

RTI Scorecard Report

Analysis of Implementation of RTI Laws in Pakistan

May 2019

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**Status of implementation of Federal Information Law and RTI Laws in
Khyber Pakhtunkhwa, Punjab and Sindh**

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**Analysis of Information requested from Lower courts under KP RTI Law
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Article 19A¹ of the Constitution of Pakistan confers upon the citizens of Pakistan the right to access information of all matters of public importance. For the implementation of this constitutional provision, the Parliament and Provincial Assemblies are obligated to legislate on the right of access to information held by public bodies. Under the constitutional obligations, all the provincial assemblies and parliament enacted the RTI laws.

Khyber Pakhtunkhwa (KP) government under its good governance legislative framework enacted RTI Act in October 2013 which is now in its sixth year of implementation. At the time of its enactment it got an overwhelming response all over. Similarly Punjab Government enacted Punjab Transparency and Right to Information Act in December, 2013 to ensure transparency, accountability and public participation in governance. The Sindh province repealed its Sindh Freedom of Information Act 2006 and enacted Sindh Transparency and Right to Information Act, 2016 in March, 2017. The enactment of Right of Access to Information Act, 2017 at federal level has opened the doors of transparency and accountability in its true spirit. Federal Government of Pakistan took fifteen years to transform the Ordinance into Right of Access to Information Act in 2017,

To test the implementation level of RTI laws in Pakistan and to develop a comparative matrix for advocacy regarding RTI Law in Pakistan, CGPA carried out analysis of implementation of RTI law in Khyber Pakhtunkhwa, Punjab, Sindh and federal RTI Law.

CGPA filed information requests to 5 departments in Khyber Pakhtunkhwa, Punjab, and Sindh and to five ministries at federal level under the respective RTI laws in each province and federal RTI Law.

CGPA developed a kind of comparative matrix based on the response to RTI Laws by public bodies and respective information commission in KP, Punjab, Sindh and at federal information commission. CGPA will use this comparative matrix for advocacy to implement the respective RTI laws in Pakistan

¹ Inserted in the Constitution of Pakistan through the 18th Constitutional Amendment on April 19, 2010

CGPA filed a simple information requests to public bodies in each province in which the following information were requested.

1. Number of total sanctioned positions in your department (Section wise)
2. Number of filled position against the total sanctioned positions (Section wise).
3. Status of vacant positions (section wise).

These information requests were filed to five departments i.e. 1) Public Health Engineering Department (PHED) 2) Elementary & Secondary Education Department 3) Local Government & Rural Development Department 4) Communication and Works and 5) Health department in KP, Sind and Punjab and at federal level to 1) Ministry of Information and Broadcasting 2) Ministry of National Food Security 3) Ministry of Human Rights 4)Ministry of Communication 5)Ministry of Religious Affairs

The analysis of implementation of RTI Law in the target 3 provinces and at federal level shows that Sindh has the lowest implementation level where the public bodies nor the information commission has responded to the RTI requests filed by CGPA team, followed by implementation of RTI law at federal level, the ministry of Human rights provided the information while the rest of 4 failed even to respond to the request filed.

Out of five public bodies, only two provided the requested information, while the remaining 3 failed to entertain the requests filed by CGPA team under Punjab transparency and Right to Information Act 2013.

As compared to the previous scorecard carried out by CGPA, the implementation of KP RTI Law 2013 has become low but compare to other provinces, the implementation of KPRTI law is high, and out of total 5 RTI requests to public bodies only one has failed to provide the requested information while the 4 has provided the requested information. The role of KP Information Commission is also praiseworthy as compared to other provinces and federal information commission.

The RTI laws in Pakistan provide an effective implementation mechanism whereby independent statutory commissions have been established by each provincial government and federal government. If a public body does not respond to an information request within the allocated time period, the information requester may file a complaint with the concerned commission established in each province of the country while the information related to federal departments may file complaint with federal information commission. All these information commissions are mandated to ensure that the complaints are resolved within the time period prescribed by each Law. There is a punitive powers with the commissions, and can impose penalty as per law.

As RTI legislation is now well into its implementation and thus, it is imperative to test different aspects of this important piece of legislation by the target provinces and at federal level. Towards this end, to test the responsiveness of different public bodies in terms of providing timely

information upon the information requests submitted, CGPA has developed a tool of “scorecard”. The scorecard provides the vital information to rank the public bodies that are providing the information according to the defined time lines under these laws..

This scorecard is based on the information requests filed with public bodies in each province and at federal level by CGPA staff.

A total of 20 information requests were filed with five selected public departments at Khyber Pakhtunkhwa, Punjab, Sindh and federal level.

These information requests were filed in January 2019. The public bodies at each province were included

1. Public Health Engineering Department (PHED)
2. Elementary & Secondary Education department
3. Local Government & Rural Development Department,
4. Communication and Works
5. Health department

The selected public bodies at federal level were

1. Ministry of Information and Broadcasting
2. Ministry of National Food Security
3. Ministry of Human Rights
4. Ministry of Communication
5. Ministry of Religious Affairs

The details of the information requests submitted to these departments are given in the table below:

No	Province	Name of Public Body	Response to information requests within 10 days	Response to information requests within 20 days	Response to information requests after 20 days	Information Provided on Complaint within 60 days	Information Provided on Complaint after 60 days	Information neither provided on request nor on complaint
1	Khyber Pakhtunkhwa	PHED				✓		
2		E&SED			✓			
3		Local Government			✓			

No	Province	Name of Public Body	Response to information requests within 10 days	Response to information requests within 20 days	Response to information requests after 20 days	Information Provided on Complaint within 60 days	Information Provided on Complaint after 60 days	Information neither provided on request nor on complaint
4		Communication & Works						✓
5		Health				✓		
6	Punjab	PHED				✓		
7		E&SED						✓
8		Local Government						✓
9		Communication and works				✓		
10		Health						✓
11	Sindh	PHED						✓
12		E&SED						✓
13		Local Government						✓
14		Communication and works						✓
15		Health						✓
16	Federal	Ministry of Information and Broadcasting						✓
17		Ministry of National Food Security						✓

No	Province	Name of Public Body	Response to information requests within 10 days	Response to information requests within 20 days	Response to information requests after 20 days	Information Provided on Complaint within 60 days	Information Provided on Complaint after 60 days	Information neither provided on request nor on complaint
18		Ministry of Human Rights			✓			
19		Ministry of Communication						✓
20		Ministry of Religious Affairs						✓

Ranking

All the departments selected for this study are ranked on the basis of their responsiveness and provision of information requested. The mechanism adopted to follow up on an information request is explained below.

Follow up Mechanism

Selected departments were categorised according to their efficiency regarding responding to information requests. A department replying to information request within in10 working days of the information request was graded as the most efficient. The second category of departments was that of replying within 20 days of the information request. The third category was of the departments replying after 20 days. furthermore, after waiting for a period of 20 days of information request, complaints with the information commissions were registered.

The fourth and fifth categories of public departments were those replying to information requests on the direction of information commissions. If a department replied to an information request within 60 days of the complaint, it was included in the fourth category, and if it did not reply even after the direction of the RTI commission within 60 days of the complaint, then it was included in the fifth category of responsiveness.

Scheme of Grades

Two variables of ‘responsiveness’ and ‘provision of information’ are measured for each department included in this Ranking. The maximum possible grade for either of the variable is 5. The minimum is -1. If a department replied to an information request within 10 days of the request, it was awarded with a score of 5+5=10. If a department neither responded to an information request nor to the complaint/direction of IC, it was graded (-1 for nonresponsiveness) + (-1 for not providing the information) = (-2). The complete scale of grades is listed below:

Responsiveness		Provision of information	
Grade awarded	Response Category &Efficiency	Grade awarded	Provision of Information Category &Efficiency
5	Responding to an information request within 10 days of the information request	5	Providing required information within 10 days of the information request
4	Responding to an information request within 20 days of the information request	4	Providing required information within 20 days of the information request
3	Responding to an information request after 20 days of the information request	3	Providing information after 20 days of the information request
2	Responding to an information request within 60 days of a complaint lodged with the respective Information Commissions	2	Providing information after complaint with the respective Information Commission within 60 days of the complaint
1	Responding to an information request after 60 days of a complaint lodged with the respective Information Commission	1	Providing information after complaint with the respective Information Commission after 60 days of complaint
0	If a department has not responded to an information request and a complaint is not lodged with the respective Information Commission	0	If a department has not provided the required information and a complaint is not lodged with the respective Information Commission
-1	If the concerned department has not responded at all even after the 60 days of complaint with the respective Information Commission	-1	Not providing information even after 60 days of complaint with the respective Information Commission

In case of a response containing the required information, the grade of responsiveness and the provision of information awarded to a department was the same. But in case of a response not containing the required information, the department was awarded grades only for responsiveness but not for the provision of information. However, if the same department provided information after complaint was lodged with the respective Information Commission, it was awarded the respective grade for provision of information as per the timescale of provision of information. For example, if a department responded to an information request within 10 days of filing the information request but the response did not contain the information requested, it was awarded grade 5 for its responsiveness but 0 for its provision of information. Furthermore, if a complaint was

registered with the concerned provincial or federal Information Commission against such a department and it provided information on the direction of Information Commission within 60 days of complaint, it was awarded grade 2 for its provision of information under the scale developed. If it provided information after 60 days of the complaint, it was awarded grade 1 for its provision of information. If it did not provide information even after 60 days of complaint, it was awarded -1 under the provision of information scale. The aggregate of both the responsiveness and the provision of information grades was assigned to a department according to the degree of compliance with the Right To Information laws.

In the scorecard the accumulative 10 is the best possible grade for a department for its observance of RTI law whereas -2 is the worst. In the following table, all selected provincial and federal departments of KP, Punjab, Sindh and federal are ranked according to their observance of the RTI law as per the scorecard methodology of ranking:

Provincial and Federal Public Bodies' Ranking Regarding Respective RTI Laws in KP, Punjab, Sindh and Federal

Name of Public Body	Province	Responsiveness Grade	Provision of Information Grade	Observance of RTI Grade
PHED	KP	2	2	4
E&SED	KP	3	3	6
Local Government	KP	3	3	6
Communication & Works	KP	-1	-1	-2
Health	KP	2	2	4
PHED	Punjab	2	2	4
E&SED	Punjab	-1	-1	-2
Local Government	Punjab	-1	-1	-2
Communication and works	Punjab	2	2	4
Health	Punjab	-1	-1	-2
PHED	Sindh	-1	-1	-2
E&SED	Sindh	-1	-1	-2
Local Government	Sindh	-1	-1	-2
Communication and works	Sindh	-1	-1	-2

Name of Public Body	Province	Responsiveness Grade	Provision of Information Grade	Observance of RTI Grade
Health	Sindh	-1	-1	-2
Ministry of Information and Broadcasting	Federal	-1	-1	-2
Ministry of National Food Security	Federal	-1	-1	-2
Ministry of Human Rights	Federal	3	3	6
Ministry of Communication	Federal	-1	-1	-2
Ministry of Religious Affairs	Federal	-1	-1	-2

The score card shows the weak implementation of RTI laws in all the 3 target provinces as well as implementation of RTI law at federal level, as per score card ranking implementation of RTI law in Khyber Pakhtunkhwa is the highest, followed by Punjab. Implementation of RTI law at federal level is on third position while Sindh has the weakest implementation level of Sindh Transparency and Right to Information law.

The detail of re-ranking is:

CGPA filed Information requests to PHED, Elementary and Secondary Education department, Health and C&W under the provincial RTI laws in KP, Punjab & Sindh, the information request were also filed to the ministry of Information and Broadcasting, National Food Security, Ministry of religious affairs, Ministry of Human rights and Ministry of Communication.

RTI Law	Public Body	Observance of department wise RTI Grade as per scorecard	Average Grade
KP RTI Law 2013	PHED	4	

KP RTI Law 2013	E&SED	6	3.6
KP RTI Law 2013	Local Government	6	
KP RTI Law 2013	Communication & Works	-2	
KP RTI Law 2013	Health	4	
Punjab transparency and Right to Information Act 2013	PHED	4	0.4
Punjab transparency and Right to Information Act 2013	E&SED	-2	
Punjab transparency and Right to Information Act 2013	Local Governemt	-2	
Punjab transparency and Right to Information Act 2013	Communication & Works	4	
Punjab transparency and Right to Information Act 2013	Health	-2	
Sindh Transparency and Right to Information Act, 2016	PHED	-2	-2
Sindh Transparency and Right to Information Act, 2016	E&SED	-2	
Sindh Transparency and Right to Information Act, 2016	Local Governemt	-2	
Sindh Transparency and Right to Information Act, 2016	Communication & Works	-2	

Sindh Transparency and Right to Information Act, 2016	Health	-2	
Right of Access to Information act 2017	Ministry of Information and Broadcasting	-2	- 0.4
Right of Access to Information act 2017	Ministry of National Food Security	-2	
Right of Access to Information act 2017	Ministry of Human Rights	6	
Right of Access to Information act 2017	Ministry of Communication	-2	
Right of Access to Information act 2017	Ministry of Religious Affairs	-2	

Performance of Information Commissions

Due to non provision of information by public departments in KP, Punjab, Sindh and federal departments, complaints were lodged against them with the concerned Information Commission. Complaints against 3 public bodies were lodged with the KP Information Commission. The KP Information Commission managed to resolve 2 complaints out of 3, while still has to resolve the third one despite lapse of more than 3 months.

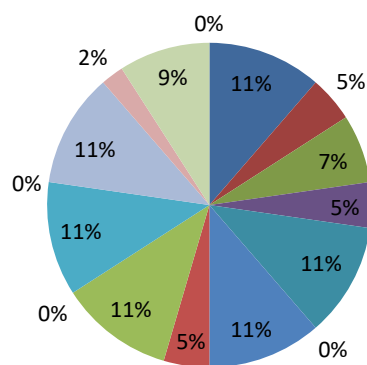
Out of the selected 5 public bodies in Punjab, no one has responded within the required time period to the information requests filed to them under the Punjab Transparency and Right to Information Commission. The complaints were lodged to Punjab Information Commission against them. The Punjab Information Commission has been able to provide the requested information from PHED and C&W department, while the rest of 3 has still to provide the information, even after the time period specified by the Law.

Complaints were lodged to Sindh Information Commission against all the selected public bodies for non compliance to Sindh Transparency and Right to Information Law. The Sindh Information Commission has also failed to provide the requested information, which sows lack of interest on behalf of the commission as well.

The role of Federal Information Commission remained very dismal, as the commission has not responded to the complaints lodged by CGPA against public bodies for not providing the information requested under federal information law.

Status of Implementation of RTI law and role of Information Commissions on provincial and federal level

- No of Information requested under KP RTI Law 2013
- No of Information provided on request
- No of Complaints submitted under KP RTI Law 2013
- No of complaints resolved by KP Information Commission
- No of Information requested under Punjab Transparency and Right to Information Law 2013
- No of Information provided on request
- No of Complaints submitted under Punjab Transparency and Right to Information Law 2013
- No of complaints resolved by Punjab Information Commission
- No of Information requested under Sindh Transparency and Right to Information Act, 2016
- No of Information provided on request
- No of Complaints submitted under Sindh Transparency and Right to Information Act, 2016
- No of complaints resolved by Sindh Transparency and Right to Information Act, 2016
- No of Information requested under Right of Access to Information act 2017
- No of Information provided on request
- No of Complaints submitted under Right of Access to Information act 2017
- No of complaints resolved by Federal Information Commission



Analysis of Information requested from Lower courts under KP RTI Law 2013 and Punjab Transparency and Right To Information Law 2013 Justice sector

Despite several reforms in the justice sector, the pendency in the lower courts is still a huge bottleneck. Justice sectors reforms have not been able to tackle this issue. Due to lack of awareness, the citizens are also not often able to know about the performance of district courts.

CGPA filed information requests to district and session's judges in all districts of KP and Punjab under the KP RTI Law 2013 and Punjab Transparency and Right to Information Act 2013 respectively. The requested information were regarding total pendency, pendency in criminal cases, pending in civil cases, total budgets allocated to district courts, case disposal ratio etc.

The received information were thoroughly analyzed and made public through press release in different News Papers, social media and CGPA website. This is pertinent to mention that most of the district courts in Khyber Pakhtunkhwa provided the requested information on the directives of Peshawar High Court. The district & Session Judge Lahore is the only judge who provided the information in Punjab.

Following is the analysis of information collected by CGPA from lower courts in Khyber Pakhtunkhwa and Punjab.

Total 167,999 cases are pending in 22 Districts Courts of Khyber Pakhtunkhwa. The information collected by Centre for Governance and Public Accountability (CGPA) through Khyber Pakhtunkhwa Right to Information Act 2013 depicts 167,999 civil and criminal cases were pending in district courts in 22 districts of Khyber Pakhtunkhwa as on June 30, 2018. Peshawar district has 31,172 cases pending followed by Nowshera district with total 29,306 cases pending in district courts.

The data depicts that number of total civil cases pending in 22 districts as on June 30, 2018 were 94,385 while total criminal pending cases are 73,614. Compared to other districts, Nowshera district has recorded the highest pendency in criminal cases. Nowshera district had 17,712 criminal pending cases followed by Peshawar district with 14,414 pending criminal cases as on June 30, 2018. Mardan district had total 7,294, Bannue 4,188, Swabi 4,185, Haripur 3,890, Karak 3,342, and Mansehra 3,108 pending criminal cases. Shangla and Torghar had the lowest pendency in criminal pending cases with only 261 and 353 cases respectively. Similarly, Peshawar district had the highest number of pending civil cases e.g. 16,758 as on June 30, 2018, followed by Nowshera with 11,594 pending civil cases. Mardan district had total 10,600, Haripur 7,076, Mansehra 6,499, Kohat 4,798, Swabi 6,347, Bannu 4,298, Karak 4,088 and Hangu 3,166 pending civil cases. 25 Information Requests were filed to all district courts of Khyber Pakhtunkhwa to provide information on the number of pending civil and criminal cases. All districts courts, except district and session courts of Swat, Charsadda and D.I.Khan provided the information. The complaints against these courts are pending with Khyber Pakhtunkhwa Right to Information Commission.

CGPA lauded the role of Peshawar High Court for directing the 16 district courts to provide information under the Khyber Pakhtunkhwa RTI Act 2013. Swat district court denied the information owing to the special status of PATA, and it was considered that KP RTI law had not yet extended to Swat district. However, CGPA has taken the plea with KP RTI commission that all KP laws, including KP RTI law, has been extended to PATA after the 25th constitutional amendment.. The Charsadda district court directed to approach the concerned Public Information Officer (PIO). The KP RTI law states that if PIO has not been designated then the head of public body will act as PIO. The KP RTI commission response is still awaited on these complaints.

CGPA also filed information requests to all districts courts in Punjab under the Punjab Transparency and Right to Information Act 2013. Only Lahore district provided information and total number of pending cases in Lahore district were 168,022, 150,032 civil cases and 42,817 criminal cases.

Conclusion:

The scorecard shows weak implementation of RTI Law in Pakistan. Out of total information requested from the selected public departments under the RTI law in KP, Punjab, Sindh and federal, only 2 departments in KP and one federal level has provided the information on requests, 2 departments each in KP and Punjab provided the information through complaint to information commission in KP and Punjab. The rest of the public departments have failed to respond to information request as well as to the complaints filed. The selected public bodies neither the information commission under the Sindh Transparency and Right to Information Law has entertained the RTI request and complaint filed by CGPA staff .



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