

Right to Information Legislation:

A Comparison of Pakistan's Freedom of Information Ordinance 2002 and Indian Right to Information Act 2005

Centre for Peace and Development Initiatives, Pakistan (CPDI-Pakistan) has prepared this paper, which compares the Pakistan's Freedom of Information Ordinance 2002 with the Indian Right to Information Act 2005. Its purpose is to (a) highlight the weaknesses in the Freedom of Information Ordinance 2002; and (b) make the point that it is possible to implement relatively stronger and comprehensive access to information laws in developing countries like Pakistan and India. It is expected that this comparison would serve as a useful advocacy tool for citizens and civil society groups. Furthermore, it would facilitate government officials and legislators in taking more informed initiatives to (a) improve the Freedom of Information Ordinance 2002 and related Rules; and (b) ensure that citizens are enabled to actively use the information legislation in terms of securing their rights and improving governance.

No.	Key Features	India	Pakistan
1	Title	It is called "Right to Information Act, 2005".	It is called "Freedom of Information Ordinance, 2002".
2	Who has the right to information?	All citizens.	All citizens.
3	Meaning of right to information	Right to information means the "right to information accessible under this Act which is held by or under the control of any public authority and includes the right to (i) inspection of work, documents, records; (ii) taking notes, extracts, or certified copies of documents or records; (iii) taking certified samples of material; (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device."	Not defined
4	Definition of information/ record	Information means "any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, log books, contracts, reports, papers, samples, models, data materials held in any electronic form and information relating to any private body which can be accessed by a public body under any law for the time being in force".	Record means "record in any form, whether printed or in writing and includes any map, diagram, photography, film, microfilm, which is used for official purpose by the public body which holds the record". However, a long list of exclusions (Section 8) and exemptions (Sections 14-18) further restrict the scope of information and records that could be

		Records include “(i) any document, manuscript and file; (ii) any microfilm, microfiche, and facsimile copy of a document; (iii) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and (iv) any other material produce by a computer or any other device.”	accessed by citizens.
5	Geographical coverage	It extends to whole of India except the (Occupied) State of Jammu and Kashmir.	It extends to whole of Pakistan.
6	Application of law	<p>It is applicable to public authorities “established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly:</p> <ul style="list-style-type: none"> (i) by the Central Government or a Union Territory Administration, the Central Government, (ii) by the State Government, the State Government.” 	<p>It is applicable to all public bodies of the Federal Government including:</p> <ul style="list-style-type: none"> (i) any Ministry, Division or attached department of the Federal Government, (ii) Secretariat of Majlis-e-Shoora (Parliament), (iii) Any office of any Board, Commission, Council, or other body established by, or under a, Federal law, (iv) Courts and tribunals.
7	Exclusions and/or Exemptions	<p>There exist only one list of precisely defined exclusions and exemptions. Even the excluded or exempted information can be provided to citizens if the Information Commissioner determines that the public interest in disclosure outweighs the protected interest.</p> <p>Information related to allegations of corruption and human rights violations is not exempted even in the case of national security agencies e.g. armed forces or intelligence agencies.</p>	<p>There are three sets of provisions in relation to public, excluded and exempt records. Most of the records declared as public are already accessible through various channels.</p> <p>On the other hand, there long lists of excluded records (Section 8) and information exempted from disclosure (Sections 14-18).</p> <p>It effectively means that only a small number of records can be accessed under the FOI Ordinance 2002.</p>
8	Who will be responsible to provide information?	Every public authority shall appoint Central Public Information Officers or State Public Information Officers in all administrative units or the offices under them. In addition, officers will be designated at sub-divisional or sub-district officials as Central Assistant Public Information Officers or State Public	A public body shall designate and notify an officer or employee to whom requests under the Ordinance are to be made. In case no such official has been designated or in the event of the absence or non-availability of the designated official, the person incharge of the public body shall be the

		Information Officers.	designated official.
9	Requirements of information request	<p>Particulars/ contact details of requester and fee as may be prescribed.</p> <p>Applicant is not required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.</p>	<p>Particulars/ contact details of requestor and fee as prescribed (i.e. RS. 50/application).</p> <p>Under the Rules, it is necessary for a requester to give reason for requesting the information.</p>
10	Time-limit for information provision	Central Public Information Officer or the State Public Information Officer shall provide the requested information as expeditiously as possible, and in any case within 30 days of the receipt of request.	Requested information to be provided within 21 days.
		If information sought is for concerns related to life and liberty of a person, it shall be provided with 48 hours of the receipt of request.	As above.
11	Application fee	<p>Application fee, as may be prescribed, will be reasonable. Persons below the poverty line will be exempt from the charge of any fee.</p>	<p>Fee as it may be prescribed but with the aim of providing information promptly and at the lowest reasonable cost.</p> <p>It is, however, fixed as RS. 50 per application (+ up to 10 pages of information). RS. 5/ page to be charged for additional pages.</p>
		Information will be provided free of charge where a public authority fails to comply with the time limits specified in the Act.	No such provision.
12	Form in which information may be provided	Information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert resources of the public authority or would be detrimental to the safety or preservation of the record in question.	No such provision.
		Information that cannot be denied to Parliament or a state legislature shall not be denied to any person.	No such provision
		Notwithstanding anything in the Official Secrets Act or any of the exemptions permissible under the Act, a public authority may allow access to	No such provision

		information, if public interest in disclosure outweighs the harm to the protected interests.	
		Where request for access to information is related to exempt information, then access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any part that contains exempt information.	No such provision
13	Complaint and appeal procedure	<p>A complaint / appeals can be made to an officer who is senior to the Central Public Information Officer or the State Public Information Officer. This should be filed within 30 days after the information request is not responded, denied or any other grievance is caused.</p> <p>A second appeal can be filed to Central Information Commission or State Information Commission, specifically established for this purpose under the Act. This should be filed within 90 days after the decision of the first complaint/appeal.</p> <p>Each of the appeals shall be decided within a period of 30 days.</p>	<p>A complaint can be made to head of the public body, within 30 days, if the designated officer fails to provide the requested information in line with provisions of the Ordinance.</p> <p>A second complaint can be made to the Federal Ombudsman or, in the case of Revenue Division, to the Federal Tax Ombudsman.</p>
		Decision of Central Information Commission or State Information Commission shall be binding.	Decision of Federal Ombudsman is only recommendatory.
14	Penalties against officers	<p>Central or State Information Commission can impose a penalty of up to RS. 25,000 on officers who delay, deny or provide incorrect information malafidely or without any reasonable cause. In addition, the Commission can also recommend disciplinary actions against such officials at the time of giving its decision on appeals.</p>	<p>No penalty for officers who delay, deny or provide incorrect information malafidely.</p> <p>Instead, a complainant can be fined up to an amount of RS. 10,000 if his/her complaint is “found to be malicious, frivolous or vexatious”.</p>