



REPORT OF
SEMINAR ON FREEDOM OF INFORMATION IN PAKISTAN
HELD ON 28 AUGUST 2007
AT SHARP OFFICE, ISLAMABAD

Society for Human Rights and Prisoners' Aid
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Seminar on Freedom of Information in Pakistan

PROLOGUE

Society for Human Rights and Prisoners' Aid (SHARP) has been providing its services in social, political, legal & cultural aspects of the society in the context of Human Rights since its inception in 1998. The fundamental objective behind the formulation of this society is to protect and facilitate the provisions of Human Rights throughout the country. SHARP also extends its hands towards the need and the deprived in providing them free legal aid.

SHARP has its offices in Islamabad, Lahore, Peshawar, Mianwali and Karachi and has developed a three-pronged strategy to deal with the adverse social and legal situation in Pakistan by:

- Providing direct legal services to the less fortunate members of the society, so that justice can be addressed at all levels.
- Developing a strong chain of liaison with various organizations, so that all sectors of the society working in the field of Human Rights can address the issues which are of growing concern.
- Arranging workshops and delivering seminars so that to spread awareness about the Human Rights violations which are going in silence due to non-availability of addressing the issues through the correct channels.

Seminar on Freedom of Information in Pakistan

PROGRAMME

09:00-09:30	arrival of participants and registration
SESSION - I	Freedom of Information – An Introduction
09:30-09:35	Welcome Note by Chairman SHARP
09:35-09:50	Introduction of Participants
09:50-10:00	Workshop Objectives
10:00-10:30	What is Freedom of Information (FOI)?
10:30-11:00	Discussion
11:00-11:15	Tea/Coffee Break
SESSION – II	FOI at Federal Level – Existing Framework
11:15-11:45	Freedom of Information Legislation in Pakistan
11:45-12:30	Salient Features of FOI Ordinance, 2002
12:30-01:00	Discussion
01:00-02:00	Lunch break
SESSION – III	Accessing Information under FOI Laws & Issues
02:00-02:15	Making a Request for Information
02:15-02:30	Filing Complaint before the Federal Ombudsman
02:30-03:05	Issues in implementation of FOI Ordinance, 2002
03:05-03:20	Conclusion & Vote of Thanks

Seminar on Freedom of Information in Pakistan

LIST OF PARTICIPANTS

GOVERNMENT OF PAKISTAN:

1. Ministry of Information and Broadcasting
2. Ministry of Social Welfare and Special Education
3. Ministry of Law, Justice and Human Rights

UNIVERSITIES:

1. International Islamic University

POLICE DEPARTMENT:

1. Human Rights Police officials, Islamabad

JUDICIARY:

1. Rawalpindi Courts

LAWYERS:

1. Human Rights Attorneys

UN ORGANIZATIONS:

1. United Nations High Commissioner for Refugees (UNHCR)

LOCAL NGOs:

1. ROZAN
2. SPARC
3. SAHIL
4. STREET
5. AURAT FOUNDATION
6. PATTAN DEVELOPMENT ORGANIZATION
7. SDPI
8. NRSP

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OVERVIEW

Society for Human Rights & Prisoners' Aid (SHARP) realizing the need of making joint and determined efforts to solve the problems of our society keeps on arranging seminars, orientation workshops, meetings and other significant activities for educating and broadening the mental horizons and enhancing the thought process of respective subjects.

Right To Information is considered as oxygen for the elimination of corruption, undue power and wastage of public money, hence possesses a very important role in developing society. The Government of Pakistan is obliged to introduce and enforce tangible legislation to provide the access to information. The President of Pakistan has promulgated an Ordinance called "Freedom of Information Ordinance 2002". This ordinance has been enacted to ensure transparency by providing access to information, but unfortunately, it is known to the general public at large.

However, in order to disseminate FOI 2002 and create an awareness among the civil society, SHARP has organized a Seminar on organized a Seminar on 28th August 2007, where participants from NGOs, Government officials from different ministries, Human Rights Attorneys, Judiciary, Police officials, members of civil society and intellectuals were invited.

The Objectives of the Seminar were as follows:

1. To impart a conceptual understanding about right to information
2. To create an awareness about FOI and RTI in Pakistan
3. To enable the participants to know how to submit information seeking requests.

Seminar on Freedom of Information in Pakistan

WELCOME BY MR. QAISER SIDDIQUI, PROJECT MANAGER

On behalf of SHARP, Mr .Qaiser Siddiqui, Project Manager welcomed the participants and the programme was started with the recitation from the Holy Quran.

He elaborated the aims and objectives of the seminar and added that globally, the idea of citizens' right to know is gaining grounds as a proactive concern and more than 70 countries of the world, including Pakistan have formally acknowledged this right by adopting Freedom of Information Laws. Above all, the freedom of information has a special significance for the civil society which can only play a more constructive and a vibrant role through having a broader picture based on information.

Mr. Siddiqui highlighted the significance of Freedom of Information or Right to Information, he quoted two examples to elaborate the fact that Right to Information is actually a basic human right. Firstly, he quoted the recommendations of a UN General Assembly meeting in New York wherein the second session it adopted Resolution 59(1), which stated that right to information is a fundamental human right. Secondly, he quoted the proceedings of a famous case, Nawaz Sharif vs. the President of Pakistan, wherein the Supreme Court of Pakistan ruling said that a citizen's right to information must be spelt out with Article 19 of the Constitution of Pakistan and hence stands basic human right.

Mr. Siddiqui further said that right to information is now widely recognized as a fundamental human right. He referred to Article 19 of Universal Declaration of Human Rights, which relates to "Freedom of Information". Similarly, in November 1999, the UN Special Report on Freedom of Opinion and Expression stated that "Implicit in freedom of expression is the public's right to open access to information and to know what governments are doing on their behalf, without which truth would languish and people's participation in government would remain fragmented.

Seminar on Freedom of Information in Pakistan

ADDRESS BY SYED LIAQAT BANORI, CHAIRMAN (SHARP)

Ladies and Gentlemen,

It is indeed a great honour for me to welcome you all in this informative event of freedom of information. I am extremely grateful to all my facilitators, participants and worthy guests for being with us this morning. Today, we were expecting our colleagues from Commonwealth Human Rights Initiative (CHRI) based in India but due to visa problem, Ms. Sohini Paul, the trainer of CHRI could not attend this event. Anyhow, I am grateful to all my colleagues and friends who helped me in organizing this event which I believe would be a great learning opportunity for all of us.

I very openly admit that despite claiming to be a Human Rights activist and Lawyer by profession, I had no knowledge about the importance of the FOI. This year, I had an opportunity to attend a workshop on FOI in Sri Lanka organized by CHRI where I came to know that it is an important tool and source of information. It was also pleasant information that not only Pakistan has a good legislation in form of Freedom of Information Ordinance but it is the first country of the region introducing this law in the country. There I made a commitment that SHARP will not only arrange a training but also continue working for awareness and guidance. Today, I am happy that SHARP is fulfilling its commitment and I hope that after having this event we will be more in position to continue our mission.

We are among this world countries and we all know that we have all the good and up to date laws even on certain issues which perhaps some western countries may not have but unfortunately we do not have enforceable mechanisms. Freedom of information is guaranteed in UDHR as well as constitution of Pakistan. The enactment introduced by the Government of Pakistan in the year 2002 may have many lacunas and it may have number of shortfalls for improvement but what is important that how much people are aware of it and how much it has been exercised so far. While when I saw the achievements of the India civil society in this regard, I sincerely felt myself ignorant of law, I think that we the civil society has a vital role to play in exercising the available laws for the welfare of public at large. It is basic right of every one to be aware of what is happening around and how the public money is being used. I as a citizen of Islamabad always worried about the construction of Kashmir Highway. I think it is my basic right to know that how long the citizens of Islamabad will suffer the ill planned "planning". I am sure that if the expenditures of only Kashmir Highway in past 5 years are investigated it would be horrifying but as no body knows and no body has any access to the record the

planners are doing what they like. The media is trying to actively play its role but the actual sources of information are not used to get the proper information for the guidance of the public at large. I admit that the procedure mentioned in the ordinance is difficult and time consuming but even that it could be used for the best interest of the public. I expect that the civil society and media getting together will be in a position not only to actively exercise the enactment but purify through their experience.

With this workshop at SHARP today, I feel confident that this will not stop here by SHARP shall endeavour to continue its struggle to aware the public at large on freedom of information, which shall definitely play a pivotal role in the development of our beloved Pakistan.

I once again thank you, ladies and gentlemen, for giving us your valuable time and making this workshop a success.

Thank you so much.

SESSION – I - Freedom of Information (FOI): An Introduction

Mr. Zahid Abdullah from CPDI appreciated the efforts taken by SHARP in organizing such an important Seminar. He shared his experience and the knowledge he possess as an activist. He said that in the SAARC countries, Pakistan is the first country which has promulgated “FREEDOM OF INFORMATION” Ordinance in 2002, but unfortunately, its awareness is not disseminated to the civil society and general public. There is a great need on the part of the Federal as well as Provincial Governments to disseminate the FOI Ordinance through print as well as electronic media, organize bi-lingual training workshops, seminars. He further said that unfortunately, except Sindh province, no other province has yet established the FOI legislation. Therefore, the Federal Government should share the current FOI Ordinance with the Provincial Governments and each Provincial Government should promulgate FOI legislation as per the requirement of their respective province.

He elaborated the general concept of “Right of Information”, its implementation and comparisons with the international instruments and legislation. He said that in the democratic process, each citizen of Pakistan has the right to seek information from the government departments as per his / her requirement. Of course, the Government has some limitation where the information can not accessed, such as, defense, nuclear information, and the information which is sensitive nature in the best interest of the country and personalized information, etc. But the government should establish “mechanism” for achieving information which is for general concern of the civil society as well as the citizens of Pakistan. He quoted examples from different government departments, like , “availability of electric meters and their stock position with the Water and Power Authority (WAPDA), stock of fertilizer and seeds in the government’s stores as well as their each supply to the farmers, etc.

Mr. Zahid Abdullah highlighted the “corruption” atmosphere in Pakistan. He said that if the citizens of Pakistan have full information about the process and have full freedom of information as well as right of information, then the corruption can be reduced because the general public will have knowledge of “how to get the information”. The Government should have “pro-active disclosure policy” which should be easily available to citizen of Pakistan. By having that policy, not 100% but at least more than 50% corruption and wrong-doings can be eliminated.

By talking about the law enforcement agencies, Mr. Zahid Abdullah mentioned that the poor and illiterate segments of our society do not have knowledge how to approach police in case of any complaint or grievances. They have to find “escort” and “support” to reach and approach the police station. Similarly, in the courts and judiciary process, general public do no know, where, how and whom they should approach for getting information.

In Islamabad each police station there is a Human Rights Police officer who free of cost provides information and legal support to the general public. With these trainings, the attitude of police officials has also been changed towards the general public. Therefore awareness is most important for each department. After awareness, implementation will automatically improve.

Other participants also added that in the democratic process, those wings of the government which are playing a vital role in disseminating the information, such as print and electronic media, television, radio should be given freedom to provide maximum information to each and every corner of the country. They quoted the examples of earthquake and said that it was a natural disaster, all the international agencies including local NGOs played a very important role in providing relief and rehabilitation facilities, but unfortunately, as yet the information on seeking help and assistance to the far flung areas of both NWFP and AJK including availing and distribution of the funds and beneficiary population has not been given. The local people are cheated by the agents and sub-agents of different departments and real beneficiaries are deprived of all the facilities provided by the government.

By closing his session, Mr. Zahid Abdullah reiterated that the Federal Government should immediately implement the FOI Ordinance 2002 and ask all the four Provincial Governments to promulgate similar Ordinance as per their province requirement and disseminate it for the benefit of public at large.

SESSION – II – FOI at Federal Level: Existing Framework

Mr. Mukhtar Ahmed Ali from CPDI thanked SHARP for organizing such an important Seminar. SHARP is very active in the promotion of Human Rights and Freedom of Rights is also a part of Human Rights. Therefore, it is a very positive step taken by SHARP in the dissemination of existing FREEDOM OF INFORMATION ORDINANCE promulgated by the Government of Pakistan in 2002.

He said that the Government of Pakistan has promulgated FOI Ordinance in October 2002 before that there was no such Law which could protect the rights of the people of Pakistan. He added that freedom of information and right of information are two elements for the development of a country because press and media play an important role in the dissemination of information to the public at large. For an any country, dissemination / sharing of information is an important element. Therefore, the step taken by the present government is a positive step, but it has lot of loop holes, deficiencies and weakness.

Mr. Mukhtar Ahmed Ali one by one elaborated all the Articles of FOI 2002 and stated that the Ordinance its is self-explanatory, but unfortunately, its awareness, dissemination, easy access and approach are not being implemented. The present system our government departments are not properly following the FOI because they do not have knowledge of this Law. According to the FOI 2002, the government departments are bound to supply the requested information within 21 days. If any delays or reservations must be informed to the requester before the expiry of specified period. In case of non-response, the requester has the right to approach Ombudsman appointed under Article 3 of the Establishment of the office of Wafaqi Mohtasib Order 1983.

He quoted Article 11. of the FOI Ordinance and stated that the functions of designated officials are provide the information contained in any public record, or as the case may be, a copy of any such record to the requester. Article 13. elaborates the applications for obtaining information. Any citizen of Pakistan may make an application to the designated official in the prescribed form. The requester has to pay fee for the requested information. Unfortunately, the list of designated officials and the fee structure has not been shared with the pubic. An ordinary requester does not know who to approach and how much he / she will have to pay for the requested information. He further added that our educated society, such as Lawyers, Police officials, etc. also are not aware about the fee structure, etc.

Mr. Mukhtar Ahmed Ali said that unfortunately in Pakistan, whenever there is a need of amendments in the existing Law, it is handed over to the Committees and after that no transparent information is shared with the public the results / recommendations of the committee. He quoted the example of Transparency Act, which was handed over to anti-

corruption committee and after that no results are shared with the public. He added that many inquiry reports are not shared with the public although, the newspapers and media have published lot of criticism against the government, but FOI Ordinance 2002 has not been respected by the federal government.

While comparing the functions of the Office of Ombudsman in Pakistan, he said that in India, Chief Commissioner is the authorities which deals with the complaints against the federal government. In India, before disclosure of any information, a notice is served to the concerned department and permission is sought before releasing any information. While in case of Pakistan, there is mention of such procedures.

Mr. Mukhtar Ahmed Ali mentioned in Sindh a similar Law has been established in 2006. It is a copy of FOI 2002. But its implementation in Sindh is very limited. Like federal, its dissemination and awareness is limited.

Mr. Mukhtar Ahmed Ali discussed various aspects of the FOI and said that the Government is taking advantage of promulgating Freedom of Information Ordinance but in fact this ordinance possess a limited options and the interest has not been wisely interpreted. He said that from the forum of his organization he made several applications but the fact is that the officers designated in certain organizations are not aware of their role and they are not able to provide services to the applicants as per the essence of the law. He précised that the government needs to implement the law with its true letter and spirit and the people be given access to the record with more flexibility which would ultimately eliminate corruption from the society. He said that the civil society has lot of reservations on the certain provisions of the ordinance and its implementation mechanism which includes high rate of obtaining copy and the designation of high ranking officers as information officers in the organizations who are leased bother to provide information and it is also difficult to approach them. He suggested that the implementation mechanism needs to be made easier and the services are to be provided at the cost to cost basis to provide opportunity to the people interested in getting any information from the government. He specially, pointed out that some agreements and documents which contain hundreds of pages cost heavily to the applicants which deprive them from their right to seek any sort of information from the government. He later on responded to the questions / comments of the participants.

Mr. Ejaz I .Piracha, Joint Secretary, Ministry of Law, Justice & Human Rights added that without freedom of information, citizens of Pakistan will not be aware of what is happening and why it is happening. Therefore, for the development and transparency of a Government, sharing information is most important. If the government promulgates a Law, it should be implemented properly.

Another participant added that in the far flung areas, there is no source of sharing information. No source of media, like TV, radio and newspapers are providing information to the general public. Above all, education facilities are very limited. For the accountability, there should be a “good governance system”, monitoring, evaluation and assessment.

One of the female participants added that there is a big gap between the government and the public. This gap should be closed and bridge should be established. Only information sharing can install this bridge. The government should make all necessary arrangements to convey the information to each and every corner of the country and should establish information centres in each area. Otherwise, the present FOI is weak and useless.

It was urged that 40 designated officers have been appointed in different departments. A list of all these officers indicating their departments should be shared with the public through newspapers so that the public should be aware about their names and office. It will greatly help the public in approach the concerned designed officer.

One of the police officers stated that in Islamabad each police station has a human rights officer. Message will be delivered to the concerned authorities to publish the names and post stations of these HR officers for general public.

Another participant commented that in Pakistan, we talk about “Democracy”, but in fact the government will have to create a culture of democracy. Parliament is a public forum, it is the right of general public to question the parliament, but unfortunately, in our culture, once the parliamentarian are elected, their contacts with the general public are cut and they develop relations with the influential personalities or vice versa but the real voters who have supported the parliamentarians have no access to reach him / her. This is lack of information and the FOI 2002 is silent in this respect.

A representative from Social Welfare Department commented that in our country lack of “knowledge” and lack of “awareness”, information is not shared with the general public. Therefore, in order to give or take the information, knowledge and awareness are mandatory.

By closing the session, Mr. Mukhtar Ahmed Ali appreciated the audience’s interest and commented that CPDI is closely working with the government on the subject, all the recommended suggestion will be conveyed to the government for implementation.

SESSION –III – Accessing Information under FOI Laws and Issues

Syed Liaqat Banori said that “Freedom of Information” and “Right to Information” both are equally important. He elaborated Section 12. of the FOI Ordinance and stated that according Section 12. any citizen of Pakistan may make an application to the designated official in the form as may be prescribed and shall with his application, furnish necessary particulars, pay such fee and at such time as may be prescribed. A sample copy of the prescribed form was distributed among the participants. Mr. Banori stated that the requester must complete the application form in all respect and attached the required fee with the application. The requester must sign the DECLARATION before submitting an application.

He further said that the procedures for disposal of application are contained in Section 13. of FOI. On receiving an application under section 12, the designated official shall, within twenty-one (21) days of the receipt of request, supply to the applicant(s) the required information or, as the case may be, a copy of any public record.

While discussing the technical aspects of the application, Mr. Banori further clarified that in case the designated official is of the opinion of that (a) the application is not in the form as has been, (b) the applicant has not furnished necessary particulars or has not paid such fee as has been prescribed, (c) the applicant is not entitled to receive such information, (d) the required information or, as the case may, be required record does not constitute a public record and (e) the required information or, as the case may be, the required record constitutes – a record which is excluded. The designated official record his / her decision in writing and the applicant shall be informed about such decision within twenty-one days of the receipt of the application.

Mr. Banori highlighted Section of the FOI Ordinance regarding Recourse to the Mohtasib and Federal Tax Ombudsman and stated that: If the applicant is not provided the information under the said ordinance, the applicant has a right to file an application to the head of the department against any denial, rejection and refusal by the designated officer and the same is to be challenged before the head of the department who is obliged to decide the applicant within thirty days. He further said that in Pakistan the two kinds of Mohtasib offices are operating, one is federal Ombudsman or Wafaqi Mohtasab and the second is Federal Tax Mohtasib. The applicant regarding to the record would be challenged before the Mohtasib while any application regarding the financial record could be challenged before the Federal Tax Ombudsman having the exclusive powers of the financial matters of the organization. He said that although the lacuna in this particular subject is that the appellant authority of the Mohtasib is President of Pakistan and his practical experience the appeals made against the decision of the Mohtasib remains pending for the years so it is needed that a specific Chief Information Officer is designated to provide its services to the public as per the law. He said that the method prescribed in the form and especially the restriction to furnish the information about the

purpose of getting information and not to use it for any other purpose is unjustified because a person has a right to get an information and disseminate or take action whatsoever for the best interest of the public at large.

He in his presentation highlighted the excluded documents mentioned in Section 8 and stressed to reduce the list of excluded documents and to be minimize only to the very sensitive information. Section 8 gives us a lot of exclusions which is against the spirit of the legislation. He said that in India, the Government has given access to its citizens living abroad to apply for any information through Indian Embassies in the respective country where the applicant is residing which shows the commitment of the government to facilitate its citizens and proper implementation of the legislation even the information officers designated in the embassies all over the world. He emphasized on the need of similar actions to the citizens of Pakistan under the FOI for the better provision of the information.

CONCLUSIONS AND VOTE OF THANKS:

All the participants thanked SHARP for organizing such an informative and important Seminar. They also thanked the Guest Speakers for sharing their experience and knowledge on the subject. Unanimously, following recommendations were made for the up-gradation of “FREEDOM OF INFORMATION ORDINANCE 2002”:

- A) There are many loop holes and weakness in the existing FOI Ordinance. A committee should be set up to review the existing FOI and make necessary amendments for expedited implementation.
- B) A similar FOI Ordinance should be promulgated in the provincial governments of Punjab, NWFP and Baluchistan.
- C) Although, provincial government of Sindh has issued FOI Ordinance in 2006, but it should be amended in line with the federal FOI after recommendation by the committee.
- D) The FOI Ordinance should be disseminated through print and electronic media for creating awareness among the public at large.
- E) The Designated Official should be appointed before BPS 19 so that he / she can be easily accessed for general public
- F) Fee of Pak Rs. 5.00 per page is over high, it should be reduced

Mr. Qaiser Siddiqui concluded the session by saying that Thomas Jefferson, in 1816, very rightly said that “if a nation expects to be ignorant and face, in a state of civilization, it expects what never was and never will be”.

He thanked the audience for their presence and active participation and formally closed the seminar.