

***Special Report on Right to  
Information Bill, 2013  
by the Standing Committee of  
National Assembly on Information,  
Broadcasting & National Heritage***

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# **Section 1**

Executive Summary of Actions Taken on  
Right to Information Bill, 2013 by  
Various Stakeholders

## **1. EXECUTIVE SUMMARY OF ACTIONS TAKEN ON RIGHT TO INFORMATION BILL, 2013 BY VARIOUS STAKEHOLDERS:**

### **Senate's Sub-Committee on Right to Information Bill:**

1. Senator Farhatullah Babar                      Convener
2. Syed Zafar Ali Shah                              Member
3. Muhammad Daud Khan Achakzai              Member

### **1<sup>st</sup> Meeting (September 07, 2012)**

- Tasked M/O I, B & NH to draft Freedom of Information Bill.

### **Ministry's Action:**

- Sent the Draft Bill 2008 to Law, Interior, Cabinet and Defense Divisions for their input.
- Minister I,B (Mr Qamar Z Kaira) couldnot finalize the draft & his tenure ended.

### **2<sup>nd</sup> Meeting (June 13, 2013)**

- Convener instructed Ministry to insert 19-A into Preamble of the Draft Bill
- Other Changes were also proposed to be incorporated into the Bill
- Draft Bill to be referred to Law Division for legal inspection as a procedural requirement under Rules of Business – 1973 (Rule – 14:4)

### **Ministry's Action:**

- Changes were carried out as per Sub-Committee's Instructions
- Draft of Right to Information Bill, 2013 sent to Law Division on July 3, 2013

### **3<sup>rd</sup> Meeting (July 9, 2013)**

- Further Changes were proposed to improve the contents of the Bill

### **Law Division's Action:**



- Proposed amendments were carried out
- Advised Information Division to obtain prior consent of Cabinet Division (before moving Summary for Cabinet's Approval) and to suggest relevant changes in Rules of Business 1973.

**Ministry's Action:**

- As per Law Division's Advice, Letter for obtaining consent sent to Cabinet Division \*

**4<sup>th</sup> Meeting (August 28, 2013)**

- In the light of prior suggestions, in depth scrutiny of Draft Bill and its Approval given.

**\* Cabinet Division's Action: (October 11, 2013)**

Accorded its consent/concurrence to M/O I,B & NH to move summary to Federal Cabinet

**Senate Secretariat's Letter to M/O I,B & NH (October 30, 2013)**

- It was intimated that during the Senate Session, the Sub-Committee on Right to Information Bill presented its report (under Rule 195), which was unanimously adopted by the House (under Rule 196 of Rules of Procedure and Conduct of Business in Senate, 2012)
- Ministry instructed to introduce it as an Official Bill with Cabinet's Approval
- Time Line of 2 months given to initiate action in this regard (ending December 30, 2013), otherwise decision of the House shall be binding.

**Ministry's Action (December 27, 2013)**

Summary sent to Cabinet to consider and accord its approval to the draft RTI Bill 2014 (as per Rules 16 (1) of the Rules of Business, 1973), so that it could be introduced in the Parliament. **(Annex I)**

**Cabinet Division's Reply: (January 02, 2014)**

Amendments were sent to the M/O I,B&NH

### **Ministry's Action (January 10, 2014)**

- Summary re-submitted after addressing objections of Cabinet Division.(**Annex II**)
- Approval sought
  - for referring Draft Bill to Law Division for Legal Vetting &
  - for Approval of Cabinet

### **Current Status of RTI Bill, 2014:**

Approval of Federal Cabinet being awaited, following which the Draft Bill will be introduced in either House.

**Brief of Ministry:** A brief from the Ministry of Information, Broadcasting & National Heritage on the Status of Right to Information Draft Bill, 2014 has also been **annexed as Annex III**.

**Pakistan Broadcasting Association's Recommendations:** A copy of recommendations of PBA sent to the Ministry has been **Annexed as Annex IV**.

## **Section 2**

# Legislative History of Right to Information

## **The Right to Information Bill, 2013:**

RTI is a tool of transparency and accountability. Presently, over 95 countries in the world have RTI legislation. In South Asia, Pakistan took the lead by promulgating Freedom of Information Ordinance, 2002. However, it took a decade or so to complete the process of RTI legislation in all the four provinces. In 2010, RTI was formally recognized as a fundamental right of citizens when section 19-A was inserted in the Constitution of Pakistan through 18th constitutional amendment.

The 18th Amendment made the *Right to Information* a fundamental right enshrined in the constitution. According to **19A** of the constitution:

*“Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defense of Pakistan or any part thereof, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, commission or incitement to an offence”.*

## **IMPORTANCE OF RIGHT TO INFORMATION, INTERNATIONALLY<sup>1</sup>**

Information is the oxygen of democracy<sup>2</sup> and Right to Information has been recognised as a fundamental right and touchstone of all the freedoms to which the UN is consecrated<sup>3</sup>. It ensures accountability and transparency in the functioning of public bodies and it empowers people to meaningfully participate in decision making processes at various levels of government. The concept of RTI is not new, rather it has evolved through recognition by internationally accepted and recognised legal and human rights instruments, as well as through continuous efforts on the part of various reputed individuals, social movements and non-governmental organisations.

A number of international bodies with responsibility for promoting and protecting human rights have authoritatively recognized the fundamental and legal nature of the right to freedom of information, as well as the need for effective legislation to secure respect for that right in practice. These include the United Nations (UN), the Commonwealth, the Organization of American States (OAS) and the Council of Europe (CoE).

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<sup>1</sup> Global Trends on the Right to Information: A Survey of South Asia, July 2001

<sup>2</sup> The Public's Right to Know: Principles of Freedom of Information Legislation (<http://www.article19.org/pdfs/standards/righttoknow.pdf>)

<sup>3</sup> The UN General Assembly adopted Resolution 59(1) in 1946

The concept of Right to Information was first internationally recognised 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 recognised international instrument, has a similarly worded freedom of information provision in its Article 19. It states:

***“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 Organisation of Security and Co-operation in Europe Representative on Freedom of the Media and the Organisation of American States Special Rapporteur on Freedom of Expression issued a joint declaration in November 1999, stating that:

***“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.”***

## **PRINCIPLES ON FREEDOM OF INFORMATION**

Derived from international and regional law standards, evolving state practice and general principles of law, these principles of FOI have been published by Article 19 - Global Campaign

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<sup>4</sup> Global Trends on the Right to Information: A Survey of South Asia  
(<http://www.article19.org/pdfs/publications/south-asia-foi-survey.pdf>)

for Free Expression, in ‘The Public’s Right to Know: Principles on Freedom of Information Legislation’ (1999)<sup>5</sup>.

They were also endorsed by the UN Special Rapporteur on Freedom of Opinion and Expression in 2000 and the Organisation of American States (OAS) Special Rapporteur on Freedom of Expression in 1999.

The principles set out standards for national and international regimes giving effect to the Right to Information. They were primarily designed for national legislation on RTI or access to official information, but are equally applicable to information held by inter governmental bodies such as the UN and the European Union (EU). The following points illustrate some detail of the principles:

• **Maximum Disclosure**

- i. A Body seeking to deny access to information has the onus of proving that the information may be validly withheld.
- ii. Everyone, not just citizens, should benefit from the right, and an individual requesting access should not have to demonstrate any particular interest in the information.
- iii. Information or records should be broadly defined.
- iv. No public body should be excluded from the ambit of the law.

• **Obligation to Publish**

- i. Public bodies must be required to actively publish and disseminate key categories of information irrespective of any request.

• **Promotion of Open Government**

- i. Public servants must be trained for promoting openness with government.
- ii. Obstruction of access to information must be dealt with severely.
- iii. Raise public awareness about Right to Information.
- iv. Improved maintenance of records.

• **Limited Scope of Exceptions**

- i. Exceptions should be clearly and narrowly defined and subject to strict ‘harm’ and ‘public interest’ tests.

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<sup>5</sup> “The Public’s Right to Know: Principles of Freedom of Information Legislation (<http://www.article19.org/pdfs/standards/righttoknow.pdf>)

- ii. Exceptions should be subject to content-specific case-by-case review and non disclosure, only permitted where it is in the public interest and where release would cause serious harm.

- **Processes to Facilitate Access**

Requests for information processes should be rapid and fair.

- i. There must be an independent review of any refusal to provide information.
- ii. Refusal to provide information must be supported by reason/s.
- iii. Law should provide a right of appeal to the courts from the independent review body.

- **Costs**

- i. Individuals should not be deterred from making requests for information by excessive costs.

- **Open Meetings**

- i. Meetings of public bodies should be open to the public.

- **Disclosure Takes Precedence**

- i. Laws that are inconsistent with the principle of maximum disclosure should be amended or repealed.
- ii. Wherever possible, laws must be interpreted consistent with freedom of information legislation.
- iii. Review all laws that restrict disclosure of information to bring them in line with the freedom of information law.

- **Protection for Whistleblowers**

- i. Individuals who release information on wrongdoing -whistleblowers- must be protected.

## **INTERNATIONAL RANKING OF COUNTRIES REGARDING RTI LAWS**

Before discussing the salient features of the Federal RTI 2013, it is important to understand Pakistan's position on global level regarding introduction of the laws promoting transparency and curbing corruption. This law existed in only 13 countries just a couple of decades ago, according to a World Bank briefing note. Now is introduced in more than 90 countries though it differs in effectiveness, depending on the structure and scope of legal framework.

Pakistan was the first country in South Asia to introduce RTI legislation through Freedom of Information (FOI) Ordinance in 2002, however the law defeated its own purpose given the shortcomings as it was limited in scope with a lot of information declared exempted from disclosure and the subsequent weak enforcement mechanism.

In contrast, India introduced similar legislation in 2005 that resulted in changing the governance paradigm and unprecedented growth of RTI activists.

Bangladesh and Nepal followed. Now India stands 2nd in global rating of RTI laws, Bangladesh ranks 17th, Nepal occupies 21st position while **Pakistan ranks 79th** among 96 countries having RTI laws.

In the RTI rating, two nascent democracies in the Eastern Europe, Serbia and Slovenia, secured first and third positions respectively in the RTI rating. Mexico that is otherwise considered very hostile to journalists due to drug cartels has been ranked at 6th position in the RTI rating. Ethiopia, another country unsafe for journalists due to non-state actors, has earned 10th position. Even Yemen boasts of having liberal access to information as it has been ranked at 19th position.

The table of World Rankings has been **annexed as Annex V**.

### **A CHRONOLOGY OF RTI LEGISLATION IN PAKISTAN:**

#### **1990**

First attempt was made by Professor Khurshid Ahmad, Senator and Naib Amir of Jamaat-i-Islami who tabled a Bill on FOI in the Senate in 1990. This Bill was introduced in the Senate as a private Bill. The Bill however did not get enacted by the House.

#### **1994**

The Public Accounts Committee, headed by Senator Malik Qasim, made the second attempt in 1994. One of the key recommendations of the committee was enactment of a freedom of



information bill, but it was also never implemented. A Freedom of Information Bill drafted by the committee was forcefully resisted by the bureaucracy, and therefore, could not be enacted.

## **1996**

*Fakharuddin G. Ibrahim*, as a law minister in the interim cabinet of President Farooq Laghari, also introduced a law, **Access to Information Ordinance 1996**, but President Farooq Laghari did not promulgate the Ordinance.

## **1997**

A major development occurred towards enactment of FOI legislation when, on the initiative of Fukharuddin G. Ibrahim, the Federal Minister of Law in the Interim Government headed by Malik Miraj Khalid, the President of Pakistan promulgated a **Freedom of Information Ordinance** on January 29, 1997. However, the successive government of Mian Nawaz Sharif allowed this Ordinance to lapse and did not enact it into law.

## **2000**

The government of General Pervez Musharraf made public a draft FOI Bill with the aim of soliciting public view. It was named as **Draft Ordinance to Provide for Transparency and Freedom of Information**.

## **2002**

The then President of Pakistan, Gen. Pervez Musharraf, promulgated the **Freedom of Information Ordinance** in October, 2002. It was part of an action plan by Asian Development Bank for Pakistan that covered the judicial and administrative reform in the country. The Ordinance is applicable to the ministries, attached departments and agencies, and commission or authorities of the Federal Government. It does not apply to public bodies of the provincial or local governments. The law remained inoperative for two years because the rules to practice the law were yet to be formulated.

## **2004**

The Freedom of Information Rules were formulated in 2004. The 2002 ordinance is supported by the Freedom of Information Rules 2004.

## **2005**

Balochistan Freedom of Information Act 2005. After the promulgation of Freedom of Information Ordinance, 2002 at Federal level, Baluchistan was the first province to take a step towards FOL Provincial Assembly of Baluchistan approved the **Baluchistan Freedom of Information Act** and enacted in December **2005**. The law is almost a ditto copy of the Federal law except a few structural changes keeping in view its jurisdiction.

## **2006**

Governor Sindh promulgated Freedom of Information Ordinance in Sindh. Similar to the law in Baluchistan, the Sindh Provincial Assembly passed the **Sindh Freedom of Information Act, 2006**, a pre-requisite for World Bank loans. The Act is a ditto copy of the Federal Freedom of Information Law and the Baluchistan Freedom of Information Act.

## **2011**

Right to Information Bill was *laid* in the National Assembly by Sherry Rehman. It is said to be an improved version of FOI 2002. But it too lapsed and was not enacted by the House.

## **2013**

The Khyber-Pakhtunkhwa (K-P) governor on Dec 6, 2013 signed the Right to Information (RTI) Act 2013, making K-P the first province to have an RTI law. The RTI bill was unanimously passed by the K-P Assembly in October and was sent to the office of Governor to be signed.

## **2013**

The most recent legislation action came on Dec 13, 2013 when Punjab legislators passed the Punjab Transparency and Right to Information (RTI) Bill 2013. Among other things, the Punjab bill sets a 14 day time limit for responding to request. A three-person Punjab Information Commission will be formed under this legislation.

## **Section 3**

Recommendations of Sub-Committee on  
Right to Information Bill, 2013

**MOST IMMEDIATE**  
**BY SPECIAL MESSENGER**

**NATIONAL ASSEMBLY SECRETARIAT**

No.F.4(6)/2013-Com-I

Islamabad, the 14<sup>th</sup> March, 2014

**NOTICE**

First meeting of the Sub-Committee of the Standing Committee on Information, Broadcasting & National Heritage will be held on 18<sup>th</sup> March, 2014 at 2:00 p.m. in the Committee Room of M/o Information, Broadcasting & National Heritage, Fourth Floor, Cabinet Block, Islamabad to consider "The Right to Information Bill, 2013".

2. Members are requested to kindly make it convenient to attend the meeting.

*Hasanmulkhan*

(SYED HASAN MURTAZA BUKHARI)

Deputy Secretary/Secretary Committee

Ph: No. 9201866

- |     |                         |          |
|-----|-------------------------|----------|
| 01. | Mrs. Belum Hasnain      | Convener |
| 02. | Mian Muhammad Farooq    | Member   |
| 03. | Ms. Leila Khan          | Member   |
| 04. | Mr. Murad Saeed         | Member   |
| 05. | Ms. Naeema Kishwer Khan | Member   |

P.T.O

## **2. RECOMMENDATIONS OF SUB-COMMITTEE ON RIGHT TO INFORMATION:**

In pursuance of Rule 224(1) of the Rules of Procedure and Conduct of Business in the National Assembly, 2007, the Standing Committee on Information, Broadcasting & National Heritage in its meeting held on 24<sup>th</sup> December, 2013 has constituted a Sub-Committee with the following Terms of Reference and Composition: -

### **TERMS OF REFERENCE: -**

*To consider “the Right to Information Bill, 2013”.*

### **COMPOSITION OF THE SUB-COMMITTEE:-**

<b>i)</b>	<b>Mrs. Belum Hasnain</b>	<b>Convener</b>
ii)	Mian Muhammad Farooq	Member
iii)	Ms. Leila Khan	Member
iv)	Ms. Naeema Kishwer Khan	Member
v)	Mr. Murad Saeed	Member

It is informed that the Sub-Committee convened one meeting dated 18<sup>th</sup> March, 2014.

2. The Sub-Committee examined / discussed the Bill in detailed. The Sub-Committee’s discussion and suggestion are as under:-

- The proposed Bill is intended to promote a two way flow of information i.e. from the government to the people and *vice versa* for strengthening and safeguarding the public ‘Right to Know’ especially in the back drop of Article 19-A of the Constitution, which explicitly recognizes this right as a fundamental human right.
- Whereas, Right to know is an inalienable birth right of an individual and is universally recognized, in a democratic dispensation. In a constitutional governance public officials are the custodians of the public record and documents, the people, the real sovereigns, have the right of access to all public records, subject to law and except the material disclosure of which may be harmful to the national security,

relations with the friendly countries and privacy of life, home, family and honour of the citizens of Pakistan.

- The Sub-Committee discussed on the establishment of Information Commission. The Sub-Committee was told that Information Commission has been established by the Provincial Governments of Punjab and Khyber Pakthunkhwa. The Copy of the establishment of Information Commission will be provided to the Member of the Sub-Committee. The Sub-Committee suggested for establishing a section in Wafaqi Mohtasib (Ombudsman) to deal with complaints regarding non availability of information from any Federal Government offices (Ministries, Division, Attached Department or sub-ordinates Departments) by any person. It is the best option at present and same is being practiced in various countries.
- The Ministry shall make Rules for carrying out the purposes of this Bill. This suggestion is also mentioned in the Government Bill in Section 26.
- It has also suggested that the note portion of the file and minutes of the meeting may be declared as confidential which may not be given to any one, only the decisions will be provided as per demand.
- There should be a prescribed fee for obtaining information from any Federal Government offices. This suggestion is also mentioned in the Government Bill in Section 12 & Section 26 2(a).
- The privacy of any citizens of this country may be protected. This suggestion is also mentioned in the Government Bill in Section 17.
- The fine on offences under section 21 (1) and (2) may be increased.
- The suggestion given by the PBA and APNS on the said Bill will be provided to the Sub-Committee.

## **Section 4**

**Input of Ministry of Information,  
Broadcasting & National Heritage's on  
Right to Information Bill**



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GOVERNMENT OF PAKISTAN  
**MINISTRY OF INFORMATION, BROADCASTING  
AND NATIONAL HERITAGE**  
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SUMMARY FOR THE CABINET

SUBJECT:—RIGHT TO INFORMATION BILL, 2014.

A Sub-Committee of the Senate Standing Committee on Information, Broadcasting & National Heritage headed by Senator Farhatullah Babar, had in September 2012, assigned the M/o Information, Broadcasting & National Heritage to prepare a Draft Bill on Right to Information and to introduce the same as a Government Bill in the Parliament. Copy of the approved minutes of the Sub-Committee may be seen at **Annex-I**.

2. The M/o Information, Broadcasting & National Heritage accordingly prepared a Draft Bill and submitted the same to the Senate Committee on Information, Broadcasting & National Heritage following which the Bill was thoroughly debated, discussed and deliberated upon besides incorporating certain amendments in the Bill. The amended Bill was then sent to the Law & Justice Division for legal vetting. After vetting from the Law Division, the Senate Committee approved the Bill. (**Annexure-II & III**)

3. Since the subject of the Bill belongs to the Cabinet Division, this Division, as per advice of the Law Division, also obtained concurrence of the Cabinet Division for submitting summary for approval of the Federal Cabinet (**Annex-IV**).

4. Subsequently, the report of the Senate Standing Committee on Information, Broadcasting & National Heritage regarding Right to Information Bill was presented in the Senate on October 29, 2013, which was unanimously adopted by the House under Rule 196 of the Rules of Procedure and Conduct of Business in the Senate, 2012. The Senate as per recommendations of the Committee, referred the Bill to Ministry of Information, Broadcasting & National Heritage to introduce it as an official Bill after approval of the Cabinet. (**Annexure-V & VI**)

5. *Ex post facto* approval of the Cabinet is solicited in terms of Rules 27 (1) for vetting of the Draft Bill by the Law & Justice Division and approval of the Cabinet is solicited in terms of Rule 27(5)(a) read with Rules 16 (1) (a) of the



6. Federal Minister for Information, Broadcasting and National Heritage seen and approved the submission of the Summary.

DR. NAZIR SAEED  
*Secretary.*

Secretary Cabinet, Cabinet Division, Islamabad.

M/o LB&NH U.O. P. No. 9021/2012-Cabinet, dated December 27, 2013.



## SENATE SECRETARIAT

SUBJECT:—MINUTES OF THE MEETING OF SUB-COMMITTEE OF SENATE STANDING COMMITTEE ON INFORMATION & BROADCASTING HELD ON 7<sup>TH</sup> SEPTEMBER, 2012 AT PARLIAMENT HOUSE, ISLAMABAD.

A meeting of the Sub-Committee of Senate Standing Committee on Information & Broadcasting was held on 7th September, 2012 at 2:00 p.m. in the Committee Room- No.01, Parliament House, Islamabad under the Convenership of Senator Farhatullah Babar.

2. The agenda before the Committee was as under:—
  - i. **“To take up with the Ministry of Information & Broadcasting the matter of the proposed Freedom of Information Bill already drawn up by the Ministry in consultation with relevant stakeholders and finalized the same for tabling in the Parliament at an early date”.**
3. The following members of the Sub-Committee attended the meeting:—
  1. Senator Syed Zafar Ali Shah
  2. Senator Muhammad Daud Khan Achazai, Advocate
4. A list of officers of all concerned departments, who attended the meeting, is annexed.
5. The meeting started with recitation from the Holy Quran by Senator Syed Zafar Ali Shah. At the outset, Convener of the Sub-Committee Senator Farhatullah Babar welcomed all the participants of the meeting particularly officers from Information and Cabinet Divisions who on short notice came to attend the meeting. **He informed the Committee that the Sub-Committee was constituted in the meeting of Senate Standing Committee on Information & Broadcasting held on 10th August 2012, under Section 183 of the Rules of Procedure and Conduct of Business in the Senate, 2012 with the mandate to take up the issue of “Freedom Of Information Bill” pending with M/o Information & Broadcasting since long and make necessary amendments in the draft bill and submit it to the Senate SC on Information & Broadcasting for consideration and approval to ensure early tabling of Bill in the Parliament.** Senator Farhatullah Babar further said that good governance depends upon transparency and accountability. Transparency was not possible without access to information. An effective freedom of information law was therefore of fundamental importance to good governance. Furthermore, article 19-A introduced in the Constitution through the 18th Amendment specifically guaranteed right to information to every



6. Secretary Information & Broadcasting while talking on the issue, informed the Committee that according to the Rules of Business 1973, scheduled-II of entry 19, the proposed Bill actually pertains to the Cabinet Division, however, on the directions of the former Federal Minister for Information & Broadcasting, the Ministry took the ownership of the Bill and got inputs from the stakeholders, media organizations, NGO's, HR organizations etc. He further informed that Ministry of Information & Broadcasting prepared a draft bill namely "Freedom of Information". He proposed that the ownership of the Bill needs to be logically re-determined and be given to the Cabinet Division as per Rules of Business, 1973. He also proposed that the name of this bill should be "Access to Official Documents Bill" instead of Freedom of Information Bill.

7. Additional Secretary, Cabinet Division also informed the Committee that under the Rules of Business 1973, the security and proper custody of official documents as well as protection of classified material is the responsibility of Cabinet Division, therefore, the subject matter fell within the preview of Cabinet Division, however, M/o Information may take ownership of the Bill if so required.

8. Hon'ble Convener of the Sub-Committee Senator Farhatullah Babar after hearing the view point of both Ministries and observed that if this was the position then Senate Standing Committee on Information & Broadcasting would not have much to do with it and the matter should be referred to the Senate Standing Committee on Cabinet. However, he observed further that there are some valid and weightier reasons in light of Rules of Business of Ministry of Information & Broadcasting under which the subject matter fell within the purview of Information Ministry.

9. The Hon'ble Convener expressed that the foremost responsibility of the Information Ministry under the Rules of Business was to "formulate policy relating to publicity on national matters". The publicity policy of the national matters therefore was based on the policy towards official documents and consequently subject belonged more to the Information Ministry.

10. Moreover, the Rules of Business of the Ministry also mandated the information with "Administration of Media Laws" and there are some half a dozen Media Laws were being administered and dealt with by the Ministry of Information & Broadcasting. These laws included Press/Newspaper Registration Ordinance 2002, PCP Ordinance 2002, PEMRA Ordinance 2002, PEMRA Rules 2002, APP Corporation Ordinance 2002 and Defamation/Libel Law 2002. It was therefore logical that the law pertaining to the access to official documents was also administered by Information Ministry. Hon'ble Senator Farhatullah Babar also said that the main functions of the Information Ministry are to coordinate all media related issues with government bodies and media organizations like APNS, CPNE, PBA, PFUJ, APNEC and others. These media organizations were important in the Freedom of Information Law.

11. Senator Farhatullah Babar further observed that the Freedom of Information act 2008 was actually prepared by the Information Ministry for tabling in the Parliament as Government Bill, but it could not be done due to various reasons. He also added that the weight of argument, evidence and material available on the record proves that the subject



bill belongs to the Information Ministry, however he sought the views of other Committee members and officers of both the Ministries regarding its ownership. All the participants unanimously agreed with the facts explained and reasons given by the honorable Convener and decided that the subject matter will be dealt with by Ministry of Information & Broadcasting.

12. The Convener of the Sub-Committee Senator Farhatullah Babar while initiating the discussion on the contents of the proposed Freedom of Information Act 2008 and its comparison with Act of 2002, viewed that one of the major improvement was in 2008, which over rides all other laws, whereas 2002 Act did not derogate other laws including Official Secret Act 1923. He further said that much more was needed to be done to make law consistent with article 19-A of the Constitution, the requirements of good governance, the democratic principles and practices and the view point of various stake holders and professional media bodies. He in this regard suggested some suitable amendments/ improvements to cover some areas Which are mentioned as under :

- (i) **The proposed Act 2008 covers departments under provincial governments and local bodies which were not consistent with the provincial autonomy. The proposed act should cover only the Federal departments which may then be used by the provinces as model for adoption.**
- (ii) **The present system of classification of official documents including the note portion of the file as confidential, restricted, top secret was vague and almost defeated the purpose of the Freedom of Information Law and needed to be reviewed and streamlined. It should be quite clear as to who will declare a certain document as classified and on what basis, there should also be a mechanism to challenge the decision of a government functionary to declare a document as classified.**

13. While commenting on the "Note Portion" of file the Secretary Information and officers of Cabinet Division observed that the "Note Portion" of the files basically a communication between officers at various levels. If, in case this official communication is open to the public, it will create various administrative and legal problems. The officers of the Ministries therefore proposed that only the final decision of competent authority be allowed to be seen to avoid any other complication. The Committee Members viewed that this was a valid observation and will be considered while making suggestions in the future meetings.

14. **Senator Farhatullah Babar while continuing suggesting amendments in law said that the term "National Security & Defense of Pakistan" was also too broad and vague and needed to be made clear. In this regard he proposed the M/o Information to refer the decisions of Johannesburg Conference, where the issue of identifying and defining the principles of National Security were raised and discussed in detail.**

15. Senators Zafar Ali Shah and Muhammad Daud Khan Achakzai observed that



his Sub-Committee as access to information should have the right to every citizen of Pakistan. They therefore proposed that further discussion be made in next meeting when M/o Information re-draft the Bill in light of the observations made in today's meeting.

6. . While concluding the discussion, the Convener of the Sub-Committee Senator Farhatullah Babar asked the Secretary Information & Broadcasting to reconsider the draft Law in light of the discussions of the meeting in consultation with Cabinet, Defence, Interior, Law Divisions and relevant stakeholders. The revised draft copy of Law may be made available to the members of Sub-Committee before the next meeting for their study and valuable suggestions. The next meeting will be held after three weeks. He also pointed out that under the Rules, the Sub-Committee has to submit its report to the Senate Standing Committee on Information & Broadcasting within 60 days of its first meeting.

7. The Meeting ended with a vote of thanks to and from the chair.

Sd/-  
Hafeezullah Sheikh  
DS/Secretary Committee

Sd/-  
Senator Farhatullah Babar  
Convener  
Sub-Committee on Information & Broadcasting

No. F. 897/2013-D&L  
GOVERNMENT OF PAKISTAN  
**LAW, JUSTICE AND HUMAN RIGHTS DIVISION**  
**(Drafting & Legislation Section)**  
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SUBJECT:—DRAFT RIGHT TO INFORMATION BILL, 2013.

DD-II/Sr. L.A.

The Ministry of Information and Broadcasting has informed that meeting of the Sub-Committee of the Senate's Standing Committee on Information and Broadcasting was held on the 13<sup>th</sup> June, 2013 to finalize the draft Right to Information Bill, 2013. The referring Ministry has further informed that the Committee suggested certain amendments which have been incorporated in the Bill. That Ministry has now requested this Ministry to vet the Bill in accordance with rule 14 of the Rules of Business, 1973 for introduction in the Parliament as a Government's Bill after approval of the said Committee.

2. Perusal of record on this file shows that the instant Bill is pending since 2008 in the Senate and is being converted into a Government's Bill.

3. At the very outset, it may be pointed out that before introducing a Bill in the Parliament, approval of the Cabinet in principle under rule 16 of the Rules of Business, 1973 and final approval of the draft Bill under rule 27 thereof are required, whereas under rule 28 thereof a Private Member's Bill is also required to be placed before the Cabinet for its decision as to whether the Bill may be supported or opposed. But it appears that neither the Bill of 2008 nor the instant Bill has been brought before the Cabinet for its consideration and approval, as aforesaid.

4. However, keeping in view request of the referring Ministry specifying urgency in the matter, it is hoped that the draft Bill, as vetted and a fair-typed copy thereof added to the file, will suffice requirement of the referring Ministry and consequently Sub-Committee of the Senate's Standing Committee on Information and Broadcasting.

Sd/-  
(MUHAMMAD ISRAR)  
Deputy Draftsman,  
8<sup>th</sup> July, 2013.

Senior Legislative Adviser

5. Application closure be separated from extent closure and draft so amended be resubmitted.

Sd/-

DD-II

6. Clause 1 of the Bill, as desired, has been recast.

Sd/-  
8<sup>th</sup> July, 2013

Sr. L.A

Sd/-  
8/7/13

L.S

Sd/-

Sr. L.A

Sd/-  
8/7



**SENATE SECRETARIAT****SUBJECT:—Right of Information Bill, 2013.**

In the meeting of the Standing Committee of Information and Broadcasting held on 17<sup>th</sup> July, 2012, Senator Farhatullah Babar pointed out that Right of Information Bill is pending in the Ministry since last many years, however it could not be introduced in the either of the House of the Parliament so far. After detailed discussion on this issue, a Sub-Committee consisting of Senator Farhatullah Babar as Convener and Senators Syed Zafar Ali Shah and Muhammad Daud Khan Achakzai as members was constituted. TOR of Sub-Committee was as under:

**“To take up with the Ministry of Information & Broadcasting the matter of the proposed freedom of information bill already drawn up by the Ministry in consultation with relevant stakeholders and finalize the same for tabling in the Parliament at an early date”**

2. The Sub-Committee held several meetings with the representatives of Ministry of Information & Broadcasting and also with some NGOs and finally the bill was approved in the meeting of the Sub-Committee held on 9<sup>th</sup> July, 2013. Senator Farhatullah Babar, Convener of the Sub-Committee presented the report in the Standing Committee on 28<sup>th</sup> August, 2013, which was unanimously approved by the Standing Committee.
3. After detailed discussion, the Committee decided that the recommendations of the Standing Committee may be moved in the House under Rule-195 of the Rules of Procedure and Conduct of Business in the Senate, 2012 and with the request to the House to adopt the recommendations of the Standing Committee under Rule-196 of Rules of Procedure and Conduct of Business in the Senate, 2012. Thereafter Ministry of Information & Broadcasting with the approval of the Cabinet will introduce the recommendations of the Standing Committee, as an official bill.
4. The Right of Information Bill, 2013, as unanimously approved by the Standing Committee on Information & Broadcasting is annexed.

Sd/-  
(GHULAM MURTAZA)  
*Secretary Committee*

Sd/-  
(SENATOR KAMIL ALI AGHA)  
*Chairman*

GOVERNMENT OF PAKISTAN  
CABINET SECRETARIAT  
(Cabinet Division)

SUBJECT:—DRAFT RIGHT TO INFORMATION BILL, 2013 – PERMISSION TO  
MOVE SUMMARY FOR THE CABINET.

Reference Ministry of Information, Broadcasting and National Heritage U.O.  
No. 9(02)/2013-Council dated October 8, 2013 on the subject cited above.

2. The concurrence is accorded for moving a Summary for the Federal Cabinet by  
Ministry of Information, Broadcasting and National Heritage on Draft Right to  
Information Bill, 2013.

Sd/-  
(QAMAR-UZ-ZAMAN)  
Director (NDW).

Mr. Mohammad Azam, Additional Secretary, M/o Information, Broadcasting and  
National Heritage, Islamabad.

Cabinet Division's u.o. No. 3-33/2011-Dir/DD-II dated October 11, 2013



Annex-VIMMEDIATE  
BY SPECIAL MESSENGER

## SENATE SECRETARIAT

o. F. 6(1)/2012/Com-II

*Islamabad, the 30<sup>th</sup> October, 2013.*

During the Session of the Senate held on 29<sup>th</sup> October, 2013, under the Rule-195 of the Rules of Procedure and Conduct of Business in the Senate, 2012, the report of the Standing Committee on Information & Broadcasting regarding Right of Information Bill, 2013 was presented, which was unanimously adopted by the House under Rule-196 of the Rules of Procedure and Conduct of Business in the Senate, 2012. The sub-section (3) of the Rule 196 is as under:

**“(3) After the motion is carried the decisions of the House shall be communicated to the Ministry concerned for implementation. In case the Ministry is unable to implement decisions of the House it shall inform the House within two months of the reasons thereof, and if the Ministry fails to do so the decisions of the House shall be binding.”**

The recommendations of the Standing Committee, as approved by the House are, therefore, enclosed herewith for necessary action on the end of Ministry of Information and Broadcasting.

With regards.

Yours sincerely,

Sd/-  
(GHULAM MURTAZA)  
Secretary Committee  
Ph. No. 9212636

The Secretary,  
Ministry of Information and Broadcasting,  
Government of Pakistan,  
Islamabad.



GOVERNMENT OF PAKISTAN  
MINISTRY OF INFORMATION, BROADCASTING  
AND NATIONAL HERITAGE

\*\*\*\*\*

67

Subject:- **RIGHT TO INFORMATION BILL, 2014.**

The undersigned is directed to refer to the Cabinet Division's O.M. No. Dy. 260(S)/2013-Cab dated January 2, 2014 and to submit the parawise reply as under;

2. Para 5 of the Summary is amended appropriately and ex post facto approval of the Cabinet is sought in terms of Rule 27(1) for referring the Draft Bill to the Law & Justice Division for vetting coupled with approval of the Cabinet in terms of Rule 27(5)(a) read with Rules 16(1)(a) of the Rules of Business, 1973 for introducing the Draft Bill in the Parliament,

3. Ex post facto approval of the Cabinet is solicited vide para 5 of the Summary for referring the draft Bill to the Law and Justice Division for vetting.

- i. The Summary is dated 27<sup>th</sup> December, 2013 which is similar to the date of the covering letter,
- ii. The words 'Bill 2013' are replaced with 'Bill 2014' in the Summary,
- iii. "Object and Reasons" have also been added to the Summary
- iv. Rules 16(1)(a) read with rule 27(1) has been incorporated in Para 5 of the Summary.

4. The queries/objections raised by the Cabinet Division vide the above quoted letter have been duly addressed.

5. The Summary is hereby resubmitted after doing the needful.

  
O/c. (Muhammad Naeem)  
Director General-IP

(Dr. Umar Jawaid), Section Officer(Cabinet) Cabinet Division, Islamabad.  
M/o I,B&NH U.O. No. 9(02)/2012-Council dated January 10, 2014



MOST IMMEDIATE  
BY FAX/SPL. MESSENGER  
SENATE BUSINESS

GOVERNMENT OF PAKISTAN  
MINISTRY OF INFORMATION, BROADCASTING  
& NATIONAL HERITAGE  
(COUNCIL SECTION)

\*\*\*\*\*

No. 9(02)/2013-Council

Islamabad, March 26, 2014

To:-

**Mr. Ghulam Murtaza,**  
JS/Secretary Committee, on I,B&NH,  
Senate Secretariat, Parliament House,  
**Islamabad.**

Subject:- **STATUS OF RIGHT TO INFORMATION DRAFT BILL, 2014.**

Dear Sir,

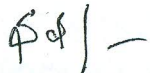
Please refer to Senate Secretariat's letter No. F. 6(1)/2012-Com-II dated October 30, 2013 on the subject cited above, which while quoting Rule 196 of the Rules of Procedure and Conduct of Business in Senate, 2012 informed that the report of the Standing Committee on I,B&NH regarding the **Right to Information Bill, 2013** was presented and unanimously adopted by the House. It further urges this Ministry to implement the decision of the House within two months and if it fails to do so, the decision of the House shall be binding.

2. It may be informed that this Ministry under the directions received from the Senate Secretariat proceeded to implement the above mentioned decision in letter and spirit. It accordingly prepared and moved a Summary for the Cabinet through the Cabinet Division ( vide this Ministry's letter No. 9(02)/2012-Council dated December 27, 2013 copy enclosed) to consider and accord its approval to the Draft RTI Bill, 2014 as per requirements of the Rules of Business, 1973 so that the same may be introduced in the Parliament subsequently.

3. Currently, the approval of the Federal Cabinet is being awaited by the Ministry, following which the Draft Bill will be introduced in either House of the Parliament as an official Bill

3. This is for your kind information, please

Yours faithfully,

  
(Syed Muhammad Ilyas)  
Deputy Director (Council)



Annex-III

OST IMMEDIATE  
AL MESSENGER

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GOVERNMENT OF PAKISTAN  
MINISTRY OF INFORMATION, BROADCASTING  
AND NATIONAL HERITAGE  
\*\*\*\*\*

Subject:- RIGHT TO INFORMATION BILL, 2013.

The undersigned is directed to say that a Sub-Committee of the Senate Standing Committee on Information, Broadcasting & National Heritage headed by Senator Farhatullah Babar, had in September 2012 assigned to this Ministry the task of preparing a Draft Bill on Right to Information (RTI) and to introduce the same in the Parliament as a Government Bill.

2. Accordingly, this Ministry prepared a Draft Bill in consultation with the various stakeholders and submitted it in the Committee, which had duly examined the Bill and suggested certain changes. These were carried out by the Ministry and furnished the Draft Bill to the Law Division for legal vetting. The Law Division returned the Draft Bill after accomplishing the task. The I,B&NH Division then submitted the final draft in the Senate Body, which had accepted it.

3. Subsequently, the report of the Senate Standing Committee on Information, Broadcasting & National Heritage regarding Right to Information Bill was presented in the Senate on October 29, 2013, which was unanimously adopted by the House under Rule 196 of the Rules of Procedure and Conduct of Business in the Senate, 2012. The Senate as per recommendations of the Committee, referred the Bill to this Ministry to introduce it as an official Bill after approval of the Cabinet.

4. This Ministry meanwhile, also obtained concurrence of the Cabinet Division for the Bill since the subject still belongs to it according to the Rules of Business, 1973.

5. In view of the above, the Cabinet Division is requested to kindly place the Draft RTI Bill 2013 for soliciting approval of the Federal Cabinet in terms of Rules 16(1) (h) of the Rules of Business, 1973.

6. As required by the relevant Rules of Business, fifty five copies of the Summary, the Right to Information Draft Bill, 2013 and supporting documents are placed below in a closed envelope for further necessary action on part of the Cabinet Division.

*Mue*  
**(Muhammad Naeem)**  
Director General-IP

Joint Secretary to the Cabinet.  
(Mr. Altaf Suhail), Cabinet Division, Cabinet Sectt. Islamabad.  
M/o I,B&NH U.O. No. 9(02)/2012-Council dated December 27, 2013

Received.

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... .. at 12:25



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**BRIEF ON RIGHT TO INFORMATION BILL (RTI) 2014.**

- A 3-Member Senate Sub-Committee headed by Senator Farhatullah Babar, in its meeting held on **September 07, 2012** at the Parliament House, Islamabad, had tasked the M/o I&B to draw up the Freedom of Information Bill in consultation with the relevant stakeholders and to finalize the draft for tabling in the Parliament. It included Senators Syed Zafar Ali Shah & Muhammad Daud Khan Achakzai as Members.
- The subject originally belonged to the Cabinet Division since it is the custodian of official records, which the Bill seeks access to. However, Ms. Sherry Rehman, during her tenure as the Minister for I&B took ownership of the subject from the Cabinet Division and decided to prepare a draft Bill, which would later replace the Freedom of Information Ordinance 2002, currently in vogue.
- However, that Bill could not be laid before either of the two Houses of the Parliament for consideration. Meanwhile, Ms. Sherry Rehman resigned from the Federal Cabinet. Later, she introduced the same Bill as a **Private Members' Bill**, which also lapsed following her resignation from the National Assembly.
- The RTI draft Bill 2008 had been prepared by M/o I&B after extensive consultations not only with media organizations but also with the members of the civil society, NGOs etc.
- After receipt of the approved minutes of the Sub-Committee's meeting, the M/o I&B wrote letters to the Law, Interior, Cabinet & Defense Divisions, asking them to provide their valuable input on the subject.
- Subsequently, a clause by clause review of the **2008 Draft Bill** was undertaken by the Ministry with the outgoing Minister for I&B (Mr. Qamar Zaman Kaira) in the chair to fine-tune the existing draft in the light of new realities like passage of the 18<sup>th</sup> Constitutional Amendment.

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2:25



- Despite serious and concerted efforts on part of the M/o I&B, the draft could not be finalized. Meanwhile, Mr. Kaira's tenure as the Minister I&B came to an end and a Caretaker setup took over.
- Another meeting of the Sub-Committee was held on **June 13, 2013**, which was attended by the Honorable Convenor and Members of the Sub-Committee besides senior officials of this Ministry.
- The Honorable Convenor observed that the Draft RTI Bill 2013 needed to be reviewed in the light of Article 19-A inserted in the Constitution (which recognizes access to information as a right) as a result of 18<sup>th</sup> Amendment and instructed that this fact must be reflected in the preamble of the proposed legislation.
- In this connection, he suggested that the preamble of the Law should specifically refer to Article 19-A so as to organically link it to the Constitutional Right to Information, which was stronger formulation than the Freedom of Information previously conceived. The direction was complied with by this Ministry accordingly.
- The Sub-Committee also instructed that the above mentioned changes/amendments may be carried out and the Draft Law be referred to the Law Division for legal vetting, which remains one of the procedural requirements.
- The M/o I&B accordingly carried out the necessary changes as per instructions and then moved the Draft Right to Information Bill 2013 to Law, Justice & Human Rights Division for legal vetting under **Rules of Business -1973 (Rule – 14 : 4)** on 3<sup>rd</sup> July , 2013
- Meanwhile, the Sub-Committee summoned another meeting on **\* July 9, 2013** to consider the Draft Bill RTI 2013. It also suggested certain changes to further improve upon the contents. The Law Division obliged and carried out the proposed amendments.



- It also advised the Information Division to obtain prior consent/concurrence of the Cabinet Division before moving summary for the Cabinet's approval (since the subject still technically belongs to the Cabinet Division, according to the Rules of Business 1973) and to suggest that the Rules of Business may be amended accordingly.
- Following the advice tendered by the Law Division, the Additional Secretary M/o I&B sent a letter to the Cabinet Secretary for obtaining concurrence of the Cabinet Division.
- Subsequently, a meeting of the Sub-Committee was held on **August 28, 2013** which considered the draft Bill in the light of the amendments it had earlier suggested. After detailed scrutiny, it finalized and accepted the draft Bill prepared by this Ministry and also recorded the Committee's appreciation for the hard labour put in by M/o I&B.
- The Cabinet Division accorded its concurrence to this Ministry for moving a summary to the Federal Cabinet on October 11, 2013.
- Once adopted, the Bill is expected to pave the way for transparency, accountability and good governance.
- The Senate Secretariat vide its letter No. F. 6(1)/2012/Com-II dated October 30, 2013 intimated this Ministry that during the Session of the Senate held on October 29, 2013, under the Rules-195 of the Rules of Procedure and Conduct of Business in the Senate, 2012, the report of the Standing Committee on Information & Broadcasting regarding Right of Information Bill, 2013 was presented and unanimously adopted by the House under Rule-196 of the Rules of Procedure and Conduct of Business in the Senate, 2012.
- It urges the Ministry of Information and Broadcasting to introduce the recommendations of the Standing Committee as an official Bill with the approval of the Cabinet. It has also given a time line of two months to initiate action in this regard.
- Thereafter, the Ministry proceeded accordingly and prepared a Summary for the Cabinet to consider and accord its approval to the draft RTI Bill 2014 so that the same may be introduced in the Parliament subsequently.
- Currently, the approval of the Cabinet is being keenly awaited by the Ministry following which efforts will be made to introduce the draft Bill in either House of the Parliament as an official Bill.





PAKISTAN  
BROADCASTERS  
ASSOCIATION

PBA/12-13/9600  
December 17, 2013

**Senator Pervez Rashid**  
Minister for Information, Broadcasting & National Heritage  
**National Heritage & Integration Wing**  
Evacuee Trust Complex, 3<sup>rd</sup> Floor  
Aga Khan Road, Sector F-5/1  
Islamabad


**Subject: Right to Information Bill**

Dear Sir,

This is with reference to your letter dated November 1, 2013, regarding the captioned subject. I regret the delay in responding to it but unfortunately the letter was received late in PBA.

We appreciate your efforts for moving the Rights of Information Bill in the Senate. Please find attached herewith our initial response on the said bill. However, as mentioned in your letter we would also like to have a meeting with you to further discuss the bill in detail, on a date convenient to you.

Warm regards,

  
**Shakeel Masud Hussain**  
Chairman

Secretary of Information & Broadcasting

2013  
17-1-14

16/1

17/1/2014

17-01-2014

17-01-2014

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17/1/14

Information & Broadcasting  
D.D/TV  
111  
20/1/14

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MEMORANDUM OF COMMENTS  
DRAFT RIGHT TO INFORMATION BILL

1 OVERVIEW

- 1.1 The draft Right to Information ("RTI") Bill was approved by the Standing Committee in the Senate on October 29, 2013. The public's right to information is guaranteed under Article 19 of Pakistan's Constitution, which states:

*"Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defense of Pakistan or any part thereof, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, commission or incitement to an offence".*

- 1.2 The RTI is not the first legislation to have been promulgated by the Government of Pakistan guaranteeing the people of Pakistan their constitutional right to information. In September 2002, former President Pervez Musharraf enacted the Freedom of Information Ordinance. However, the Ordinance was largely flawed due to its complicated application process, blanket of exemptions from disclosure, the absence of an independent information commission and the right to appeal.
- 1.3 In contrast, the draft RTI bill in its present form features improved provisions guaranteeing the public access to information in order to bring transparency and accountability in the Government's decision-making process. However, despite the Government's best efforts the draft RTI bill as unanimously approved by the Standing Committee in the Senate still has room for improvement for its effective implementation.
- 1.4 The bill contains some positive provisions such as an interpretation clause encouraging the right of the public to know all matters of public importance; a set time frame for the proper release of information and disclosure in order to facilitate the prompt disclosure of information and a right of appeal to the Wafaqi Mohtasib (Federal Ombudsman) and the Federal Tax Ombudsman. However, at the same time the bill lacks certain necessary provisions for the effective implementation of the law as discussed below.

2 PROPOSED AMMENDMENTS

- 2.1 In the interest of the public and for the effective promotion and facilitation of transparency and accountability in the Government's decision-making process the RTI bill must provide right of access to information by taking the following into consideration.



2 (a) **Formation of an Independent Information Commission**

The RTI bill provides recourse to the citizens of Pakistan who are denied access to information by public authorities by way of appeal to the Wafaqi Mohtsib (Federal Ombusman) and the Federal Tax Ombudsman.

However, the right to appeal mechanism guaranteed by the bill is inadequate to effectively monitor governmental transparency and fight the evils of corruption. Decisions on the disclosure of government information should be reviewed independently of government and semi-government bodies. Numerous reports and papers have been written by NGO's and public interest groups in Australia, New Zealand, Canada, United States of America and the United Kingdom discussing at length the importance of establishing an independent external body or commission that has the power to review government decisions in the interest of the public. Moreover, the United Nations Developmental group UNDP has published a detailed report<sup>1</sup> on the Right to Information and its importance in Third-World and developing countries, where corruption is a prevailing issue.

It is therefore recommended that an independent information commission must be set up that will function as an independent and impartial authority to uphold information rights in the interest of the people of Pakistan and promote transparency in public bodies.

In addition, by allowing an independent commission to review government decisions the public will have confidence in the elected government. This will also enhance democratic engagement, build confidence of the public in government institutions and strengthen their credibility. The denial of this right only allows corruption to prevail and impedes potential growth of the Pakistani society and its people.

2 (b) **Discretion for Government to declare any 'information' as classified**

Section 8 of the RTI states: "(2) *Nothing contained in this Act shall apply to the following record of public bodies, namely ... (d) record declared as classified by the Federal Government.*"

The abovementioned provision gives the Federal government wide discretion to declare any matter of public interest, which they deem as 'classified' not to be disclosed to the public. This provision must be amended to give specific guidelines outlining the type of 'information' that the Federal Government may declare as classified. For example, matters that poses a threat to the national security or interest of the country and its people.

Section 8 already contains a list of exemptions that are related to the disclosure of private information of individuals; the deployment of armed forces; records relating to the Cabinet,

<sup>1</sup> <[http://www.law.yale.edu/documents/pdf/Intellectual\\_Life/CL-OGI-UNationsDevProg-July2004-English.pdf](http://www.law.yale.edu/documents/pdf/Intellectual_Life/CL-OGI-UNationsDevProg-July2004-English.pdf)>



Information Council and so forth. The inclusion of Section 2 (d) gives the government additional powers to keep any type of record or information secret from the public. This may include information relating to economic, health or environmental regulatory issues of public interest but supported by corporate entities, which may be carrying out corrupt practices. Secret governments by their very nature are anti-democratic and corrupt.

In light of the above, it is recommended that Section 8 2 (d) should be amended to include specifically the type of 'information' that the Federal Government may declare as classified, such as those relating to governmental decisions which are inconsequential to the public's right to know or may have trivial effect on good governance, transparency and accountability.

#### 2 (c) Legal Protection for Whistle-Blowers

The draft RTI bill has no provision that provides legal protection for Whistleblowers. The purpose of including a provision that provides legal protection for whistle-blowers is to encourage individuals to report serious misconduct and wrongdoings of public officials, while carrying out their official duties.

Whistleblowing plays a vital role in fighting corruption and holding public authorities accountable for misconduct and wrongdoings, thereby enhancing a transparent and democratic government.

In order for employees to safely come forward and blow the whistle on their public official employer, it is necessary that there exist a law giving them protection from making such disclosures. Many individuals who are aware of corrupt practices or serious wrongdoings happening in their workplace are unable to disclose the wrongdoings of their employer due to the fear of losing their job, facing serious penalties or other forms of threats and pressure.

Therefore, whistle-blowers must be given protection under the law for 'information' relating to serious misconduct or wrongdoing by public officials holding an office. Serious wrongdoing or misconduct includes:

- (i) Unlawful, corrupt or irregular use of public money or resources.
- (ii) Conduct that poses a serious risk to public health, safety, the environment
- (iii) Maintenance of the law
- (iv) Any criminal offence
- (v) Gross negligence or mismanagement by public officials.

In order to discourage individuals from whistleblowing in bad faith, the law must be clear to not protect information, which is a mere allegation, is false and is made in bad faith.



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3 Conclusion

Secrecy of information by the Government facilitates renegade activity, corruption and tramples on the public's right to know. It is commendable that the Senate has approved the draft Right to Information bill. However, in order for the law to effectively protect the rights of the citizens, it is submitted that the recommended amendments to the draft RTI bill be taken into consideration by the Ministry of Information, Broadcasting and National Heritage. In order to give the new law successful and effective implementation, it is of utmost importance that an Independent Information Commission is set up to uphold the citizen's right to information.

## **Section 5**

Draft Bill on Right to Information, 2013



**Revised draft Bill-III**

[prepared after meeting of sub-committee of the Senate's Standing Committee on Information and Broadcasting held on 9-7-2013 and consequently including proposals dated 16-7-2013 of Ministry of Information and Broadcasting]

A

BILL

*to provide for the right to have access to information in all matters of public importance subject to reasonable restriction*

WHEREAS it is expedient to provide for a law whereby every citizen of the Islamic Republic of Pakistan shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restriction as enunciated in Article 19A of the Constitution of the Islamic Republic of Pakistan and for matters connected therewith or incidental thereto;

It is hereby enacted as follows:—

1. **Short title, extent, application and commencement.**—(1) This Act may be called the Right to Information Act, 2013.

(2) It shall, subject to sub-section (3), extend to the whole of Pakistan.

(3) It shall apply to the Federal Government's Ministries, Divisions, attached departments, subordinate offices, organizations, autonomous bodies, corporations and other institutions and non-governmental organizations (NGOs) registered by the Federal Government or un-registered.

(4) It shall come into force at once.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(i) "applicant" means a requester or any person acting for and on behalf of a requester in person or his counsel;

(ii) "complaint" means any grievance registered in writing by an applicant to the effect that—

(a) access to the requisite documents, information or record has been wrongfully denied to a requester by a public body having custody or control of the record; or

(b) the information sought by a requester has been unduly delayed by a public body; or



- (iii) "designated official" means an official of a public body designated to provide information sought by a requester;
- (iv) "information" means public documents and records required by the requester under this Act, but does not include the records exempted under section 8 or disclosure of which may infringe upon the right of privacy of any individual;
- (v) "Mohtasib" means the Wafaqi Mohtasib (Ombudsman), appointed under the Establishment of the Office of Wafaqi Mohtasib Order, 1983 (P.O. No. 1 of 1983) or, as the case may be, the Federal Tax Ombudsman, appointed under the Federal Tax Ombudsman Ordinance, 2000 (XXXV of 2000) under whose jurisdiction the Federal public body may fall;
- (vi) "prescribed" means prescribed by rules made under this Act;
- (vii) "national security" means and includes the matters pertaining to the integrity, security or defence of Pakistan or any part thereof;
- (viii) "principal officer" means—
  - (a) in case of the Federal Government's Ministries and Divisions, the Secretary thereof; and
  - (b) in all other cases, the head or chief executive of the public body by whatever designation identified;
- (ix) "public body" means—
  - (a) any Ministry, Division, attached department or subordinate office of the Federal Government;
  - (b) any Federal and any municipal or local authority set up or established by or under any law;
  - (c) any statutory corporation or other body corporate or institution set up or established or owned or controlled or funded by the Federal Government;
  - (d) any incorporated or unincorporated body or legal entity functioning under the control or authority of the Federal Government or wherein one or more of such Governments owns or has controlling interests or which is funded by any such government;
  - (e) any non-governmental organizations (NGO) registered by the Federal Government or un-registered; and
  - (f) any court, tribunal, commission or board; and



- (x) "public record" means—
  - (a) record specified in section 7, in any form, whether printed or in writing or in any form such as map, diagram, photograph, film, video, microfilm;
  - (b) transactions involving acquisition and disposal of property and expenditure undertaken by a public body;
  - (c) information regarding grant of licences, approvals, consents, allotments and other benefits and privileges and contracts made by a public body;
  - (d) any information required to be furnished by a person to a public body under any law or furnished for the purpose of receiving any benefit or advantage;
  - (e) any information of whatsoever nature in possession of a public body in which members of the public may have a legitimate interest, but does not include—
    - i. all internal working documents of a public body, including proposals for Cabinet's decisions, proposals relating to management of the national economy and other affairs of the Government, till such time that a final decision thereon has been taken and notified by the public body;
    - ii. matters relating to law enforcement and public safety, including-
      - a. investigative reports undertaken by agencies for the prevention and detection of crime and for the collection and assessment of taxes, including any information obtained or received in the course of any investigation; and
      - b. any information about the existence or non-existence or identity of a confidential source of information in relation to the enforcement of any law; and
    - iii. any information the disclosure whereof would endanger the life or physical safety of any person or prejudice the fair trial of a person or the impartial adjudication of a particular case before any court or tribunal;
  - (iv) any information relating to scientific or technical research the disclosure whereof would, or could reasonably, be expected to expose the concerned organization or project to disadvantage;
  - (v) any information the disclosure whereof would violate any intellectual property rights; and
  - (vi) any information regarding defence planning, deployment of forces, defence



3. **Access to information not to be denied.**—(1) Notwithstanding anything contained in any other law for the time being in force and subject to this Act, no request shall be denied access to any public record other than exempted under this Act.

(2) This Act shall be interpreted so as to advance its purposes, including to—

- (a) promote the right to know; and
- (b) facilitate and encourage, promptly and at the lowest reasonable cost, the disclosure of information.

4. **Maintenance and indexing of records.**—Subject to provisions of this Act and the rules as may be prescribed, principal officer of each public body shall ensure that records covered under clause (x) of section 2 are properly maintained.

5. **Publication and availability of records.**—(1) The Acts and subordinate legislation such as rules, regulations, bye-laws, notifications, orders, manuals, etc. having the force of law in Pakistan as well as reports of legislative and municipal proceedings and boards and commissions shall be duly published and made available at a reasonable price at an adequate number of outlets so that access thereto is easier, less time-consuming and less expensive.

(2) The principal officer of each public body shall, within six months of the commencement of this Act, cause to be published in the official Gazette or special publications and shall immediately make available for inspection and copying, during office hours at each of its offices and branches, the following information, namely:—

- (a) description of the public body's organization and functions indicating as far as possible the duties and functions of various officers of the public body empowered to take decisions;
- (b) statutes, statutory rules, regulations, bye-laws, orders, notifications applicable to the public body disclosing the date of their respective commencement or effect;
- (c) substantive or procedural rules and regulations, etc. of general application evolved or adopted by the public body;
- (d) statement of policies adopted by the public body and the criteria, standards or guidelines upon which discretionary powers are exercised by it;
- (e) the conditions upon which members of the public can acquire any licences, permits, consents, approvals, grants, allotments or other benefits of whatsoever nature from any public body or upon which transactions and contracts, including contracts of employment, can be entered into with the public body;
- (f) the methods whereby specific information in possession or control of the public body may be obtained and the basis of the fee required therefor.



- (g) such other matters which the principal officer of the public body deems fit to be published in the public interest:

Provided that no information otherwise already published in the official Gazette shall be required to be so published under this sub-section.

(3) Any amendment, alteration or modification relating to matters described in sub-section (1) shall also be published and made available for inspection and copying in the like manner and no person shall be adversely affected by any amendment, modification or alteration of any matter other than a statute.

6. **Computerization and voluntary disclosure of records.**—(1) Each public body shall Endeavour within reasonable time and subject to availability of resources that all public records covered under this Act are computerized and connected through a network all over the country on different systems so that authorized access to such public records is facilitated.

(2) Subject to the provisions of section 8, each public body shall put in place a mechanism for maximum voluntary disclosure of all information and record, especially—

- (a) Acts, rules, regulations, bye-laws, notifications, office orders, circulars, application forms, etc;
- (b) names, designations, functions and job description of the employees and consultants, advisers, etc. as well as names of designated officials; and
- (c) perks and privileges of all persons appointed in special grades, etc.

7. **Declaration of public records.**—(1) Subject to the provisions of section 8, all record of public bodies specified under this Act is hereby declared to be the public record.

(2) Notwithstanding anything contained in any law, for the time being in force, all documents shall become public record after twenty years of their commencement.

8. **Exclusion of certain record.**—(1) All exclusion and classification shall be accompanied by a record of reasons.

(2) Nothing contained in this Act shall apply to the following record of public bodies, namely:—

- (a) record of the banking companies and financial institutions relating to accounts of their customers;
- (b) record relating to deployment of defence forces, defence installations or connected or ancillary to national security;



- (c) record relating to meetings of the Cabinet, Council of Common Interests and National Economic Council and their committees having a bearing on national security;
- (d) record declared as classified by the Federal Government;
- (e) record relating to personal privacy of any individual; and
- (f) record of private documents furnished to a public body either on an express or implied condition that information contained in any such documents shall not be disclosed to a third person.

9. **Duty to assist requesters.**—Each public body shall take necessary steps as may be prescribed to assist any requester under this Act.

10. **Designation of official.**—(1) Each public body shall notify a designated official not below the rank of BPS-19 or equivalent, to whom requests under this Act are to be made and who shall ensure easy public access to information:

Provided that where no designated official has been notified or he is absent or not available, principal officer of the public body shall be the designated official.

11. **Functions of designated official.**—Subject to provisions of this Act and the rules made thereunder, the designated official shall provide the information contained in any public record or, as the case may be, a copy of any such public record.

12. **Applications for obtaining information, etc.**—Subject to sub-section (2), any citizen of Pakistan may make an application to the designated official in the form as may be prescribed and shall, with his application, furnish necessary particulars, pay such fee and at such time as may be prescribed.

(2) Nothing contained in sub-section (1) shall apply to such public record as has been published in the official Gazette or in the form of a book offered for sale or placed on website for consumption of general public.

13. **Procedure for disposal of applications and review.**—(1) Subject to sub-section (2), on receiving an application under section 12, the designated official shall, not later than twenty-one days of receipt of the request, supply to the applicant the required information or, as the case may be, a copy of the requisite public record.

(2) In case the designated official, on authority of the principal officer, is of the opinion that-

- (a) the applicant has not furnished necessary particulars or has not paid the prescribed fee; or
- (b) the required information or, as the case may be, the required record does not constitute a public record; or



- (c) the required information or, as the case may be, the required record constitutes a record which is excluded under section 8,

he shall record his decision with reasons in writing and the applicant shall be informed about such decision within twenty-one days of receipt of the application.

(3) The information or copy of any public record supplied to an applicant under sub-section (1) shall contain a certificate at the foot thereof that the information is correct or, as the case may be, copy thereof is a true copy of such public record and such certificate shall be dated and signed by the designated official.

(4) Where a designated official, within twenty-one days of receipt of the request, does not supply or refuses to supply to the applicant the required information or, as the case may be, a copy of the requisite public record, the applicant may, within a period of not exceeding thirty days, make a review application to principal officer of the public body:

Provided that where the principal officer, in his capacity as designated official under proviso to section 10, does not supply or refuses to supply to the applicant the required information or, as the case may be, a copy of the requisite public record, the review application may be made to the next higher authority.

14. **Information exempt from disclosure.**—Subject to provisions of this Act, a public body shall not be required to disclose information exempted.

15. **International relations.**—(1) Information may be exempt if its disclosure would likely to cause grave and significant damage to the interests of Pakistan in the conduct of international relations.

(2) In this section, “international relations” means relation between Pakistan and—

- (a) government of any other foreign State; or
- (b) an organization of which only States are members.

16. **Disclosure harmful to law enforcement.**—Information may be exempt if its disclosure is likely to—

- (a) result commission of an offence;
- (b) harm detection, prevention, investigation or inquiry in a particular case;
- (c) reveal identity of a confidential source of information;
- (d) facilitate an escape from legal custody; or
- (e) harm security of any property or system, including a building, a vehicle, a computer system or a communication system.



17. **Privacy and personal information.**—Information is exempt if its disclosure under this Act would involve invasion of privacy of an identifiable individual, including a deceased individual, other than the requester.

18. **Economic and commercial affairs.**—Information is exempt if and so long as its disclosure is likely to cause—

- (a) grave and significant damage to economy as a result of premature disclosure of a proposed introduction, abolition or variation of any tax, duty, interest rate, exchange rate or any other instrument of economic management;
- (b) significant damage to financial interests of the public body by giving an unreasonable advantage to any person in relation to a contract which that person is seeking to enter into with the public body for acquisition or disposal of property of supply of goods or services; or
- (c) significant damage to lawful commercial activities of the public body.

19. **Recourse to Wafaqi Mohtasib and Federal Tax Ombudsman.**—(1) Where, an applicant is aggrieved by decision of the principal officer or, as the case may be, the next higher authority in review under sub-section (4) of section 13, he may file a complaint with the Mohtasib and, in cases relating to Revenue Division, its subordinate departments, offices and agencies, with the Federal Tax Ombudsman.

(2) Where a complaint is filed under sub-section (1), provisions of the **Establishment of the Office of Wafaqi Mohtasib Order, 1983 (P.O. No. 1 of 1983)** or, as the case may be, the **Federal Tax Ombudsman Ordinance, 2000 (XXXV of 2000)** shall accordingly apply.

20. **Dismissal of frivolous, vexatious and malicious complaint.**—Where a complaint instituted is found to be malicious, frivolous, vexatious, the complaint may be dismissed by Mohtasib and fine may be imposed on the complainant up to an amount not exceeding ten thousands rupees, after providing him the opportunity of being heard.

21. **Offences.**—(1) An act of destroying 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, shall be an offence punishable with imprisonment for a term not exceeding two years or with fine or with both.

(2) The designated official who, without reasonable excuse, fails or refuses to provide inspection or disclose records under sections 9, 10, 11, 12 and 13 shall be liable to a fine not exceeding twenty-five thousand rupees.

22. **Indemnity.**—No suit, prosecution or legal proceedings shall lie against the principal officer, designated official or any other person of the public body in respect of anything which, in good faith, is done or purported to have been done under this Act and the rules made thereunder.



23. **Act to override other laws.**—The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

24. **Repeal.**—The Freedom of Information Ordinance, 2002 (XCVI of 2002) is hereby repealed.

25. **Power to remove difficulties.**—If any difficulty arises in giving effect to any of the provisions of this Act, the Federal Government may make such order not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty:

Provided that no such order shall be made after expiry of one year from commencement of this Act.

26. **Power to make rules.**—(1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the forgoing power, such rules may provide for the—

- (a) fee payable for obtaining information and copies of the public record;
- (b) form of application for obtaining information and copies of the public record; and
- (c) form in which information from the public record or a copy thereof shall be furnished.

Sd/-  
FARHATULLAH BABAR

Sd/-  
(M. DAUD KHAN)

KAMIL ALI AGHA  
Sd/-  
(RUBINA KHALID)

Sd/-  
(SAEED GHANI)

**STATEMENT OF OBJECTS & REASONS**

The proposed Bill is intended to promote a two way flow of Information *i.e.* from the government to the people and *vice versa* for strengthening and safeguarding the public 'Right to know', especially in the back drop of Article 19-A of the Constitution, which explicitly recognizes this right as a fundamental human right.

**WHEREAS**, Right to know is an inalienable birth right of an individual and is universally recognized, in a democratic dispensation. In a constitutional governance public officials are the custodians of the public records and documents, the people, the real sovereigns, have the right of access to all public records, subject to law and except the material disclosure of which may be harmful to national security, relations with the friendly countries and privacy of the life, home, family and honour of the citizens of Pakistan.

**WHEREAS**, access to information is an essential pre-requisite to the people's realization of their ideals of good and transparent governance and for which it is necessary to ensure that the citizens of Pakistan should have the fullest possible access to public records.

Therefore, in pursuance of the aforesaid objectives, this Bill is being introduced to ensure that the citizens of Pakistan may have the fullest possible access to public records.

**(Minister-In-Charge)**

## **Section 6**

Main Committee's Final  
Recommendations on  
Right to Information Bill, 2013



## **6. MAIN COMMITTEE'S FINAL RECOMMENDATIONS ON RIGHT TO INFORMATION BILL, 2013**

9<sup>th</sup> meeting of the National Assembly Standing Committee on Information, Broadcasting & National Heritage was held on 30-04-2014 at 2:00 p.m in Islamabad under the chair of MNA Marvi Memon. The meeting was attended by Marvi Memon (Chairperson), Dr. Muhammad Azhar Khan Jadoon MNA, Mr Murad Saeed MNA, Ms Ghulam Bibi Bharwana MNA, Waseem Akhtar Shaikh MNA, Tahir Iqbal Ch MNA, Syed Amir Ali Shah Jamote MNA, Imran Zafar Leghari MNA, Naeema Kishwar Khan MNA, Saman Sultana Jafri MNA, Arifa Khalid Parvez MNA, Marriyum Aurangzeb MNA and Mrs. Belum Hasnain MNA and Honorable Minister Senator Pervaiz Rasheed, Parliamentary Secretary MNA Mohsin Ranjha, and Representatives from the Ministry of Information, Broadcasting & National Heritage.

Main Committee's Final Recommendations on Right to Information Bill, as being proposed to Executive Branch which include those Recommendations of Sub-Committee that were not taken by Government Bill:

**1. Amendment in Section 12:** The RTI draft of the Federal Government has asked for both the fee to apply for information and a prescribed form to furnish request. The Chair suggests that if printed forms and copies are required, only then there should be charge of fees. However, if the application process is made online, it should be free of cost for the general public so as to reinforce the spirit of Article 19-A of the Constitution that declares access to information as basic right of every citizen.

**2. Formation of Independent Information Commission:**

Countries of the region like Bangladesh, Nepal and India have entrusted the task of protecting this right to *independent and autonomous information commissions*. Punjab & KPK RTI Bills also include the formation of independent and powerful information commission to take action against the departments denying public access to information. The ombudsman does not have any judicial authority and can only recommend that is not mandatory for the offending departments to comply with. It does not promise an independent and powerful information authority to take action against the departments.

**3. Legal Protection to Whistle Blowers:**

The draft RTI Bill has no provision that provides legal protection for Whistleblowers. The purpose of including such a provision is to encourage individuals to report serious misconduct and wrongdoing of public officials, while carrying out their official duties. In order to discourage individuals from whistleblowing in bad faith, the law must be clear to not protect information, which is a mere allegation, is false and is made in bad faith.

Inclusion of this clause is in compliance with the principles of FOI, which have been published by Article 19 - Global Campaign for Free Expression, in 'The Public's Right to Know: Principles on Freedom of Information Legislation' (1999). They were also

endorsed by the UN Special Rapporteur on Freedom of Opinion and Expression in 2000 and the Organisation of American States (OAS) Special Rapporteur on Freedom of Expression in 1999.

#### **4. Amendment in Section 8 2(d):**

Section 8 pertains to exclusion of record that includes 2(d); *“record declared as classified by the Federal Government.”*

This provision provides a wide discretion to declare any matter of public interest as not disclose-able to the public. This provision must be amended to give specific guidelines outlining the type of information that the Federal Government may declare as classified.

There is a dire need of establishing some criteria to define the terms ‘classified, secret, confidential and restricted information’. But any information pertaining to National Integrity should stand exempt.

#### **5. Rule 78 of “Rules of Procedures and Conduct of Business in National Assembly 2007”**

Articles 8, 14, 15, 16, 17 and 18 deal with the nature of information that is exempted under this law. The matter of what should be open to public scrutiny and what should be confidential is of utmost importance. Heavy criticism has been placed on RTI Bill, 2013’s draft for being overlapping, confusing and restrictive when it comes to the permissibility of State Records for the public. The chair suggests using the **Rule 78 of “Rules of Procedures and Conduct of Business in National Assembly 2007”** as yardstick. This Rule specifies the “Admissibility of Questions” by setting criteria for the nature of questions to be asked on the floor of the House. It explains both the admissibility and non-admissibility principles for the MNAs. If the Elected MPs serving in the most prestigious and apex State Institute, the National Assembly, are bound by Rule 78 and they cannot question anything over and above it, then it should serve well for the general public as well. And the debate of the liberty of access to information can be reassured by this Rule. **A copy of the Rules has been Annexed as Annex VI.**

#### **6. Broadening the scope of ‘Grievances of Complainant’:**

Section 2, pertaining to definitions describes “complaint” in a limited manner only. **Section 2(ii)(b)** limits the scope of “complaint” to denial & delay of information only. Whereas, grievance by applicant might also occur in the case of false, partial or misleading information provided. Following grievances may also be included here as these could also constitute a possible cause of complaint:

- *a public body has excessively charged a requester for the information provided.*
- *a public body has provided false or misleading information to a requester.*
- *only partial information has been provided to a requester.*
- *the requester feels that irrelevant information has been provided.*

**7. Broadening the scope of ‘Public Body’:**

**Section 2(ix)** defines the types of divisions, organizations and departments that fall under ‘public body’ and hence come under purview of this Bill.

Following establishments/ bodies have not been included in the definition of public body, which may also be considered to be added in the list:

- *National Assembly, Senate and respective Secretariats.*

**8. Exemptions under Sections 14 to 18:**

**Section 8** deals with exclusion of record. Whenever in the Bill, exclusions are referred to (for example in Section 7, Section 13(2)(c)), only section 8 is being mentioned. Whereas, **Sections 14 to 18** deal with Exemptions as well and need to be mentioned as well to avoid possible confusion.

**9. Procedure for disposal of applications and review:**

**Section 13(2)** states that *“In case the designated official, on authority of the principal officer, is of the opinion that...”*

If the Designated Official seeks authority/ blessing from the Principal Officer at this stage, there is no point in making a review application to Principal Officer under Section 13(4). Therefore, **this part of the statement may be deleted** to read only as: *“In case the designated official is of the opinion that...”*

**10. Time Frame for Disposal of Complaints by Wafaqi Mohtasib and Federal Tax Ombudsman:**

**Section 19** lacks deadline for the Wafaqi Mohtasib and Federal Tax Ombudsman to comply with, in disposal of any such complaints. For the clearance of such complaints by the Ombudsman, it’s imperative that a time frame be put in place. The deadline is suggested to be of ***three months extendable to further three months***, with reasons of such delay **till the time Information Commission is fully established & functional.**

**11. Offences by the Designated Official:**

**Section 21(2)** declares fine for the designated official in case he fails or refuses to provide inspection or disclose records. Apart from these offences, the designated official may be found guilty of furnishing **delayed, false, misleading, irrelevant or partial information.** Hence, these offences too should be added in this section and made punishable.

**12. Power to Make Rules:**

**Section 26(1)** empowers the Federal Government to make rules to carry out the purposes of this Act and reads as: *“The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.”*



A deadline needs to be put in place bounding the Government to make the subordinate rules, to ensure swift compliance with the draft Bill. It is recommended that a time frame of **60 days** be given to the Government to make rules for carrying out the purposes of this Act and the word 'may' be changed to read 'will'.

**13. Fine for Designated Official:**

The fine on offences under section **21 (1) and (2)** may be increased.

**14. Adding Time Lines & Accountability in the Rules made by the Ministry:**

The committee recommended that Time Lines be added to the different sections of the law to ensure swift implementation.

- i. It was suggested that this Act should give a deadline of say '**6 months** to all public bodies to implement Section 4 for '**Maintenance & Indexing of Records**'.
- ii. It would also be worthwhile giving a similar deadline for Computerization of public records as well, that is mentioned in **Section 6**.
- iii. It was also recommended that a maximum of **15 days' time limit** be given to the principal officer to respond to the review application of the complainant in **Section 13(4)**.
- iv. Accountability clauses for not implementing the RTI Act by public bodies are missing and should be incorporated in **Section 5**.

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## ANNEXURES



## WORLD RANKING OF LEGISLATION ON FREEDOM OF INFORMATION

Ranking Position	COUNTRY	Date	TOTAL
1	<u>Serbia</u>	2003	135
2	<u>India</u>	2005	130
3	<u>Slovenia</u>	2003	129
4	<u>Liberia</u>	2010	126
5	<u>El Salvador</u>	2011	124
6	<u>Mexico</u>	2002	119
7	<u>Antigua</u>	2004	118
8	<u>Azerbaijan</u>	2005	115
9	<u>Ukraine</u>	2011	115
10	<u>Ethiopia</u>	2008	114
11	<u>Nicaragua</u>	2007	113
12	<u>Macedonia</u>	2006	113
13	<u>Croatia</u>	2003	112
14	<u>South Africa</u>	2000	111
15	<u>Brazil</u>	2011	110
16	<u>Moldova</u>	2000	110
17	<u>Bangladesh</u>	2008	109
18	<u>Kosovo</u>	2003	106
19	<u>Yemen</u>	2012	105
20	<u>Finland</u>	1999	105
21	<u>Nepal</u>	2007	104
22	<u>Kyrgyzstan</u>	2007	103



23	<u>Bosnia and Herzegovina</u>	2000	102
24	<u>Panama</u>	2002	102
25	<u>Indonesia</u>	2010	101
26	<u>United Kingdom</u>	2000	99
27	<u>Uganda</u>	2005	98
28	<u>Russia</u>	2009	98
29	<u>Georgia</u>	1999	97
30	<u>Armenia</u>	2003	96
31	<u>Guatemala</u>	2008	96
32	<u>Peru</u>	2003	95
33	<u>New Zealand</u>	1982	94
34	<u>Estonia</u>	2000	94
35	<u>Chile</u>	2008	93
36	<u>Ireland</u>	1997	92
37	<u>Sweden</u>	1766	92
38	<u>Bulgaria</u>	2000	91
39	<u>Uruguay</u>	2008	91
40	<u>Trinidad</u>	1999	91
41	<u>Jamaica</u>	2002	90
42	<u>Nigeria</u>	2011	90
43	<u>United States of America</u>	1966	89
44	<u>Tunisia</u>	2011	89



45	<u>Montenegro</u>	2005	89
46	<u>Hungary</u>	2011	87
47	<u>Belize</u>	1994	85
48	<u>Honduras</u>	2006	85
49	<u>South Korea</u>	1996	84
50	<u>Australia</u>	1982	83
51	<u>Romania</u>	2001	83
52	<u>Netherlands</u>	1991	83
53	<u>Mongolia</u>	2011	82
54	<u>Colombia</u>	1985	82
55	<u>Canada</u>	1983	79
56	<u>Norway</u>	2006	78
57	<u>Malta</u>	2008	78
58	<u>Switzerland</u>	2004	77
59	<u>Rwanda</u>	2013	77
60	<u>Angola</u>	2002	76
61	<u>Thailand</u>	1997	76
62	<u>Ecuador</u>	2004	75
63	<u>Niger</u>	2011	74
64	<u>Portugal</u>	2007	73
65	<u>Zimbabwe</u>	2002	72
66	<u>China</u>	2007	72
67	<u>Saint Vincent and the Grenadines</u>	2003	72



68	<u>Czech Republic</u>	1999	72
69	<u>Turkey</u>	2003	72
70	<u>Latvia</u>	1998	72
71	<u>Slovakia</u>	2000	70
72	<u>Spain</u>	2013	70
73	<u>Albania</u>	1999	69
74	<u>Cook Islands</u>	2009	69
75	<u>Guyana</u>	2013	69
76	<u>Israel</u>	1998	68
77	<u>Japan</u>	1999	67
78	<u>Argentina</u>	2004	66
79	<u>Pakistan</u>	2002	66
80	<u>Guinea</u>	2010	66
81	<u>Greece</u>	1999	65
82	<u>Denmark</u>	1987	64
83	<u>France</u>	1978	64
84	<u>Iceland</u>	1996	64
85	<u>Lithuania</u>	1996	64
86	<u>Poland</u>	2001	62
87	<u>Uzbekistan</u>	1997	61
88	<u>Dominican Republic</u>	2004	61
89	<u>Taiwan</u>	2005	60
90	<u>Italy</u>	1990	57
91	<u>Belgium</u>	1994	56
92	<u>Jordan</u>	2007	55
93	<u>Germany</u>	2005	52
94	<u>Tajikistan</u>	2002	51



95	<u>Liechtenstein</u>	1999	39
96	<u>Austria</u>	1987	37

Source: [http://www.rti-rating.org/country\\_data.php#](http://www.rti-rating.org/country_data.php#)



78. **Admissibility of questions.**- In order that a question may be admissible, it must satisfy the following conditions, namely,-

- (a) It shall not bring in any name or statement not strictly necessary to make the question intelligible;
- (b) if it contains statement, the member shall make himself responsible for the accuracy of the statement;
- (c) it shall not contain arguments, inferences, ironical expressions, imputations, epithets or defamatory statements;
- (d) it shall not ask for an expression of opinion or the solution of an abstract legal question or a hypothetical proposition;
- (e) it shall not refer to the character or conduct of any person except in his official or public capacity nor to character or conduct which can be challenged only on a substantive motion;
- (f) it shall not ordinarily exceed one hundred and fifty words;
- (g) it shall not relate to a matter which is not primarily the concern of the Government;
- (h) it shall not make or imply a charge of a personal character;
- (i) it shall not raise question of policy too large to be dealt with within the limits of an answer to a question;
- (j) it shall not repeat in substance questions admitted for the same session or already answered or disallowed by the Speaker or to which an answer was refused in the Assembly during the last two sessions;
- (k) it shall not be trivial, vexatious, vague or meaningless;
- (l) it shall not ask for information contained in documents accessible to the public or in ordinary works of reference;
- (m) it shall not ask for information on matters under the control of bodies or persons not primarily responsible to the Government, or in which the Government has no financial interest;
- (n) it shall not contain references to newspapers by names and shall not ask whether statements in the Press or by private individuals or by non-official bodies are accurate;
- (o) it shall not ask for information regarding Cabinet discussions, or any advice given to the President, or in relation to any matter in respect of which there is a constitutional or statutory obligation not to disclose information;
- (p) it shall not ask for information on matters which are under consideration before a Committee of the Assembly; nor shall it ask for information about the proceedings of any such Committee unless such proceedings have been placed before the Assembly or, as the case may be, by a report of the Committee;



(q) it shall not,-

- (i). contain any reflection on the conduct of the President or a Judge of the Supreme Court or of a High Court; or
  - (ii). ask for information on matters which have already been discussed by means of an adjournment motion or otherwise during the same session; or
  - (iii). contain any criticism of the decision of the Assembly or the Senate; or
  - (iv). seek information about matters which are in their nature secret or sensitive; or
  - (v). criticise or refer discourteously to a foreign country;
- (r) it shall not contain any reflection on a decision of a court of law or statutory tribunal established in Pakistan or such remarks as are likely to prejudice a matter which is *sub-judice*;
- (s) it shall not amount in substance to a suggestion for a particular course of action;
- (t) it shall not ordinarily ask for information on matters of past history;
- (u) it shall not ordinarily ask about matters pending before any statutory tribunal or statutory authority performing any judicial or quasi-judicial functions or any commission or court of inquiry appointed to enquire into or investigate any matter but may refer to matters concerned with procedure or subject or stage of enquiry if it is not likely to prejudice the consideration of the matters by the tribunal or commission or court of enquiry; and
- (v) it shall not relate to a matter, except as to a matter of fact, which is, or has been, subject-matter of correspondence between the Federal Government and Provincial Government.

79. **Short notice questions.**- (1) A question relating to a matter of public importance may be asked with notice shorter than fifteen clear days and if the Speaker is of the opinion that the question is of an urgent character he may direct that an enquiry may be made from the Minister concerned if he is in a position to reply and, if so, on what date:

Provided that,-

- (a) a member may not ask more than one short notice question on any one day; and