



From Pioneer to Performer:

Making Khyber
Pakhtunkhwa's Right to
Information Act Work
Against Disinformation

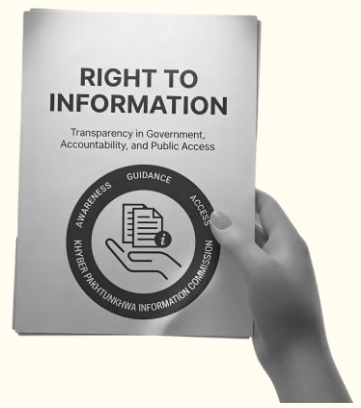


Countering Disinformation Through Reliable
Government Information

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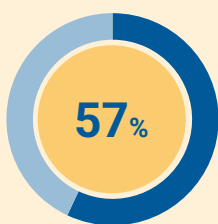
Introduction

Khyber Pakhtunkhwa has the distinction of being the first province in Pakistan to enact a Right to Information (RTI) law after the inclusion of Article 19A in the Constitution through the Eighteenth Constitutional Amendment of 2010. The Khyber Pakhtunkhwa Right to Information (KPRTI) Act, 2013 marked a transition from freedom of information ordinances to more enabling RTI laws. Twelve years on, however, a 2025 assessment by the Free and Fair Election Network (FAFEN) of 190 public bodies – 36 Secretariat Departments, 98 Attached Departments, and 56 Autonomous Bodies – reveals that the province's practice has not yet caught up with its pioneering legislation.

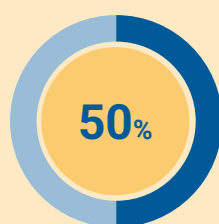
The province-wide average compliance rate with KPRTI Act's proactive disclosure requirements stands at 57 percent. No public body assessed achieved full compliance with the KPRTI Act's proactive disclosure requirements. The information that remains undisclosed is not merely administrative but also includes information on how decisions are made, how budgets are spent, who receives government licences and concessions, and whom to contact to file an information request.

Against this backdrop, this policy brief synthesises FAFEN's assessment findings with a systematic review of the KPRTI Act, 2013, as amended until 2025, to identify structural gaps and propose targeted legislative reforms. It is addressed to the Provincial Assembly and the Government of Khyber Pakhtunkhwa. It is produced under FAFEN's campaign – Countering Disinformation Through Reliable Information – which rests on an evidence-based premise that the structural remedy for disinformation is proactive, enforced, and accessible publication of official information. Punitive laws that criminalise unverified information are not the answer. Instead, they risk chilling legitimate speech while failing to address the root cause. The answer is already encoded in the KPRTI Act itself. The challenge is to make the Act's promise a governance reality.

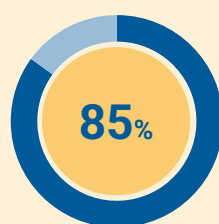
KEY FACTS – KP RTI COMPLIANCE



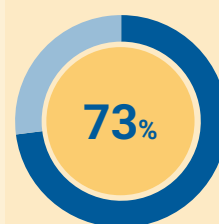
Overall average compliance of 190 public bodies with KPRTI Act proactive disclosure requirements.



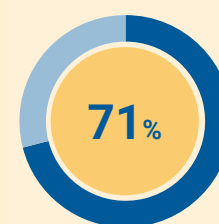
Compliance rate of Attached Departments – the weakest category, with half of required information absent.



Public bodies that disclosed no information on decision-making processes or public consultation mechanisms.



Public bodies that published no budget information (proposed or actual expenditures).



Public bodies that did not identify their Public Information Officers or explain how to submit information requests.

1. The Pioneer's Paradox: Early Leadership, Unfinished Implementation

Khyber Pakhtunkhwa’s legislative head start has produced some genuine institutional achievements. The Khyber Pakhtunkhwa Information Commission’s website showcases Proactive Disclosure compliance by public bodies, an online complaint submission system, and a comprehensive database of Public Information Officers (PIOs). These are meaningful infrastructure investments that federation and other provinces have not yet replicated fully. While these measures reflect institutional will, 43 percent compliance gap demonstrates that infrastructure alone does not produce disclosure.

FAFEN’s 2025 assessment of 190 public bodies websites documents varying compliance with the requirements of Section 5(1) of the KPRTI Act, which mandates proactive disclosure across 11 categories of information, including organisational overviews, personnel details, public service criteria, legal frameworks, decision-making processes, financial transparency, and access to information mechanisms. The table below shows compliance rates across all categories:

Disclosure Requirement	KPRTI Clause	Compliance Rate
Legal frameworks and policies	5(1)(a)	84%
Functions and duties of public body	5(1)(b)	89%
Personnel directory – powers, remuneration, perks	5(1)(c)	76%
Public service norms and criteria	5(1)(d)	76%
Decision-making processes and public consultation	5(1)(e)	15%
Background and facts on key decisions	5(1)(f)	61%
Budget – proposed and actual expenditures	5(1)(g)	27%
Subsidy and benefit programme details	5(1)(h)	23%
Recipients of concessions, permits, authorisations	5(1)(i)	4%
Categories of information held	5(1)(j)	94%
PIO contact details and request procedure	5(1)(k)	29%

Among these 11 categories, compliance appears high on information that carries the least institutional risk – legal frameworks, organisational overviews, categories of information held. However, it collapses precisely where public interest is highest such as decisions, budgets, subsidies, and permits.

Each of these gaps is precisely where rumour, politically motivated misrepresentation, and disinformation about government actions are most likely to take hold and spread. When citizens cannot find official budget documents on government websites, budget figures circulate on social media without verification. When decision-making processes are not published, speculation about government intentions fills the information vacuum. When PIO contact details are absent from 71 percent of public bodies, citizens cannot exercise the demand-side mechanism that makes RTI laws self-enforcing.

These gaps reflect that the KPRTI Act currently lacks the enforcement mechanisms necessary to compel disclosure of information that public institutions prefer to withhold.

2. Legal and Implementation Gaps in the Existing KPRTI Framework

The KPRTI Act, 2013, widely recognised as among the strongest right to information laws in Pakistan, has been amended three times since its enactment in 2013. The 2015 amendments (Acts No. XXIV and XXXV of 2015) introduced minor verbal and procedural changes regarding title of Public Information, quorum requirements for the Information Commission meetings, and adjusted offences to be triable by the District and Sessions Court. The May 2025 amendment (Act No. XIII of 2025) expanded the definition of ‘requester’ to include legal persons and registered organisations, required public body heads to facilitate PIOs in their functions, introduced a right of appeal to the Peshawar High Court against commission orders, empowered the commission to make regulations, and barred civil court jurisdiction over matters before the commission.

Despite clear legal intent, multiple structural gaps in the law weaken its enforcement, limit institutional independence, and leave obligations without adequate accountability mechanisms, resulting into the transparency promise remaining unfulfilled.

FAFEN’s review of the KPRTI Act identifies the following structural deficiencies in the legal and institutional framework:

2.1. Definitional Gaps Enabling Selective Compliance

Several key terms lack the precision required to prevent selective interpretation. These include:

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Unlike the federal law, the definition of ‘public body’ in KPRTI Act does not extend to non-governmental and private entities receiving government contracts, tax concessions, or subsidies from the provincial exchequer, limiting citizens’ ability to scrutinise public resource flows to the private sector.



ii

While the law provides a generic definition of the term ‘information’, it falls short of explicitly enumerating modern record types, such as audio-visual material, electronic instruments, photographs, maps, or machine-readable data, creating uncertainty about whether digital records fall within the Act’s scope.



iii

The law encourages publication of information through internet, but it does not clearly define the digital infrastructure for information disclosures, leaving the digital disclosures subject to interpretations.



2.2. Weak Enforcement of Proactive Disclosure Obligations

Despite the Act’s explicit proactive disclosure mandate in Section 5(1), and the requirement under Sections 5(2) and 5(3) for public bodies to submit annual implementation reports, the assessment found that the majority of public bodies do not publish these reports and there is no effective enforcement mechanism for this obligation. The Information Commission’s powers under Section 25(3) are primarily facilitative – monitoring, training, and making recommendations – and do not include the authority to impose penalties on public bodies for failure to meet Section 5 obligations.

2.3. Absence of Standardised Disclosure Formats

The Act does not empower the Information Commission to prescribe standardised formats for proactive disclosure, resulting in wide variation in how public bodies interpret their Section 5 obligations. A 'budget' disclosure ranges from a full expenditure statement on one website to a single line item on another. Without standardised formats, meaningful cross-institutional comparison is impossible and citizens face significant barriers to comprehending and using the information that is disclosed.

2.4. Inadequate Commission Independence: Appointment, Continuity, and Removal

The operational effectiveness of the KPRTI Act depends on the independence and continuity of the Khyber Pakhtunkhwa Information Commission. The current framework has three significant structural weaknesses.

First, under Section 24(3), the Chief Information Commissioner is appointed by the Government alone, with no requirement for consultation with the Provincial Assembly or any bipartisan mechanism. This concentrates appointment authority in the executive branch, making the commission's composition vulnerable to political considerations.

Second, the Act provides no continuity mechanism or binding timeline for filling vacancies. The Chief Information Commissioner's office has been vacant since June 2025, with no statutory obligation compelling the government to initiate the appointment process within any defined period. A similar delay preceded the appointment of the outgoing Chief Information Commissioner. These recurrent vacancies are not merely administrative failures; they reveal a structural gap in the law that allows the commission's enforcement capacity to be suspended without any breach of a statutory obligation.

Third, the removal process under Section 24(8) allows commissioners to be removed by a vote of the remaining commissioners on broadly defined grounds, without requiring an independent parliamentary or judicial inquiry or High Court reference.

2.5. Absence of Inspection Powers and Binding Directions

The Information Commission's enforcement powers under Section 26 are structured around the complaints process. When a citizen files a complaint, the commission may order disclosure, impose fines, or require remedial action by a specific public body. What the commission cannot do is act proactively to inspect public bodies' record-keeping practices, audit compliance with Section 5 obligations, or issue binding instructions outside the complaints process. This restricts the commission to a reactive role and means that public bodies which have never faced a formal complaint remain effectively beyond enforcement reach, regardless of how poorly they comply with the Act.

2.6. Financial Dependence on Executive Allocations

Section 27 provides that the Government shall make budgetary allocations to the Information Commission as it 'may require' to discharge its responsibilities. This makes the commission's operational capacity contingent on executive goodwill. There is no independent fund, no ring-fenced budget, and no provision for the commission to generate and retain its own income. A commission whose funding is determined by the executive it is mandated to hold accountable faces an inherent structural tension that can compromise operational independence in practice, even where formal independence exists on paper.

2.7. Absence of Mandatory Strategic Planning

The Act does not require the Information Commission to develop and publish a strategic plan for RTI implementation across the province. Without a mandated planning framework, the commission's activities lack publicly accountable priorities, timelines, and resource allocations. Strategic planning tabled before the Provincial Assembly would subject the commission's institutional agenda to legislative scrutiny.

2.8. Digital Infrastructure Resting on Administrative Discretion

The Khyber Pakhtunkhwa Information Commission has invested in valuable digital infrastructure including a Proactive Disclosure portal, an online complaint submission system, and a PIO database. These advances exceed what other information commissions across the country have achieved. However, they rest on administrative discretion rather than statutory obligation. The Act does not require digital tracking of information requests, mandate electronic notifications to applicants, or provide a statutory basis for the commission's portal. Infrastructure built on discretion can be withdrawn on discretion. Legislating these commitments would render them permanent and enforceable.

3. Recommendations for Strengthening KPRTI Act

FAFEN urges the Provincial Assembly as well as Khyber Pakhtunkhwa Government to initiate a reforms process to further strengthen the KPRTI Act, 2013. The following recommendations address the Act's structural gaps, drawing from FAFEN's compliance assessment and a systematic review of the Act's provisions.

3.1. Strengthen the Act's Definitional Framework

Section 2 of the Act may be amended to further clarify the following definitions:

- **Public body:** Expand the definition to cover any private and non-government institution receiving rebates, tax concessions, subsidies, or funds from the public exchequer.

- **Information:** Expand the definition to cover any memo, book, design, map, contract, pamphlet, notification, document, project proposal, photograph, audio, video, film, electronic instrument, or machine-readable material regardless of physical form – ensuring that digital records are unambiguously covered.

- **Right to information:** The definition should include the right to inspect works and documents, obtain certified copies, and receive information in electronic form.

- **Website:** Define as an official web portal managed by the public bodies and Khyber Pakhtunkhwa Information Commission where information is made available for public, creating a statutory basis for the digital infrastructure the commission has already developed.

3.2. Secure Commission Independence – Appointment, Continuity, and Removal

The KPRTI Act's enforcement effectiveness depends on the independence of the Khyber Pakhtunkhwa Information Commission. Following structural changes may be made by amending Section 24:

- **Appointment process:** The appointment of the Chief Information Commissioner and commissioners under Section 24 of the Act should follow a bipartisan parliamentary process, similar to the one provided for appointment of the Chief Election Commissioner, ensuring broader consultative mechanisms through a committee of the Provincial Assembly of Khyber Pakhtunkhwa with representation from both treasury and opposition benches.

- **Continuity provision:** A new sub-section should provide that the Chief Information Commissioner and commissioners continue in office until their successors assume charge, but for no more than six months beyond term expiry. The appointment process for successors should commence at least 90 days before term expiry, with new appointees notified within 30 days before the existing term ends.

- **Removal process:** The current removal provisions are insufficiently robust. The Act should require a reference to the Peshawar High Court, which must inquire and report that grounds for removal are established.

3.3. Mandate Annual Compliance Reporting and Senior-Level Accountability

While Sections 5(2) and 5(3) already require annual implementation reports, the provision lacks enforcement teeth. Following amendments may be made to Section 5:

- Insert a new sub-section explicitly requiring the head of each public body to actively support and facilitate the PIO in discharging all functions under the Act, including timely compliance with proactive disclosure obligations.

- Empower the Information Commission to impose penalties on public bodies that fail to submit annual compliance reports or whose reports demonstrate systematic non-compliance with Section 5 obligations.

- Require annual compliance reports to be tabled in the Provincial Assembly and made publicly accessible on the commission's portal.

3.4. Mandate Commission Inspection Powers and Binding Directions

The commission currently lacks explicit statutory authority to inspect public body records or to issue binding instructions on disclosure and record-keeping. Sections 25 and 26 may be amended by:

- Authorising the commission to conduct periodic inspections of public bodies' records;

- Empowering the commission to issue binding instructions on how records must be maintained, what must be disclosed, and in what timeframe; and

- Inserting a new provision – Assistance to the Commission – requiring all provincial executive authorities to actively assist the commission in the performance of its functions.

3.5. Establish Financial Independence for the Commission

Section 27 of the Act provides limited financial scope. The Act should be amended to establish a dedicated Khyber Pakhtunkhwa Right to Information Fund vesting in the commission, sustained by government grants-in-aid, donations from provincial, national, and international agencies, and the commission's own investment income. The Chief Information Commissioner should serve as the principal accounting officer. Annual accounts should be audited by the Auditor General of Pakistan and tabled in the Provincial Assembly and Public Accounts Committee.

3.6. Require Five-Year Strategic Planning Tabled Before the Assembly

A new provision under Section 25 should require the commission to lay a five-year strategic plan before the Provincial Assembly, setting out objectives, priorities, proposed methods of achievement, a timetable, and cost estimates. The plan should be prepared in consultation with the Assembly's standing committee, public bodies, and other stakeholders. Mid-term revision should be permitted. This provision would bring institutional transparency to the commission itself, and embed legislative oversight into the commission's planning cycle.

3.7. Build Digital Infrastructure into the Legislative Framework

Khyber Pakhtunkhwa Information Commission has already invested in digital RTI infrastructure. The Act should statutorily embed these commitments:

- **Digital tracking system:** A requirement to notify RTI applicants by email or SMS at each stage of request processing should be written into the Act, not left to administrative discretion.

- **RTI mobile application:** The commission should be mandated to develop and maintain a mobile application to enable easy access and submission of information requests.

- **RTI Index:** The commission should be required to publish a periodic RTI compliance index scoring all public bodies and making results publicly available – creating reputational accountability for non-compliant institutions.
- **Virtual hearings:** The commission should be authorised and required to enable online hearings for citizens in areas where physical attendance is impractical.

3.8. Mandate Standardised Disclosure Formats

The assessment found that many public bodies are unclear about what Section 5 proactive disclosure requirements entail in practice. The commission should be required – In consultation with public bodies – to develop standardised information formats tailored to the specific functions of each category of public body. These formats should be mandatory, updated annually, and published on the central portal.

Conclusion

Khyber Pakhtunkhwa was the first province in Pakistan to act on the constitutional guarantee of the right to information. That distinction carries a continuing obligation. The KPRTI Act 2013 laid sound legislative foundations. Twelve years on, a 57 percent average compliance rate – and a 50 percent rate among Attached Departments – demonstrates that foundations alone do not build the house.

The information voids that persist are not neutral absences. They are the terrain on which disinformation about government decisions, government spending, and government accountability thrives. The response cannot be punitive legislation directed at those who fill the vacuum with unverified claims. The response must be the systematic, enforceable, and institutionalised publication of the information that makes such claims unnecessary.

The amendments recommended in this brief address the KPRTI Act's structural gaps in definitional precision, enforcement powers, commission independence, financial sustainability, and digital accessibility. They would transform the Act from a transparency aspiration into a transparency mechanism. FAFEN urges the Khyber Pakhtunkhwa Provincial Assembly – the institution that created Pakistan's first RTI law – to now create its most effective one.



The Free and Fair Election Network (FAFEN) is Pakistan's largest civil society network of networks dedicated to strengthening democracy through observation and oversight of electoral, parliamentary, and governance processes. FAFEN's 'Countering Disinformation through Reliable Government Information' campaign documents proactive disclosure compliance across Pakistan's four provinces and advocates for law reform to strengthen citizens' right to information.

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