In the Charter of Democracy, which was signed by two major political parties of the country [i.e., Pakistan People’s Party (PPP) and the Pakistan Muslim League, Nawaz (PML-N)], the political leaders recognized the importance of Right to Information, and committed to enact a new law. Since the Charter of Democracy was signed in 2006, the commitment of enacting a new law clearly implied that the political parties were not happy with the Freedom of Information Ordinance 2002; and wanted to repeal it and enact a new and better law, Article 14 of the Charter of Democracy reads as follows:

“The press and electronic media will be allowed its independence. Access to information will become law after parliamentary debate and public scrutiny.”

Other political parties have not made any explicit commitments about Right to Information. However, all the political parties with representation in the Parliament approved Article 19-A of the Constitution through the “18 Amendment”.

“Knowledge is power. Information is liberating. Education is the promise of progress, in every society, in every family.”

Kofi Annan

Promises made by the Federal Government about a new law on Right to Information:

The Federal Government and political parties deserve the credit for inserting Article 19-A on Right to Information in the Constitution. This step was consistent with Charter of Democracy and in response to the demands of civil society in Pakistan. However, Federal and Provincial Governments have been very slow in terms of enacting comprehensive laws on Right to Information.

Since forming the government, leaders of Pakistan Peoples’ Party (PPP) and its ministers have made repeated public pledges for enacting a new and better law on Right to Information. It is evident from the first speech of Prime Minister, Mr. Yusuf Raza Gilani, in the National Assembly in which he had stated:

“A new freedom of information law would be brought to promote press freedom while the Pakistan Electronic Media Regulatory Authority (PEMRA) would be made a subsidiary of the Information Ministry and its law changed.” (March 29, 2008).

Similarly, while addressing the joint session of the Parliament soon after becoming the President of Pakistan, Mr. Asif Ali Zardari stated:

“We will soon be bringing other fundamental laws, such as the Freedom of Information Bill, and work with stakeholders towards an open atmosphere of self regulation with no interference from the state.” (September 20, 2008).

Former Minister for Information and Broadcasting of the PPP government, Mr. Sherry Rehman, also made repeated statements on behalf of the government. For instance, he stated:

“Freedom of information bill would shortly be tabled in the parliament after incorporating the views of the provincial governments in it.” (November 21, 2008)

Mr. Qamar Zaman Kaira, the Federal Minister for Information and Broadcasting, who assumed this office after the resignation of Mr. Sherry Rehman, has also made repeated public commitments regarding early enactment of Right to Information law. However, his Ministry has been extremely slow, as significant time has passed since the PPP government took over.

“Knowledge will forever govern ignorance. And people who mean to be their own governors, must arm themselves with the power which knowledge gives.”

James Madison

How can we promote the cause of Right to Information?

AS CITIZENS:

Let us all know more about Right to Information and why it is important for building democratic institutions, combating corruption, delivering efficient services and promoting public accountability.

Let us all demand our Federal and Provincial Governments to enact new and better laws, which must be consistent with Article 19-A of the Constitution and regional and international best practices.

We must demand our elected leaders, especially legislators, to ensure an early enactment of new and effective Right to Information law.

We must create public awareness by informing others and encouraging them to participate in the struggle for Right to Information and transparent governance.

AS LEGISLATORS:

• We must remind the government about its commitments and promises; and demand an early enactment of Right to Information law.

• We must also mobilize our colleagues and parties for Right to Information.

AS JOURNALISTS:

• We must ask questions about the relevant promises of the government; and publish stories in the newspapers.

• We must actively demand better and effective Right to information law through various forums like press clubs and other bodies of journalists.

• We must use the existing Section 137 of Local Government Ordinance 2001 and Freedom of Information Ordinance 2002 for developing investigative reports, and to better understand through practical experience the strengths and weaknesses of existing Ordinances.

AS CIVIL SOCIETY ORGANIZATIONS:

• We must play our role in creating public awareness of Right to Information.

• We must proactively advocate for new and better laws on Right to Information.

• We must help the weaker sections of society in using the existing Freedom of Information Ordinance 2002 for accessing their rights and entitlements.

• We must integrate and mainstream Right to Information in all our programs and projects.

“Everything secret degenerates, even the administration of justice being safe that does not show how it can bear discussion and publicity.”

Lord Acton

Our Right to Information and Our Responsibilities

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How many countries have enacted laws on RIGHT TO INFORMATION?

- Over 80 countries around the world have enacted Freedom of Information or Right to Information laws.
- In South Asia, India enacted its Right to Information Act in 2005, Nepal in 2007 and Bangladesh in 2009.

What is the SITUATION IN PAKISTAN?

- The original 1973 Constitution did not include any provision about people’s Right to Information. Under Article 19, it only guaranteed freedom of speech and expression as a fundamental right.
- In 1993, however Supreme Court observed that Right to Information can be spelt out from Article 19 of the Constitution. If further observed that: “...the Government is the major source of information, which in a democratic setup, it is duty bound to disseminate for public information to enable them to adjust the conduct of those who are in office and the wisdom and follies of their policies.” (PLD 1993 SC 746)

“The liberties of a people never were, nor ever will be, secure, when the transactions of their rulers may be concealed from them.”

Patrick Henry

In 2008, the Sindh High Court also observed on this matter as under:

“...access to information is sine qua non of constitutional democracy. The public has a right to know what the public functionaries do. The responsibility of public functionaries to disclose their acts works both against corruption and oppression. Though this right has its limitations, the routine business of the public functionary cannot be covered with the veil of secrecy or privilege. Only where disclosures would cause greater harm than good that the disclosures are to be restricted. Therefore, as a rule information should be disclosed and only as an exception privilege should be claimed on justifiable grounds permissible”. (Karachi Chamber of Commerce and Industries (Pvt.) Ltd. vs. Federation of Pakistan and Others–PLD 2008 Karachi 68)

“Education is knowing where to go to find out what you need to know; and it’s knowing how to use the information you get.”

William Feather

Why the existing Freedom of Information laws of FEDERAL GOVERNMENT, SINDH AND BALOCHISTAN NEED TO BE IMPROVED

It is because these laws are flawed and highly restrictive; and cannot be effectively implemented. It is because of, among others, the following reasons:

- These laws are inconsistent with Article 19-A of the Constitution and international best practices, which say that only ‘reasonable’ or ‘minimal’ restrictions can be imposed on peoples’ Right to Information.
- These laws provide very limited access to information; as these declare a vast amount of information as exempt or excluded from peoples’ access.
- These laws do not adequately and comprehensively define the relevant terms like information and record.
- These laws do not provide effective penalties for officers who deliberately delay or deny access to information without valid and legally justifiable reasons.
- These laws include limited provisions for proactive publication and disclosure of information or records.

Under these laws, complaints can be submitted to the respective Federal or Provincial Ombudsmans, which have not proven to be effective offices to deal with information related complaints due to a variety of reasons. In many countries like India and Bangladesh, information commissions have been established to exclusively deal with information related complaints, who besides having the mandate for creating public awareness, monitoring the implementation of Right to Information laws and guiding government institutions for efficient and fair disposal of information requests.

“As a general rule, the most successful man in life is the man who has the best information.”

Benjamin Disraeli

What will happen if EFFECTIVE RIGHT TO INFORMATION LAWS WERE ENACTED BY ALL THE FEDERAL AND PROVINCIAL GOVERNMENTS

- Citizens will have a clearly laid down procedure through which they will be able to know how their government is functioning and how their resources are being utilized.
- Functioning of government institutions will become more open and transparent, which would help in reducing functioning inefficiencies and opportunities of corruption.
- It will bridge the trust gap between citizens on the one hand, and public institutions, public representatives and state functionaries on the other. Right to Information will ensure that public bodies belong to the people and, therefore, people have the Right to Information.
- Right to Information is often described as a ‘oxygen for democracy’ and a ‘touchstone for all freedoms’. It strengthens democratic institutions and creates opportunities for public participation and accountability in governance.

“Information is the currency of democracy”.

Thomas Jefferson