



Seminar Report

The Need for 'RTI' Legislation in Balochistan"

January 13th 2016, Quetta - Pakistan

Introduction:

The Balochistan's Freedom of Information Act 2005 (FOIA 2005) is based on the federal FOI Ordinance 2002. The Act has proved to be, to a larger extent, ineffective to ensure transparency in the province. This is mainly due to weaknesses in the law and its poor implementation. The law, besides a number of other shortcomings, also restricts access to a large number of public documents and provides no protection to whistleblowers. It does not require the government to establish information commissions at various levels. Though the law has been in place for 10 years now but practical steps to establish mechanisms and processes for its effective implementation are not in place. Furthermore, citizens' awareness of the FOI framework and stakeholders' capacity to enforce the law in Balochistan is minimal.

In April 2010, under the 18th amendment in the constitution of Pakistan, Article 19-A was added which provided constitutional guarantee to the 'Right to Information' for the first time to the citizens of Pakistan. Article 19-A states that; 'Every citizen shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law.'

After amendment of the constitution, two provinces of the country (Punjab and Khyber Pakhtunkhwa) have promulgated RTI laws, whereas Sindh and Balochistan have not yet promulgated or amended their FOI laws adopted in 2006 and 2005 respectively.

Development Resource Solutions is implementing a project 'Voice for Transparency Reforms' in Balochistan in collaboration with USAID's 'Citizens Voice Project'. The project is dedicated to advocate for 'Right to Information' legislation in Balochistan and improve implementation status of the existing 'Freedom of Information Act 2005' through engagement with government departments, legislators, civil society and media.

Objectives of the project are as follows:

- To facilitate citizens' oversight of government departments through access to information;
- To lobby with policymakers for the enactment of a Right to Information law in Balochistan;
- To create public awareness of the need for a Right to Information law in Balochistan.

As an important activity of the project, DRS' organized a national seminar on 'The Need for RTI Legislation in Balochistan'. The event was



meant to present findings of the project to legislators, high-ranking officials of provincial institutions/departments, political party leaders, lawyers, media representatives, civil society representatives, prominent intellectuals and other important opinion-makers. The seminar also highlighted the need for right to information legislation, international best practices in RTI, the salient features, successes and lessons learnt from RTI legislation in KP and Punjab.

Specific Objectives of the Seminar were;

- To highlight the issues in the FOI Act 2005 and the challenges in effective implementation of the Act
- To motivate legislators and policy makers for amendments in the law by presenting successes achieved by Punjab and Khyber Pakhtoonkhawa in legislation and implementation of the RTI laws
- To share recommendations for amendment in the FOI Act 2005

The participants of the event included high-ranking officials of provincial institutions/departments, leaders of the political parties, lawyers, media representatives, prominent intellectuals and members of the civil society, chamber of commerce and bar associations.

Proceedings of the Seminar:

Mr. Azizullah Kakar, MER Coordinator DRS' welcomed the participants and briefly discussed about the background and objectives of the project.

Mr. Abdul Raheem Ziaratwal, Minister of Information and Parliamentary Affairs, Government of Balochistan, said on the occasion that the Government of Balochistan is committed

to reform the 'Freedom of Information Act 2005'. The province is in dire need of an overall governance reforms and we are in the process of amending these old and outdated laws which have failed to fulfill the desires and needs of the people of Balochistan.

Mr. Ziaratwal also stated that the bureaucratic high-ups need to act proactively in provisions of the basic services to the people of Balochistan. He said that during the last decade, there have been a grave mismanagement and corruption of the public resources by the previous governments which has badly affected the development process of the province but we are working hard to bridge this gap. He said that the ineffective 'FOI' Act will be repealed completely and a new progressive RTI law will be promulgated by the provincial assembly. He also called upon the media and civil society to raise awareness among the general public to utilize the upcoming law, as the law would be ineffective without proactive use by the people.

Mr. Ubaidullah Babat, Advisor to the Chief Minister, Government of Balochistan said that the present provincial government believes that the province can progress only if the transparency, merit and accountability is ensured in the utilization of the public resources. Our government is committed to the cause of transparency and the 'FOI' Act will be reformed on war-footing.

Mr. Sahibzada Muhammad Khalid, Chief Information Commissioner, Government of KPK, elaborated in detail about the Khyber Pakhtoonkhawa RTI Act 2013. He explained that the KP Act is highly ranked in the international standards. He said that the government of KP has owned the law after its promulgation and has shown seriousness to implement it in letter and spirit. He also shared



few success stories and lessons learnt during implementation of the law in KP.

Mr. Mukhtar Ahmad Ali, Information Commissioner, Government of Punjab, briefed the participants on the background and salient features of Punjab Transparency and RTI Act 2013. He also discussed in detail the successes in implementation of the act in Punjab along with elaborating the challenges in implementation. Mr. Mukhtar Ahmed Ali explained that the FOI Act needs to be repealed and a new law needs to be promulgated by the provincial assembly of Balochistan as the existing law is a replica of the federal FOI ordinance 2002 and cannot serve the purpose of transparency.

Mr. Riaz Ahmad, Secretary, Provincial Ombudsman of Balochistan, explained the role and responsibilities of the POB with regard to POB Act and grievance redress regarding information provision to the masses. Mr. Riaz highlighted the need for legislative reforms in the POB Act and stressed upon resource provision and capacity enhancement of the POB for in view of its pivotal role in implementation of the law.

Mr. Abdul Latif Kakar, DGPR, Department of Information, Government of Balochistan, discussed the challenges for implementation of the FOI Act 2005. He stressed upon the need of improving capacity of public officials of line departments with regard to timely provision of information for better service delivery.

Prof. Kalimullah Taran, Department of Education, Government of Balochistan elaborated in detail the background of transparency and its importance in the backdrop of human rights, democracy and improved service delivery.

Mr. Muhammad Ayub Khan, Chief Executive Officer DRS' presented 'Balochistan Freedom of Information Act 2005' - Project Findings'. He discussed major short-comings of the FOI Act in view of the baseline assessment report of the project, as follows;

- Balochistan's 'Freedom of Information' Act, 2005 relies on Provincial Ombudsman to hear RTI-related complaints, rather than forming an independent Information Commission with dedicated Information Commissioners for this purpose – as has been done by Punjab and KP.
- It does not grant powers to the Provincial Ombudsman in imposing penalties on public officials obstructing the people's right to information.
- The powers of Provincial Ombudsman of Balochistan in hearing complaints have not been defined.
- The Act does not mention the criteria for disclosure of public records, instead, provides lists / types of information for disclosure and exemption.
- It has a restrictive definition of public bodies, which do not include NGOs or private organizations substantially funded from the public exchequer.
- It does not define how the Act is to be implemented within public bodies by designated officials, and how proactive disclosure requirements are to be met, or the duties of Information Officers in relation to the handling of information requests.
- It contains defined parameters for exemptions but provides no procedures for overriding these exemptions in the public interest or after the passage of a specified time-period.
- In terms of enforcement, it specifies offences but it does not designate clear



penalties for offences.

- It does not override other laws governing the disclosure of information held by government, and does not require the promulgation of Rules for its implementation within a specific time period.

Mr. Ayub also presented project recommendations for legislative reforms and improved implementation of the 'FOI' law.

Recommendations:

- The Balochistan Assembly must replace the FOI Act altogether with a law that is in line with current international standards.
- Rules for the law must also be formulated simultaneously by the provincial assembly to ensure smooth implementation of the law as soon as it is brought into effect.
- The law must require formation of an independent 'Information Commission' to monitor implementation of the Act and redress public grievances regarding information.
- Legal provisions mandating publicity of RTI to promote its widespread use by the public must also be included.
- The law must have provisions to override other laws which govern the disclosure of information held by government.
- The law must incorporate international and regional best practices and lessons learnt from Punjab and KP.
- Civil society stakeholders must be consulted in devising the new law and its views must be incorporated where possible.
- The provincial government must promote RTI via mainstream and social media, seminars, conferences, media campaigns, pamphlets etc.

Participants Distribution

#	Stakeholder Group	Gender		Total
		Male	Female	
1	Members of Provincial Assembly	2	0	2
2	Government Officials	39	4	43
3	Media Persons	23	0	23
4	NGOs	20	2	22
5	Members of Political Parties	6	0	6
6	Lawyers	4	0	4
7	Trade Unions	4	0	4
8	Students	5	0	5
9	Total	103	6	109