

CPDI Analysis and Score Sheet of Freedom of Information Ordinance 2002, Right of Access to Information Bill 2016 and The Right to Information Bill 2016

In order to repeal Freedom of Information Ordinance 2002, Senate Committee on Information and Broadcasting has approved the Right to Information Bill 2016 and Standing Committee of Federal Cabinet for Disposal of Legislative Business has approved the Right of Access to Information Bill, 2016. The following table presents CPDI analysis of these right to information laws on the yardstick of parameters derived from standards of effective right to information legislation. This analysis clearly shows that only Right to Information Bill 2016 will protect and promote constitutional right of citizens guaranteed under Article 19-A of the Constitution of the Islamic Republic of Pakistan.

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Standards of Right to Information Legislation	Freedom of Information Ordinance 2002	Comments	Right of Access to Information Bill 2016	Comments	The Right to Information Bill 2016	Comments	Weight age
Law is guided by the principle of maximum disclosure	0	Under principle of maximum disclosure, a narrowly and clearly drawn list contains types of information to be exempted from disclosure. The rest is declared public information. This is not the case in this law. Furthermore, harm test is not included in the law.	0	There is no one clearly and narrowly drawn list of exempted information. There are three different lists containing categories of information that is to be shared or not to be shared. Furthermore, the bill makes allowance for protecting information from disclosure in public interest but does not make any allowance for disclosure of information in public interest. Under principle of maximum disclosure, information which pertains to list of exceptions can also be disclosed if its disclosure is in public interest and outweighs the likely harm.	10	The Right to Information Bill 2016 follows the principle of maximum disclosure. Unlike Freedom of Information Ordinance 2002 and the Right of Access to Information Bill, 2016, blanket exemption is not given to any type of information. The law gives primacy to public interest with regard to the disclosure of information by empowering information commission to decide on contentious issues with regard to disclosure of information. If the disclosure is in public interest and outweighs the harm, the information is to be made available even if it is included in the category of exempted information.	10

Standards of Right to Information Legislation	Freedom of Information Ordinance 2002	Comments	Right of Access to Information Bill 2016	Comments	The Right to Information Bill 2016	Comments	Weight age
Exceptions are clearly and narrowly drawn	0	There is no definition of information. Instead of having one clearly defined short list of exempted information and declaring the rest as public information, FOI Ordinance 2002 has separate lists; records that can be shared, records that cannot be shared and records that can be shared but certain types of information, if contained in these records, will not be shared.	0	As the Right of Access to Information Bill, 2016 is modeled on Freedom of Information Ordinance 2002, Instead of having one clearly defined short list of exempted information and declaring the rest as public information, the Right of Access to Information Bill , 2016 also has separate lists; records that can be shared, records that cannot be shared and records that can be shared but certain types of information, if contained in these records, will not be shared.	10	Unlike Freedom of Information Ordinance 2002 and the Right of Access to Information Bill , 2016, the Right to Information Bill 2016 contains one clearly and narrowly drawn list of information exempt from disclosure and declares the rest of the information to be public.	10
Law provides cost effective access to information	3	Under rules framed for FOI Ordinance 2002 information requests can only be submitted after depositing Rs. 50 in National Bank of Pakistan which covers first 10 pages of information. Rs. 5 are charged for each extra page.	3	The Right of Access to Information Bill 2016 says that information will be provided at reasonable cost. The fee is to be prescribed later.	10	Under the Right to Information Bill 2016, there is no fee for filing information, first 20 pages of information are to be provided free of cost and the poor are to be provided information free of cost.	10

Standards of Right to Information Legislation	Freedom of Information Ordinance 2002	Comments	Right of Access to Information Bill 2016	Comments	The Right to Information Bill 2016	Comments	Weight age
Law provides for speedy and easy access to information	1	FOI Ordinance 2002 allows 21 working days to public bodies for providing access to the requested information. There is no provision for expediting the process of providing the requested information if it pertains to life or liberty of a person.	5	The Right of Access to Information Bill 2016 says that the information will be provided within 10 working days. A public body could take extra 10 working days where information is to be searched through in large number of records. There is no provision for providing information within 2 working days if life or liberty of a person is at stake.	10	The Right to Information Bill 2016 provides for speedy and easy access to information. Citizens can submit information request on a plain paper, in person or through email. Requested information is to be provided within 10 working days. A public body can take 10 extra working days if record is to be searched through large number of record. Furthermore, if requested information pertains to life and liberty of a person it is to be provided within 2 working days.	10
There is an effective complaint redressal mechanism available	3	Federal Ombudsman requires a form to be filled after lodging the complaint testifying that no complaint regarding this matter has already been submitted and that no law-suit is pending pertaining to the matter with any court. No time-frame for the office of Ombudsman.	5	Pakistan Information Commission to be established under The Right of Access to Information Bill 2016 will decide on complaints within 60 days. However, language of the bill is such that it will allow the government to appoint all the Information Commissioners even from bureaucracy if it so desires.	10	Pakistan Information Commission will decide on complaints within 60 days.	10

Standards of Right to Information Legislation	Freedom of Information Ordinance 2002	Comments	Right of Access to Information Bill 2016	Comments	The Right to Information Bill 2016	Comments	Weight age
Law imposes penalty on the officer for wrongfully denying/delaying access to the requested information	0	There is no such penalty.	10	Under The Right of Access to Information Bill 2016 Pakistan Information Commission can impose a fine equivalent to one day salary for a maximum of 100 days who does not perform as required under this law.	10	Pakistan Information Commission can impose a fine equivalent to one day salary for a maximum of 100 days who does not perform as required under this law.	10
Law requires proactive disclosure	0	There is no such provision.	10	A comprehensive list pertaining to the proactive disclosure of information is included in The Right of Access to Information Bill 2016	10	The Right to Information Bill 2016 requires public bodies to ensure proactive disclosure of information and has a comprehensive list of categories of information to be proactively disclosed.	10
Law does not require description of specific interest with information requested	0	The purpose for seeking the information has to be described.	10	There is no such provision in The Right of Access to Information Bill 2016	10	The Right to Information Bill 2016 prohibits public officials to as an applicant reason for requesting information.	10

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Law recognizes the willful destruction of records as a criminal offense	7	It is criminal offence to destroy any record if an information request is submitted to have access to the record or complaint is lodged in this regard. The penalty for such an offence is imprisonment up to 2 years, with fine or both.	10	The Right of Access to Information Bill 2016 says destruction of record without lawful authority is a criminal offence and fine not exceeding 50,000 can be imposed. If a public official destroys record which is subject of a request for information or hinders access to information in any manner under this law, will commit an offence punishable with two years term or a fine of Rs. 10,000	10	Pakistan Information Can impose a fine of Rs. 25000/- in case of willful obstruction to public records. If this act is repeatedly committed this offence is punishable with a term of 2 year imprisonment and fine of Rs. 100,000 or both.	10
Right to Information law takes precedence over all other laws contradicting its aim	0	This law does not override other laws.	8	The Right of Access to Information Bill 2016 other than the provisions of the Qanun- e-Shahadat, 1984 (P.O. 10 of 1984) the Right of Access to Information Bill 2016 overrides all other laws.	10	The Right to Information Bill 2016 overrides all other laws.	10
Law has provisions that allows inspection of documents before getting access	0	There is no such provision in this law.	0	There is no such provision in the Right of Access to Information Bill 2016	10	Under the Right to Information Bill 2016, citizens can inspect documents.	10

Standards of Right to Information Legislation	Freedom of Information Ordinance 2002	Comments	Right of Access to Information Bill 2016	Comments	The Right to Information Bill 2016	Comments	Weight age
Law requires it as a duty of information officer to assist applicant	5	The duty to assist the person is mentioned in the law but not elaborated.	10	The Right of Access to Information Bill 2016 requires Information Officer to facilitate a person who has any disability in filing a request.	10	The Right to Information Bill 2016 requires public officials to facilitate disabled and people or anyone having difficulty in filing information requests.	10
Law makes head of public body responsible to act as information officer in the absence or unavailability of Information officer	10	If an official has not been designated, the head of public body is made responsible for providing the requested information.	0	The Right of Access to Information Bill 2016 Does not make head of public body responsible to act as information officer in the absence or unavailability of Information officer	10	The Right to Information Bill 2016 makes head of public body responsible to act as information officer in the absence or unavailability of Information officer	10
Law has a comprehensive definition of Public Body	3	Organizations funded by government do not come within the purview of the law.	10	The Right of Access to Information Bill 2016 has a comprehensive definition of public body. NGOs that receive public funds, or those registered under Societies Registration Act, 1860 (xxi of 1860) and even those entities that perform public functions (to the extent of the function) are included in the definition of public body.	10	The Right to Information Bill 2016 has a comprehensive definition of Public Body. NGOs are also included in the definition of public body.	10



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Law does not prescribe penalties for applicant for alleged vexatious applications	0	Under the law, if complaint is found to be 'frivolous, vexatious and malicious', Ombudsman can impose fine up to Rs. 10,000.	5	There is no such provision in The Right of Access to Information Bill 2016	5	The Right to Information Bill 2016 does not prescribe penalties for applicant for alleged vexatious applications	5
Total	32		86		145		145