

# MONITOR

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## The State of Right to Information (RTI) in Pakistan

September 2015

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## **Has the Executive been preventing the Federal RTI Bill from being tabled in the Parliament?**

Speaking at a **Briefing Session on The State of Right to Information** organized by PILDAT for Members of the Parliament on September 09, 2015, the Honourable Senator Farhatullah Babar wondered what is preventing the Federal Government from introducing the promised new RTI bill in the Parliament.

As noted by PILDAT in the two previous issues of this Monitor, the current version of the Bill, which had been finalized by Senator Babar and his Honourable Peers in the Senate Standing Committee on Information, Broadcasting and National Heritage on January 02, 2014, was scheduled for discussion by the Federal Cabinet on August 24, 2015 after which it was to be presented in the Parliament as an Official Government Bill.<sup>1,2</sup> However, as observed by Senator Babar during the Briefing Session mentioned above, the actual tally of Federal Cabinet for which the RTI Bill was included on the agenda but not discussed, is much higher.

According to the Senator, after finalizing the Bill, the Senate Standing Committee had received repeated assurances from Honourable Senator Pervaiz Rashid, Federal Minister for Information, Broadcasting and National Heritage, that the Bill would be discussed in the next Cabinet meeting. The Senate Standing Committee was assured that after receiving approval of the Cabinet the draft law would be tabled in the Parliament as an Official Government Bill. However, the Bill has yet to be approved in Cabinet meetings chaired by the Prime Minister since the finalization of the Federal RTI Bill, held specifically on the following dates:

- i. January 20, 2014
- ii. February 25, 2014<sup>3</sup>
- iii. April 28, 2014
- iv. May 15, 2014
- v. June 03, 2014
- vi. September 12, 2014
- vii. September 22, 2014
- viii. October 31, 2014
- ix. February 23, 2015
- x. May 26, 2015
- xi. August 24, 2015, and latest held on
- xii. September 16, 2015

At the Briefing Session for Members of the Parliament mentioned above, Senator Babar also shared that while drafting the Federal RTI Bill, himself and other members of the Senate Standing Committee on Information, Broadcasting and National Heritage had received a letter from the Ministry of Defence which called the Honourable Senators to refrain from further discussing the Bill until they had obtained a No-Objection Certificate from the Ministry.<sup>4</sup> The Senate Standing Committee, according to Senator Babar, had initially invited the Ministry to participate in the drafting process as a sign of goodwill in addressing their concerns. However, after receiving no response to this invitation, the Standing Committee decided to resume the drafting process on the grounds that its activities could not be dictated by a Federal Ministry, which is technically part of the Executive branch of Government.

The sluggish progress of the Federal RTI Bill towards eventual enactment into law also warrants further investigation. The Federal Government must allay concerns about Executive interference in the progress of the RTI Bill towards Parliament. Otherwise, the Government risks encouraging the

1. PILDAT (2015), "State of Right to Information in Pakistan: August 2015", September 07, 2015, Islamabad, Pakistan; [online at: [http://www.pildat.org/Publications/publication/FOI/RTIMonitor\\_Aug15\\_Eng.pdf](http://www.pildat.org/Publications/publication/FOI/RTIMonitor_Aug15_Eng.pdf).]
2. PILDAT (2015), "State of Right to Information in Pakistan: July 2015", August 19, 2015, Islamabad, Pakistan; [online at: [http://www.pildat.org/Publications/publication/FOI/PILDATMonitorontheStateofRighttoInformationLegislationinPakistan\\_July2015.pdf](http://www.pildat.org/Publications/publication/FOI/PILDATMonitorontheStateofRighttoInformationLegislationinPakistan_July2015.pdf).]
3. Prime Minister's Office – Islamic Republic of Pakistan (2014-2015), "Press Releases", Islamabad, Pakistan; [online at: [http://www.pmo.gov.pk/press\\_releaseGetByMonth.php](http://www.pmo.gov.pk/press_releaseGetByMonth.php).]
4. DAWN (2015), "PPP senator calls information minister 'powerless'", September 10, 2015, Islamabad, Pakistan; [accessed online on September 28, 2015, at: <http://www.dawn.com/news/1206013/ppp-senator-calls-information-minister-powerless>.]

perception that it has more of an interest in restricting – albeit legitimately – peoples' access to information than it has in meaningfully extending this fundamental right to citizens throughout the country.

#### **Whistle Blower Protection Bill sent to Federal Cabinet for Approval**

A draft law on Whistle Blower Protection, which has been under preparation by the National Accountability Bureau (NAB) and the Ministry of Law, Justice and Human Rights since January 2015, has reportedly received approval of the Prime Minister of Pakistan.<sup>5</sup>

The Bill has reportedly been forwarded to the Federal Cabinet for approval, and upon receiving Cabinet assent it will be tabled in the Parliament as a Government Bill. It is widely believed that the Bill will strengthen NAB's ongoing anti-corruption drive in Pakistan by providing necessary protections to public official seeking to publically expose instances of corruption and wrongdoing within their assigned departments. Since May 1999, such protections have been included within International Standards pertaining to the Right to Information, as they incentivize the disclosure of information on official corruption and wrongdoing directly to the public, and thereby enable citizens to make more informed choices about government performance.

The high profile case of Ms. Anita Turab, who was a BPS-19 officer in the Ministry of Interior, illustrates just how game-changing the Whistle Blower Protection Bill could be, if passed by the Parliament. Towards the end of the previous PPP government, Ms. Turab had written a letter to the Chief Election Commissioner of Pakistan regarding politically-motivated appointments in government department, which, in the run-up to the May 2013 General Election, raised suspicions of pre-poll rigging. Her letter was picked up by a widely-read national newspaper, and she was subsequently dismissed from service in June 2013.<sup>6</sup> With the passage of the Federal Government's Whistle Blower Protection Bill it is hoped that cases of a similar nature will achieve a far more favourable result in the future.

#### **Launch of e-Office System to Increase Government Transparency**

On September 04, 2015, the Federal Ministry of Information Technology and Telecommunication launched its much-awaited e-Office system. This system has already been piloted within Departments and offices of the Ministry, under which over 6000 official files and records were computerized by July 27, 2015. The Ministry has also been providing assistance to the Cabinet Division, and the Ministries of Commerce, Interior and Railways in converting their records into electronic form and uploading them

onto the e-Office database.<sup>7</sup> With the roll-out of this programme, Pakistan has become the first South Asian Association of Regional Cooperation (SAARC) Member to successfully transition to an e-Office system. The system, aside from improving institutional memory and operational efficiency within government offices, will also allow for the easy and timely disclosure of official information upon public request, and will therefore improve the state of RTI in Pakistan.

#### **Change in Appellate Authority under RTI Act is Forthcoming**

On September 21, 2015, PILDAT called on Maj. (Retd.) Sahibzada Muhammad Khalid, Chief Information Commissioner, KP RTI Commission, to discuss the status of controversial amendments to the Province's otherwise robust RTI Act which were passed by the Provincial Assembly of KP on June 23, 2015. The meeting was preceded by the rollback of one of these controversial amendments – the exclusion of the Provincial Assembly from the ambit of the RTI Act – through passage of the RTI (Second Amendment) Act on September 10, 2015.<sup>8</sup>

During the meeting with the Chief Information Commissioner, PILDAT raised the status of another controversial clause, under which appeals to the KP RTI Commission's decisions could be heard within District and Sessions Courts. This clause had also been criticized widely by civil society, including PILDAT.<sup>9</sup>

While the original text of the KP RTI Act 2013 did not specify a forum for appeals to the Information Commission's decisions, the clause granting the District and Sessions Courts the power to hear appeals and take cognizance of offences under the RTI Act stood in contradiction to Article 199 (1)(c) of the Constitution, under which appeals for violations of fundamental rights, such as the right to information – enshrined under Constitutional Article 19A – may only be heard in the High Court and above.

After raising this point during the meeting with the KP RTI Commission, PILDAT was informed that the process of changing the appellate authority under the RTI Act was already underway.

#### **Performance of Punjab Information Commission Hampered by Delays in Release of Budget**

A report published on September 23, 2015,<sup>10</sup> reveals the crippling capacity constraints under which the Punjab Information Commission (PIC) has been functioning since its inception on December 15, 2015, with the passage of the Punjab Transparency and Right to Information Act 2013 on December 14, 2015.

The PIC is the independent statutory body responsible for enforcing the RTI law, and promoting and monitoring its implementation in

5. The International News (2015), "NAB's whistleblower bill sent to cabinet for approval", September 16, 2015, Islamabad, Pakistan; [as accessed online on September 24, 2015, at: <http://www.thenews.com.pk/Todays-News-2-340519-NABs-whistleblower-bill-sent-to-cabinet-for-approval>.]
6. The International News (2013), "Bureaucracy icon Anita Turab slapped with dismissal notice", June 08, 2013, Islamabad Pakistan; [as accessed online on September 24, 2015, at: <http://www.thenews.com.pk/Todays-News-13-23351-Bureaucracy-icon-Anita-Turab-slapped-with-dismissal-notice>.]
7. DAWN (2015), "IT Ministry launches E-office system", September 05, 2015, Islamabad, Pakistan; [as accessed online on September 23, 2015, at: <http://www.dawn.com/news/1205061/it-ministry-launches-e-office-system>.]
8. The International News (2015), "KP Assembly to provide information as RTI amended", September 11, 2015, Peshawar, Pakistan; [as accessed online on September 23, 2015, at: <http://www.thenews.com.pk/Todays-News-2-339599-KP-Assembly-to-provide-information-as-RTI-amended>.]
9. PILDAT (2015), "Despite Promises, KP did Not undo regressive changes to KP RTI law", *PILDAT Monitor on State of Right to Information in Pakistan*, September 07, 2015, Islamabad, Pakistan; [online at: <http://www.pildat.org/eventsdel.asp?detid=776#heading3>.]
10. The International News (2015), "Punjab Information Commission still understaffed", September 23, 2015, Lahore, Pakistan; [online at: <http://www.thenews.com.pk/Todays-News-2-341991-Punjab-Information-Commission-still-understaffed>.]

the Province under the Punjab Transparency and Right to Information Act. As such, the timely release of budgeted resources to the Commission is essential to the smooth and consistent implementation of RTI throughout the Province.

Unfortunately, despite the PIC's centrality within the overall structure of RTI implementation, the Provincial Government of Punjab has so far released only Rs. 44 million out of the amount of 93.9 million allotted for the PIC during the last fiscal year. Further, out of 43 sanctioned posts to support the Province's Information Commissioners in undertaking their assigned duties, only 1 post has so far been filled.

As a result of these constraints, the PIC has been unable to resolve 700 out of 1500 public complaints it has received since March 2014, when an office was finally allotted to the Commission after over 4 months delay. These capacity constraints have also hampered the Commission in monitoring the state of implementation in Government Departments, which are the first point of contact for citizens seeking access to official information.

#### **Provincial Government of Balochistan to review its Outdated RTI law: Chief Minister of Balochistan**

The Chief Minister of Balochistan Dr. Abdul Malik Baloch announced on September 02, 2015 that his Government would constitute a committee to review the outdated Balochistan Freedom of Information Act 2005, which is currently in effect within the Province.<sup>11</sup>

PILDAT sees this as belated but an encouraging sign for the promulgation of a modern RTI law in Balochistan, in line with the positive example set by the Provincial Governments of KP and Punjab, which passed modern RTI laws in November and December 2013, respectively. If modern RTI legislation is passed in the Province, it will go a long way in improving the access of Balochistan residents to official information, which has been dismal so far.

#### **Regional and International RTI Landscape Indian authorities urged to deter attacks on RTI activists**

In statement released on September 10, 2015, the Human Rights Watch India urged the Central Government of India to promptly and thoroughly investigate the cases of violence against RTI activists.<sup>12</sup>

The statement was made apparently in response to the frequent and widespread attacks on RTI activists, which include 39 murders and 275 assaults in a ten year period since the passage of India's historic

Right to Information Act 2005. The most recent of these attacks was on Mr. Jawahar Lal Tiwary in village Bangara Nizamat of Bihar State. Mr. Tiwary was reported as missing by his family on August 10, 2015, and his body was found brutalized on August 14, 2015.<sup>13,14</sup>

#### **RTI included in Draft Resolution for United Nations Sustainable Development Goals**

On September 23, 2015, the United Nations (UN) Sustainable Development Goals (SDGs) Summit 2015 announced that its Final Draft Resolution for the post-2015 Global Development Agenda, which have been enshrined in 17 Goal Statements, would be placed before the UN General Assembly between September 25-27, 2015.<sup>15</sup>

On September 25, 2015, the first day of the UN SDG Summit, the Draft Resolution was unanimously adopted by all the 193 UN Member States.<sup>16</sup> This was a historic moment, not only within the context of global poverty reduction, but also an important development for the future of RTI, as this right has been formally enshrined within the SDGs and Goal 16.10. By emphasizing RTI to this extent, the UN General Assembly will encourage both nations and development practitioners to prioritize the implementation and enforcement of this right within the decades to come.

#### **Opinion and Feedback**

##### **Email from Mr. Abid Majeed, Secretary, Information and Public Relations Department, Provincial Government of Khyber Pukhtunkhwa**

On September 07, 2015, in response to the August issue of this Monitor, PILDAT received a heartening email from Mr. Abid Majeed, Secretary Information and Public Relations Department, Government of Khyber Pukhtunkhwa.

Mr. Majeed clarified the position of the Government of KP regarding a number of issues related to the powers and functioning of the KP RTI Commission, which were highlighted in the August issue of this Monitor. This led to a healthy exchange of knowledge and ideas between KP Information and Public Relations Department and PILDAT.

PILDAT appreciates the Government of KP's responsiveness in acting on public opinion pertaining to its implementation and enforcement of RTI in the Province (please also see *Change in Appellate Authority under the RTI Act is Forthcoming: KP RTI Commission* in this issue of the Monitor), believing that this is a sign that the Government is truly committed to fulfilling popular demand for greater official transparency and accountability.

11. Tribal News Network (2015), "Dr. Malik announces forming body to review RTI law", September 02, 2015, Quetta, Pakistan; [as accessed online on September 23, 2015, at: <http://www.radiotmn.com/dr-malik-announces-forming-body-to-review-rti-law/>.]
12. Human Rights Watch (2015), "India: New Killing of 'Right-to-Information' Activist", September 10, 2015, New York, USA; [as accessed online on September 28, 2015, at: <https://www.hrw.org/news/2015/09/10/india-new-killing-right-information-activist>.]
13. The Hindustan Times (2015), "10 years of RTI Act: 39 activists dead, 275 assaulted says report", July 08, 2015, Delhi, India; [as accessed online on, September 28, 2015, at: <http://www.hindustantimes.com/india/10-years-of-rti-act-39-activists-dead-275-assaulted-says-report/story-mwEjPtaUDXthPQZ6293BYL.html>.]
14. Human Rights Defenders Alert – India, "Brutal and horrific murder of an RTI activist Mr. Jawahar Lal Tiwary in village Bangara Nizamat of Sahebganj block, district Muzzaffarpur, Bihar", August 28, 2015, New Delhi, India.
15. United Nations Sustainable Development Goals Summit 2015, "Summit Charts New Era of Sustainable Development", September 23, 2015, New York, USA; [online at: <http://www.un.org/sustainabledevelopment/blog/2015/09/summit-charts-new-era-of-sustainable-development-world-leaders-to-gavel-universal-agenda-to-transform-our-world-for-people-and-planet/>.]
16. United Nations Sustainable Development Goals Summit 2015, "Historic New Sustainable Development Agenda Unanimously Adopted by 193 UN Members", September 23, 2015, New York, USA; [online at: <http://www.un.org/sustainabledevelopment/blog/2015/09/historic-new-sustainable-development-agenda-unanimously-adopted-by-193-un-members/>.]