

# Strengthening the Right to Information in Pakistan



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The effective functioning of democracy hinges on an informed citizenry capable of holding decision-makers accountable, and meaningful public participation in governance processes. Central to this ideal is the right to information (RTI), a powerful tool that enables citizens to scrutinize governmental actions and bridge the gap between state and society. By enabling access to public records, RTI regimes not only combat secrecy having political and economic costs, but also reinforce trust in democratic institutions. The need for greater transparency has increased manifold as the governments around the world are struggling to deal with disinformation and stumbling at their efforts to deal with it.

The global evolution of RTI legislation reflects its growing importance as a pillar of modern governance. While Sweden pioneered the first formal law in the 18th century granting public access to government information, the United Nations' 1946 Resolution catalyzed broader acceptance by enshrining freedom of information as a fundamental human right. This momentum drove established democracies like the United States (1966), France (1978), and the United Kingdom (2000) adopt RTI frameworks, which have since evolved significantly. In South Asian region, Indian higher courts had established access to government information as an essential part of the right to freedom of speech and expression in

the seventies, yet a legal framework regulating the exercise of this right was introduced in 2005. Today, over 120 countries have institutionalized RTI, reflecting its universal relevance in an era of growing demands for transparency and accountability in governance.

Yet, the promise of RTI laws is often encumbered by persistent challenges. Even in countries with well-established legal frameworks, barriers such as excessive exemptions, bureaucratic delays, and political interference undermine their efficacy. Emerging complexities such as the digital revolution, cybersecurity risks, and the spread of misinformation further complicate these challenges, demanding continuous adaptation and vigilance.

Pakistan's RTI trajectory also mirrors this duality of progress and persistent challenges. The federal Freedom of Information Ordinance 2002 was the first step, but it lacked teeth, adhering to what the Supreme Court, in a recent

## EVOLUTION OF RTI LAWS IN PAKISTAN



- 2002**  
Federal Freedom of Information (FOI) Ordinance Promulgated
- 2005**  
Balochistan enacts a replica of federal FOI law
- 2006**  
Sindh enacts the FOI law
- 2006**  
Major political parties commit in Charter of Democracy to introduce new Access to Information law
- 2010**  
Right to Information recognized in the Constitution as a Fundamental Right
- 2013**  
Khyber Pakhtunkhwa and Punjab enact new RTI laws
- 2017**  
Parliament enacts federal Right to Access of Information Act
- 2017**  
Sindh replaces FOI law with Transparency and Right to Information Act
- 2021**  
Balochistan repeals FOI Act and enacts new Right to Information law

judgement, described as a “need-to-know” approach instead of “right-to-know” framework. The recognition of RTI as a fundamental right in the 2010 Constitutional Amendment was a watershed moment. Subsequent provincial and federal legislation on the subject have gradually modernized the framework. On paper, the Pakistani RTI laws now rank among the world’s most progressive; in practice, however,

implementation remains weak. A recent assessment by the Free and Fair Election Network (FAFEN) found that federal bodies proactively disclose only 42 percent of mandated information. This paper argues that Pakistan’s RTI regime, despite its advanced legal provisions, is stifled by institutional inertia and deep-rooted secrecy norms. By examining gaps in the Right of Access to Information Act, 2017, and

proposing context-specific reforms, it explores ways for a more transparent, participatory governance model – one where the citizens’ right to know translates into meaningful participation in public affairs. These reforms will also serve as a bulwark in government’s efforts to counter destabilizing disinformation that is a major contributory factor in deepening political polarization in the country.

## LEGAL GAPS AND IMPLEMENTATION CHALLENGES

**A Limited proactive disclosures due lack of oversight and clear timelines:** Section 5 of the Act requires the public bodies to proactively publish the information about the organizational structures, functions, legal and regulatory frameworks along with contextual details, decision-making processes, financial records and the camera footages of public places, on the internet. However, for records predating 2008, the section does not specify a timeline, leaving it to the discretion of the public body. Similarly, Section 6 requires the computerization of all these records, but does not set a clear timeline for compliance. Despite more than seven years since the Act’s enactment, public bodies have yet to fulfill these requirements. With limited oversight from the Information Commission and no consequences for missing deadlines, meeting even the most basic disclosure standards could remain indefinitely delayed.

**B Narrow definition of public bodies excludes constitutional institutions from the Act’s scope:** While the definition of “public body” under the Act covers almost every organization that the federal government runs, funds or regulates, and institutions beyond the scope of federal government’s control such as the Parliament, it falls short of

explicitly brining other constitutional bodies such as the Supreme Court in its purview. A 2023 judgement of the Supreme Court has also affirmed this limitation on an appeal against the refusal of information from the Court.

**C Information Commission’s role is restricted to an appellate forum rather than a proactive enabler of information access:** The Information Commission functions primarily as an appellate body rather than a proactive enforcer of information access. Lacking the authority to enforce strict compliance, it struggles to hold non-compliant public bodies accountable. Currently, its role is confined to serving as an appellate forum against refusals of information requests. In terms of legal compliance, the Commission acts only as a facilitator, providing training and performance reports. Given the rigid nature of government, expecting public bodies to reform without proper oversight is unrealistic. Strengthening the Information Commission with stronger oversight powers and authority concerning public bodies’ responsibilities under the Act would better serve the Act’s purpose of promoting transparency and reducing inefficiencies in governance.

**D Legal inconsistencies may hinder disclosure of information:** Section 5 of the Act requires public bodies to proactively disclose a directory of officers and employees, including their duties, functions, remunerations, perks, and privileges. However, Section 7(g), which exempts records relating to personal privacy, creates a loophole that public officials may exploit to withhold such information. Similarly, Section 6 lists just a few types of information that must be made public. It would have been more effective if the Act outlined only the clear exemptions while making all other information presumed to be public. Such legal ambiguities can restrict access to information that is essential for public accountability.

**E Broader and arbitrary exemptions without specific details hamper openness:** Section 7 excludes a wide range of records from the definition of public records, including broad categories such as defense forces’ records and private records furnished to public bodies. In the absence of a harm-test, these broad exemptions can be misused to withhold information that should otherwise be publicly accessible. Moreover, granting ministers the discretionary powers to classify any public record as exempt

from the purview of the Act may further weaken transparency.

**F** Commission's autonomy remains elusive without financial independence and government's control on Information Commissioners' appointment and removal: The authority to appoint

Information Commissioners rests solely with the Prime Minister, without broader parliamentary oversight, unlike other independent commissions. While the Act provides for operational and administrative autonomy, it does not ensure financial independence as the Federal Government retains control over the budgetary allocations.

A commission tasked with protecting a constitutional right must have financial autonomy to function independently. Without it, the Commission remains susceptible to government influence, potentially compromising its ability to uphold transparency and accountability.

## RECOMMENDATIONS FOR LEGAL AND OPERATIONAL REFORMS

### **A** Strengthen the Legal Framework for the RTI Act by Removing Legal Ambiguities and Enhancing Information Commission's Authority

The Parliament may consider introducing the following amendments to the Right to Access of Information Act, 2017:

- i. Specify timelines for proactive disclosures and computerization: Amend Sections 5 and 7 of the Act to require public bodies to publish historical records and digitize information within specified timelines, removing discretionary delays often linked to the availability of resources.
- ii. **Remove legal inconsistencies:** Section 6 of the Act may be removed to ensure that all kinds of records are available to the public by default, and only those falling under clearly defined exceptions could be withheld. Similarly, amend Section 7(h) to explicitly exclude the remunerations, perks and privileges paid to the public officials from the scope of the personal privacy as defined as section 5.
- iii. **Consultative and bipartisan process for appointment and removal of Information Commissioners:** Introduce a consultative and bipartisan parliamentary committee for the appointment and removal of the Information Commissioners

including the Chief Information Commissioner by amending Sections 18(3) and 18(8). Such a process will help insulating the Commission from the government influence by taking away the discretion of the Prime Minister on the appointment and the discretion of the Speaker in constituting the committee to consider complaints against the Information Commissioners and recommend their removal.

- iv. **Ensure mandatory compliance by public bodies:** Institute provisions for mandatory submission of annual compliance report by the public bodies to the Information Commission. Expand the scope of the Commission's functions to ensure the implementation of the Act by empowering it to impose penalties on the public bodies for non-compliance.
- v. **Financial autonomy of Information Commission:** Amend section 21 to provide for financial autonomy to the Information Commission.

### **B** Promoting Transparent and Accessible Record-Keeping Standards

The Information Commission should lead the effort to collaborate with public bodies in establishing standardized formats for record-keeping and such practices that are truly accessible and understandable to citizens. Under the existing

requirements of the Act, public bodies follow the Secretariat Instructions, 2004, or additional Federal Government guidelines for record management. Current information published as part of proactive disclosures on the websites mostly is in raw and unorganized form. The proposed minimum standards must emphasize searchable databases, clear summaries, and intelligent indexes that enable citizens to easily locate and comprehend the information they require. In many advanced democracies, public bodies have set standards that go beyond mere compliance; they ensure that data is presented in plain language, accompanied by explanatory metadata and user guides.

### **C** Leveraging Digital Means for Wider Awareness and Public Complaints Facilitation

The Information Commission should establish an online complaint handling and resolution mechanisms to enhance efficiency and accessibility. Such a digital platform should allow citizens to file complaints, track their status in real-time, and receive automated updates. This would not only streamline the process, but also improve accountability by reducing delays and bureaucratic inefficiencies.

In addition, the Information Commission should adopt a proactive and sustained public outreach approach for wider awareness on the right to information. Instead of relying on a few isolated events, regular

awareness campaigns should be conducted employing diverse mediums such as social media, radio, television, and other community engagement programs. Such campaigns and an expanding body of citizens actively exercising their right to information will also aid the gradual shift from the entrenched culture of secrecy in public bodies toward greater openness and transparency.

### **D** Replication of National Best Practices Across Commissions

The implementation of RTI laws varies significantly across provinces. Establishing a regular mechanism for sharing and adopting national best practices can accelerate progress toward the objectives of RTI laws. For instance, both the Punjab and Khyber Pakhtunkhwa Information Commissions maintain a Public Information Officer database with contact details on their websites, facilitating easier access to

information. Moreover, the Khyber Pakhtunkhwa Information Commission provides an online complaint registration and tracking system, enhancing public engagement. The Sindh Information Commission, though less consistent, publishes a cause list for appeal hearings on its website and social media. Institutionalizing such best practices at the federal level can significantly improve the effectiveness and uniformity of RTI implementation nationwide.



## ABOUT FAFEN

FAFEN is the first-ever network of civil society networks in Pakistan dedicated to strengthening democracy through observation and oversight of electoral, parliamentary, and governance processes. As many as 20 regional networks with over 500 tehsil-level civil society organizations. FAFEN is one of the most credible voices in the country for responsive, transparent, accountable, and efficient electoral, legislative, and local governance.

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