised that the Federal Government would table its internationally acclaimed Right to Information Bill in the next Session of Parliament.

Speaking at a seminar on November 19, 2015, Barrister Zafar Ullah had said that the Bill was currently awaiting approval of the Federal Cabinet, after which it would be laid in Parliament as an official Government Bill.

However, no Cabinet meeting has been held at the Federal level since September 16, 2015. In fact, as noted in the September issue of this Monitor, there have been twelve meetings of the Cabinet since the Senate Standing Committee on Information, Broadcasting and National Heritage finalised the Bill on January 02, 2015. This Bill was even included on the agenda of the Cabinet meeting held on August 24, 2015, according to a Press Release issued by the Prime Minister's Office. However, the Bill could not be discussed in this meeting or in eleven other meetings of the Cabinet held between January 20 and September 16, 2015.

Unfortunately, Barrister Zafarullah is not the only official of the Federal Government who has made public assurances for expedited passage of the RTI Bill. On October 26, 2015, Senator Pervaiz Rashid, Federal Minister for Information, Broadcasting & National Heritage, had also promised that the Bill would be tabled in the next Session of the Parliament.

The Federal Government has at various times in its tenure displayed a strong commitment towards ensuring the public's right to know. In addition to its numerous public promises, the Government took ownership of the internationally acclaimed RTI Bill in the drafting stage by agreeing to table it in the Parliament as an official Government Bill. However, the Government must now turn its commitment into action or risk losing public opinion, which, till now, has seemed to lie in its favour.

Attendance of MNAs yet to show positive trend even after public disclosure of attendance records

In July 2015, President of Pakistan Mr. Mamnoon Hussain upheld PILDAT's Freedom of Information request for attendance records of MNA's. This landmark decision spurred the National Assembly Secretariat to begin regularly updating MNA attendance records on the Assembly's official website. The Assembly's website now displays complete MNA attendance records from the 23rd Session to the 27th Session of the National Assembly (June 05-December 18, 2015).

When attendance records of Members of the National Assembly (MNAs) first began to be disclosed online, members of civil society and the media were hopeful that this would significantly improve the overall rate of attendance within the Assembly. However, the attendance rate of MNAs has not yet shown signs of trending positively in the three Assembly Sessions (i.e. the 24th, 25th and 26th Sessions) held directly after the President's order for disclosure of MNAs attendance records in July.

Average attendance was 59% for the 24th Session of the National Assembly, 69% for the 25th Session and only 47% for the 26th Session. The average attendance for each of the 24 Sittings held between these three Sessions comes to around 60% of total membership. Thus, it seems that the attendance of MNAs has not yet shown signs of trending positively. However, an analysis of attendance in NA Sessions ahead is required to conclusively establish whether the rate of attendance is trending positively or negatively. Despite the lack of conclusive data, the public must continue voicing its expectations for better overall attendance in the National Assembly.

Whither Sindh's vaunted RTI Bill?

Despite claiming that it is keen on updating its outdated Freedom of Information (FOI) Act, 2006, the Sindh Government has yet to table its new Right to Information (RTI) Bill in the Assembly or make public a copy of the Bill for feedback.

Little progress has been made on improving this state of affairs since PILDAT's August 2015 with the then Information Minister, Nisar Ahmed Khuhro, PILDAT President Ahmed Bilal Mehboob was told that the new RTI law was being considered by the Sindh Cabinet and would soon be tabled in the Assembly.

Nisar Khuhro reiterated this stance while speaking at a briefing session organised by PILDAT for media persons and Sindh MPAs on November 5. He also claimed that Sindh's draft RTI law was even more progressive than acclaimed RTI laws in effect within Khyber Pakhtunkhwa and Punjab.

In spite of these claims, the Sindh Government has done little to ensure its existing FOI law is being properly implemented. Sindh is the only administrative unit in the Federation that has yet to notify Rules of implementation and Schedule of Costs. This has hampered implementation of the Province's FOI law, which was passed over 9 years ago.

By its own admission, the Sindh Government has yet to begin implementation of the FOI Act in the Province. While compiling a Comparative Scorecard on the state of RTI/FOI implementation in the different federating units, in which Sindh was ranked last in the overall rankings, PILDAT was informed by the Sindh Information and Archives Department that the law had not yet been implemented due to "non-acceptance of law from civil society and other stakeholders since its passage".

With such explanations for not implementing Sindh's now out-dated FOI law, it is strange that the Sindh Government has yet to table its vaunted new RTI Bill, which has also been demanded by civil society for quite some time.

Punjab Governor House still not complying with Information Commission's orders

Over 75 days have passed since the Punjab Information Commission (PIC) issued its most recent order for disclosure of expenditure records from the Governor House.

The PIC most recently ordered the disclosure of expenditure-related records on October 14, 2015 after rejecting the argument put forward by the Deputy Secretary of the Punjab Governor House Mr. Tariq Shehzad. However, this was not the first time such an order

was passed as the case has a long history, which stretches as far back as September 2014.

Mr. Waseem Abbasi, a journalist, submitted the initial request to the Governors House Secretariat on September 18, 2014 and was denied access to the requested information. Mr. Abbasi then filed a complaint to the PIC, citing the Deputy Secretary as respondent. This complaint was upheld in a February 12 order issued by the Commission. When this order was disregarded, the Commission issued a show-cause notice to the Deputy Secretary on March 03, 2015.

The Commission on April 15, 2015 unanimously rejected the objections raised by the Secretary to the Governor in response to its March 03 show-cause notice, and once again ordered disclosure of the requested information.

It remains to be seen whether the Governor House will comply with the PIC's most recent order demanding disclosure of the required records. However, as long as the Governor House Secretariat resists this disclosure, it is unlikely that other government offices will pay the PIC's orders much heed.

RTI Commission fines KP Police but lacks mechanism for collecting fines

In two orders dated December 14 and December 15, respectively, Khyber Pakhtunkhwa's (KP's) RTI Commission has imposed a combined fine of Rs. 50,000/- on Mr. Qazi Sajiduddin, Public Information Officer (PIO) of the KP Police Department.

The fines were imposed on the basis of proceedings in two separate complaints hearings. Using KP's Right to Information Act 2013, two employees of the police department had asked for copies of separate Departmental Enquiry Reports in which they were named from the Central Police Office, Peshawar and the District Police Office, Karak. However, the designated PIO of KP Police failed to provide the required Reports within the prescribed time period of 10 working days.

The Commission sent separate letters to the PIO in relation to the two cases on September 16 and September 23, respectively. The Commission then issued a show-cause notice to the PIO on his failure to respond to said letters. After failing to respond to these show-cause notices as well, the PIO was fined Rs. 25,000/- for persistent non-

responsiveness on each case. This is the maximum fine that can be imposed under KP's RTI Act for the offence of violating the Commission's orders.

It is indeed commendable that the Commission has chosen to enforce the law in full letter and spirit. Unfortunately, however, the Commission lacks a mechanism to collect such fines by admission of Mr. Mushtaq Ahmad Ghani, Secretary of the KP RTI Commission. This is because the Commission has yet to frame its Rules of Business, even though over two years have passed since its inception.

The KP RTI Commission's lack of Rules is an issue that requires urgent resolution. Fines imposed by the Commission cannot be officially collected without these Rules, thus forestalling the deterrence of offenses through this punitive instrument. Until its Rules are promulgated, the Commission must devise a provisional mechanism for the collection of fines or risk undoing the fine work it has done in enforcing the law through its decisions on complaints.

Regional & International RTI News

Sri Lanka's first RTI Bill to be gazetted soon

In early December, the Sri Lankan Cabinet approved the Right of Access to Information Bill, thus becoming the most recent country in South Asia to guarantee the right of its citizens to access information held by public authorities.

The struggle in Sri Lanka for passage of RTI has been underway since 2004 when the United National Party (UNP) Government introduced the Bill in the Parliament. Unfortunately, this Bill could not be passed owing to the dissolution of Parliament later in the same year.

Sri Lanka's new UNP Government must be lauded for staying true to its commitment for passage of an RTI law, despite the lapse of over 10 years since this law was first introduced.

Disclaimer

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