

ANALYSIS OF COMPLAINTS FILED WITH KHYBER PAKHTUNKHWA INFORMATION COMMISSION

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Executive Summary:

The report presents the status of implementation of Khyber Pakhtunkhwa Right to Information Act from July 2016 to June 2017. The KP RTI Act, 2013 was passed with a spirit to improve accountability and transparency across the province and got overwhelming response from the citizens from all walks of life. The Law significantly contained a long history of secrecy in government departments and promoted the access of information to the citizens.

The analysis done in this report is based on the data obtained through RTI requests from Right to Information Commission Khyber Pakhtunkhwa and the statistics available in RTIC annual reports.

In depth analysis shows that though it has been over 4 years since the law was promulgated, citizen's interest in accessing information has significantly declined. Information requests filed during 2015-16 were 3,512 which decreased to 2,859 in year 2016-17. This shows decrease of 18.5 percent as compared to previous year. Similar trend has been observed in complaints registered with KP RTI Commission. Conversion of RTI requests to complaints decreased to 8 percent in year 2016-17. In year 2015-16, 1,761 complaints were filed with KP RTI Commission while in year 2016-17, 1,215 complaints were filed with KP RTI commission. Redressal of complaints declined 4 percent, as in year 2015-16, 1,409 complaints were resolved while in year 2016-17, 925 complaints were resolved.

Highest number of complaints in year 2015-16 were registered against Higher Education, Archives and Libraries department which were 268 out of 1761 total complaints, while in year 2016-17 highest number of complaints were registered against the autonomous bodies which were 325 out of 1215 total complaints. From the gender prospective, the number of complaints filed by female citizens intensely dropped to 3.7 percent in year 2016-17 which was 12.1 percent in year 2015-16. The complaints registered by the female in year 2015-16 were 215 which dropped to 46 in year 2016-17. The most sort-after information during 2015-16 were related to documents, certificates and reports category while during year 2016-17 recruitment and vacancies was the most sort after data.

The law provides 60 working days to KP RTI Commission to address the complaint after the requester files complaint. In year 2016-17, out of 1,215 complaints only 694 complaints were resolved within 60 working days, 435 complaints were resolved after 60 working days while 86 complaints could not be resolved. The redressal of complaints remained only 57 percent within 60 days.

Section 5 of the RTI law makes it binding on public bodies to proactively disclose the relevant information. The progress on the proactive disclosure is dismal as even at the secretariat level the websites are not updated regularly, hence, creating hurdles for the citizens to get information.

Background

The right to access information held by public bodies, known as the Right to Information (RTI), was internationally recognised as a human right in 1948 by the United Nations. However the first ever RTI law was enacted by the Swedish parliament in 1766. In South Asian countries Pakistan was the first country to promulgate Freedom of Information (FOI)¹ Ordinance in 2002. However, FOI Ordinance was a very weak law and did not guarantee citizens' access to information held by public bodies. It took another fifteen years to transform the Ordinance into Right of Access to Information in Pakistan.

The eighteenth amendment to the constitution of Pakistan, 1973 affected the legislative RTI landscape in the country. The insertion of Article 19-A made it pre-requisite for federal government and the provinces to enact effective RTI laws. As a result Khyber Pakhtunkhwa and Punjab provinces enacted their RTI laws in 2013. Sindh province repealed its Sindh Freedom of Information Act 2006 and enacted Sindh Transparency and Right to Information Act in March, 2017 while the Baluchistan province has still an ineffective Freedom of Information Act 2005.

S No	Unit	RTI law	Year of enactment
1	Federal	Right of Access to Information	2017
2	Punjab	Punjab Transparency and Right to Information Act	2013
3	Khyber Pakhtunkhwa	Right to Information Act	2013
4	Sindh	Sindh Transparency and Right to Information Act	2017
5	Baluchistan	Freedom of Information Act (Mirrior Legislation of Federal Freedom of Information Ordinance 2002)	2005

The Freedom of Information Ordinance (FOI) 2002 was applicable only to federal public bodies. Prior to this law, there was plethora of laws like Official Secret Act, Press and Publication Ordinance etc., all obstructing citizens' access to information. The recent enactment of Right of Access to Information Act, 2017 at federal level has opened the doors of transparency and accountability in its true spirit. It's now the willingness and competency of the provinces to ensure the citizens' access to public record. Under Khyber Pakhtunkhwa RTI Act, 2013 public bodies are legally bound to proactively disclose the public information. The complaints analyses over the year 2016 and 2017 reveals that 2859 information requests were filed off which 1546 information requests which is 52 percent of total were directly responded by the departments while 1,215 requests turned into complaints. Out of 1,215 complaints registered with KP RTI Commission, only 694 complaints were resolved within 60 working days while 435 complaints

¹ The terms FOI and RTI are often used interchangeably.

were resolved after 60 working days and 86 complaints are still open. This highlights the weak implementation of KP RTI law. KP RTI Commission has been lenient to the departments who had blocked and denied the information and in most of the cases where departments were reluctant to give the information; RTI Commission has not been able to press the departments to provide the information within stipulated time as defined in KP RTI Act, 2013.

The analysis also reveals that most of the complaints submitted to KP RTI Commission pertains to the data which has not been proactively disclosed despite the fact that RTI commission has been now over four years of age.

Introduction:

In Khyber Pakhtunkhwa, Pakistan Tehrik-e-Insaf (PTI) while forming its government after 2013 general election framed a 'Good Governance Legislative Framework'. Right to Information Act was the part of the framework and was enacted with a spirit to promote transparency and accountability in the province in the public services. Khyber Pakhtunkhwa RTI Act, 2013 was ranked third in the list of laws around the world by RTI experts. Although the laws are as good as their implementation, it received its first blow when KP Assembly was exempted from the ambit of the law however with the strong civil society and media campaign the amendment was reversed. Similarly long awaited amendments to promote and strengthen the law are parked in the legislative organs.

This study gauges the performance of the RTI Commission from July 2016 to June 2017.

Salient Features of KP RTI Act, 2013:

The features of the KP RTI Act, 2103 can be defined as;

- World 3rd Best RTI law according to the World Bank & Centre for Democracy & Law (CLD) Canada
- RTI Application is Free of Cost
- First 20 pages of information would be provided free of cost
- Complaint registration with information commission is free of cost
- Simple procedure for obtaining Information
- Strong Implementation Mechanism
- Protection for Whistle Blowers
- Web based publication and maintenance of record
- Penalty for public bodies

However the laws strengthen with its implementation, the process has demanded some significant improvements but are long waited as;

- Rules of business has not yet notified by KP government under the KP RTI law
- The KP RTI Act has not yet extended to the Provincial Tribal Administrated Areas (PATA).
- Departmental head should be made responsible to provide the information if it is denied or obstructed by the Public

KP RTI Act, 2013 does not set any time period to public departments for publication of their record. On the other hand, the Right to Information (RTI) Act India (Chapter II, Clause 4 (1-b)) obliges all public departments to publish their record within one hundred and twenty days from the enactment of RTI Act.

Information Officer (PIO) or any other official

- Time bound redressal of Complaints filed with the information commission
- Inclusion of Khyber Pakhtunkhwa High court in the ambit of RTI Act
- Define timeline for the proactive disclosure of information by the departments
- Develop a procedure to collect the penalty imposed on PIO by the Commission
- Provision of extra benefits to PIOs for their services as PIO

No doubt, the introduction of this new legislation has created ripple effect in the stagnant behaviour of the government and pushed a change in the manner the information used to be disseminated.

However, the legislation is not free of shortcomings like the state of proactive disclosure. Under Section 4 of the Act, public bodies are required to ensure that all the records which they hold are properly maintained and must be indexed. Moreover, under Section 5, the record must be published and must be made readily available, including through internet to the public. In this regard RTI Commission has also been mandated to facilitate and provide assistance to the relevant departments to ensure that these two important provisions of the law are fully implemented.

Nevertheless, the law lack significantly to bring tangible reforms to implement the norms set within the legislation to enforce and implement the required level of proactive disclosure.

KP RTI Commission

KP RTI Commission is the responsible body to implement the RTI Act in its true spirit. It is headed by Chief Information Commissioner while two information Commissioners completes the management of the house. The commissioners are appointed for three years. RTI commission has different sections among which legal section is the main section. The summonses are held regularly where public Information Officers are called in to give their stance in case of denied information's.

Methodology:

The methodology used for this analysis has been in two stages. In first stage the information requests were segregated department wise in order to highlight the number of departments from which the information has been requested. In the second stage, using the same data, complaint analysis has been done in order to segregate:

- a) Department Wise Complaint analysis
- b) Category wise Complaint analysis
- c) Time Bound Complaint analysis
- d) Gender wise Complaint analysis

The purpose of this exercise on one hand is to identify the most sort after information by the public at large and on the other hand it gauges the performance of the departments. Similarly the time period has been one of the key factors to evaluate the performance of the KP RTI Commission.

Detailed analysis done is presented in the form of data and is also presented in the form of charts for clear understanding in the following pages.

Analysis

Department Wise Information Requests Analysis 2016-17:

Department wise information requests analysis shows that a total of 2859 requests were filed from July 2016 to June 2017 out of which 1,546 information requests were responded and the information was provided to the citizens hence the flow of information directly by the departments to the citizens stood at 54 percent.

504 information requests out of total 2,859 information requests were filed to Elementary and Secondary Education department which was highest among the departments and is 17.6 percent of the total information requests. Elementary and Secondary Education department could respond to 304 information requests directly to the citizens which is 60.3 percent.

Autonomous bodies were second in terms of receiving information requests and received 340 information requests of the total 2859 information requests among which only 15 requesters were provided information which is only 4.4 percent response rate from autonomous bodies.

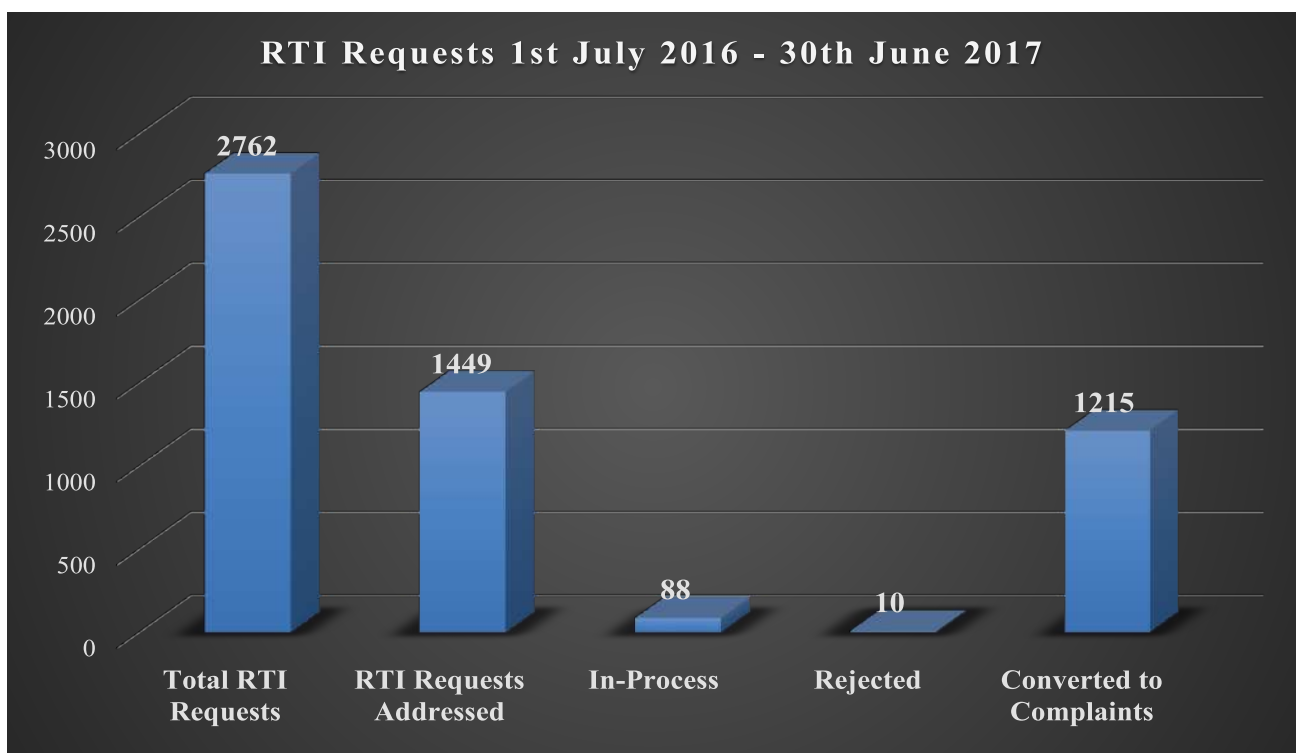
Health department stood at third with 266 information requests out of 2859 information requests which is 9.3 percent of the total information requests. Health department could respond 115 information requests directly and hence its response rate stands at 43.2 percent.

Interestingly Provincial Assembly Khyber Pakhtunkhwa did not receive any information request during July 2016 to June 2017. A brief statistics of information received by the different department is as;

No.	Departments	Total RTI Requests	RTI Requests			
			Information provided in Time	In-Process	Rejected	Converted to Complaints
1	Agriculture, Livestock & Co-Operation Deptt:	185	131	22	10	22
2	Auqaf, Hajj, Religious & Minority Affairs Deptt:	40	32	0	0	8
3	Autonomous	340	15	0	0	325
4	Chief Minister's Secretariat	47	36	0	0	11
5	Communication & Works Deptt: (C&W)	32	19	0	0	13
6	Establishment Deptt:	230	135	6	0	89
7	Education Boards	55	30	5	0	20
8	Elementary & Secondary Education Deptt:	504	304	6	0	194
9	Energy & Power Deptt:	14	0	0	0	14

No.	Departments	Total RTI Requests	RTI Requests			
			Information provided in Time	In-Process	Rejected	Converted to Complaints
10	Excise & Taxation Deptt:	12	4	0	0	8
11	Finance Deptt:	44	26	2	0	16
12	Food Deptt:	4	0	0	0	4
13	Forestry, Environment & Wildlife Deptt:	42	27	0	0	15
14	Governor House	6	0	0	0	6
15	Health Deptt:	266	115	1	0	150
16	Higher Edu, Archives & Libraries Deptt:	206	113	31	0	62
17	Home & Tribal Affairs Deptt:	245	205	0	0	40
18	Housing Deptt:	4	1	0	0	3
19	Industries, Commerce, Labour & Technical Education Deptt.	21	5	0	0	16
20	Information, Public Relation & Culture Deptt:	12	11	0	0	1
21	Inter Provincial Coordination Deptt:	1	1	0	0	0
22	Irrigation Deptt:	35	20	0	0	15
23	Law ,Parliamentary Affairs & Human Rights Deptt:	18	15	0	0	3
24	Local Government & Rural Development (LG &RD)	147	65	0	0	82
25	Mines & Minerals Department	25	14	0	0	11
26	Planning & Development (P&D)	27	23	0	0	4
27	Population Welfare Deptt:	13	13	0	0	0
28	Provincial Assembly	0	0	0	0	0
29	Public Health Engineering	72	33	15	0	24
30	Relief Rehabilitation & Settlement Deptt:	12	0	0	0	12
31	Revenue & Estate	76	71	0	0	5
32	Sarhad Development Authority	0	0	0	0	0
33	Science & Tech & Info Tech (ST&IT)	29	15	0	0	14
34	Social Welfare, Special Education & Women Empowerment	31	26	0	0	5

No.	Departments	Total RTI Requests	RTI Requests			
			Information provided in Time	In-Process	Rejected	Converted to Complaints
35	Sports, Culture Tourism & Youth Affairs	25	17	0	0	8
36	Transport & Mass Transit	11	6	0	0	5
37	Zakat and Ushar	18	18	0	0	0
38	Printing & Press	2	0	0	0	2
39	Others	8	0	0	0	8
Total		2859	1546	88	10	1215

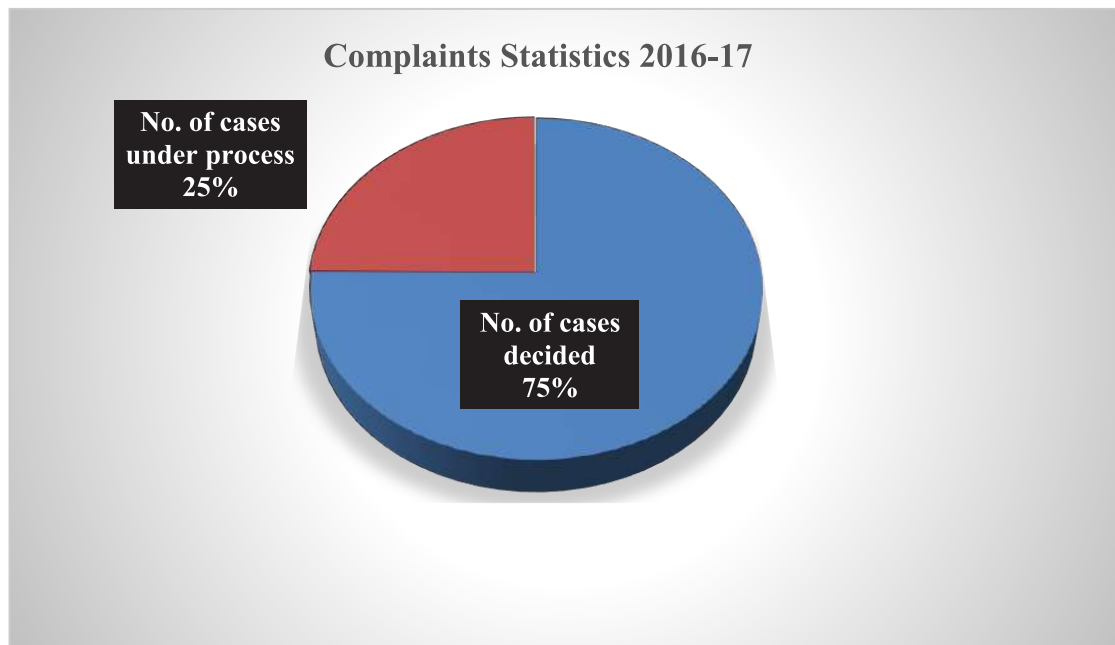


Department Wise Complaint Analysis, 2016-17:

Department wise complaint analysis shows that a total of 1,215 complaints were registered from July 2016 to June 2017 on which 913 complainants were provided the required information which is 75 percent. Highest number of complaints were registered against the autonomous department/bodies which is 325, among which 241 complainants were provided the required information. 194 complaints were registered against the Elementary and Secondary Education department on which 154 complainants were provided the required information. 150 complaints were launched against the health department on which 100 complainants were provided the required information. A brief statistics of department wise complaint is as;

No.	Departments	RTI Complaints		
		Total	In Process	Decided
1	Agriculture, Livestock & Co-Operation Deptt:	22	3	19
2	Auqaf, Hajj, Religious & Minority Affairs Deptt:	8	2	6
3	Autonomous	325	84	241
4	Chief Minister's Secretariat	11	0	11
5	Communication & Works Deptt: (C&W)	13	4	9
6	Establishment Deptt:	89	20	69
7	Education Boards	20	4	16
8	Elementary & Secondary Education Deptt:	194	40	154
9	Energy & Power Deptt:	14	4	10
10	Excise & Taxation Deptt:	8	0	8
11	Finance Deptt:	16	7	9
12	Food Deptt:	4	0	4
13	Forestry, Environment & Wildlife Deptt:	15	2	13
14	Governor House	6	0	6
15	Health Deptt:	150	50	100
16	Higher Edu, Archives & Libraries Deptt:	62	18	44
17	Home & Tribal Affairs Deptt:	40	15	25
18	Housing Deptt:	3	2	1
19	Industries, Commerce, Labour & Technical Education Deptt.	16	2	14
20	Information, Public Relation & Culture Deptt:	1	0	1
21	Inter Provincial Coordination Deptt:	0	0	0
22	Irrigation Deptt:	15	4	11
23	Law ,Parliamentary Affairs & Human Rights Deptt:	3	0	3
24	Local Government & Rural Development (LG &RD)	82	20	62
25	Mines & Minerals Department	11	2	9
26	Planning & Development (P&D)	4	1	3
27	Population Welfare Deptt:	0	0	0
28	Provincial Assembly	0	0	0
29	Public Health Engineering	24	3	21
30	Relief Rehabilitation & Settlement Deptt:	12	4	8
31	Revenue & Estate	5	3	2
32	Sarhad Development Authority	0	0	0

No.	Departments	RTI Complaints		
		Total	In Process	Decided
33	Science & Tech & Info Tech (ST&IT)	14	2	12
34	Social Welfare, Special Education & Women Empowerment	5	1	4
35	Sports, Culture Tourism & Youth Affairs	8	3	5
36	Transport & Mass Transit	5	2	3
37	Zakat and Ushar	0	0	0
38	Others	8	0	8
39	Printing & Press	2	0	2
Total		1215	302	913



Category Wise Complaint Analysis, 2016-17:

Category wise complaint analysis shows that out of 1215 complaints registered from July 2016 to June 2017, 300 complaints were registered for the Recruitment, Vacancies etc. information, which comes to around 24.6 percent of the total. 291 complaints which makes 23.9 percent of the total registered complaints pertain to data and statistics. Similarly, 204 complaints which makes 16.7 percent of the total complaints were registered regarding Documents, Certificates, and Reports within the public department. 101 complaints which makes 8.3 percent of total complaints were regarding Merit List, Test, Interviews and Seniority List. 84 complaints were registered for Enquiry Reports and Meeting Minutes which makes 6.9 percent of the total. 57 complaints were registered to sort budget and funds information which makes 4.6 percent of the total.

Information Sort	Budget, Funds etc.	Data & Statistics	Recruitment, Vacancies etc.	Merit List, Test, Interviews Seniority List	Annual Reports	Posting & Transfer	Enquiry Reports, Meeting Minutes	Documents, Certificates, Reports	others	Total
Total in Numbers	57	291	300	101	2	18	84	204	158	1215
Percentage	4.6%	23.9%	24.6%	8.3%	0.16%	1.48%	6.9%	16.7%	13%	100%

Time Bound Complaint Analysis, 2016-17:

The time bound complaint analysis revealed dismal statistics. A total of 1215 complaints were registered during the fiscal year 2016-17, of which only 694 complaints which is 57 percent of the total complaints were provided the required information within 60 days. 435 complainants which is 35.8 percent of the total complaints were provided the required information beyond the 60 days while 86 complaints are still open which has already crossed 60 working days cut off time as mentioned in KP RTI law 2013.

518 complaints were launched against the autonomous bodies of which only 282 complaints were resolved within 60 days, 190 complaints were resolved beyond 60 days while 46 complaints are still open. Elementary and secondary education department registered 165 number of complaints which is highest among the departments but it could only provide information to 85 complainants within 60 working days, 65 complainants were provided required information after 60 days while 65 complaints are still open.

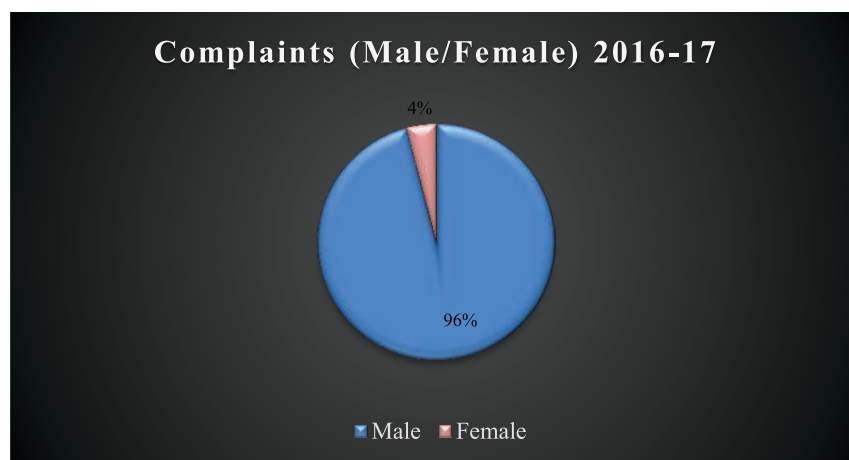
The below table shows the department wise time bound analyses of complaints from July 2016 to June 2017.

No.	Departments	Status			In Process
		Total Complaints	Disposed-off within 60 days	Disposed-off after 60 days	
1	Agriculture, Livestock & Co-Operation Deptt:	19	15	4	
2	Auqaf, Hajj, Religious & Minority Affairs Deptt:	9	5	4	
3	Autonomous	518	282	190	46
4	Communication & Works Deptt: (C&W)	15	9	6	
5	Establishment Deptt:	91	60	31	
6	Elementary & Secondary Education Deptt:	165	85	65	15
7	Energy & Power Deptt:	14	6	8	
8	Excise & Taxation Deptt:	9	5	3	1
9	Finance Deptt:	18	12	5	1
10	Food Deptt:	5	4	1	
11	Forestry, Environment & Wildlife Deptt:	21	15	6	
12	Health Deptt:	72	43	23	6

No.	Departments	Status			In Process
		Total Complaints	Disposed-off within 60 days	Disposed-off after 60 days	
13	Higher Edu, Archives & Libraries Deptt:	14	8	5	1
14	Home & Tribal Affairs Deptt:	45	26	15	4
15	Industries, Commerce, Labour & Technical Education Deptt.	17	10	7	
16	Information, Public Relation & Culture Deptt:	2	2		
17	Inter Provincial Coordination Deptt:	1	1		
18	Irrigation Deptt:	23	14	8	1
19	Law ,Parliamentary Affairs & Human Rights Deptt:	2	1	1	
20	Local Government & Rural Development (LG &RD)	87	50	28	9
21	Mines & Minerals Department	13	7	6	
22	Planning & Development (P&D)	7	6	1	
23	Public Health Engineering	15	7	7	1
24	Revenue & Estate	6	4	2	
25	Social Welfare, Special Education & Women Empowerment	7	3	4	
26	Sports, Culture Tourism & Youth Affairs	5	2	2	1
27	Transport & Mass Transit	5	3	2	
28	Zakat and Ushar	2	2		
29	Printing & Press	1		1	
30	Others	7	7		
Total		1215	694	435	86

Gender Wise Complaint Analysis 2016-17:

There is a wider gender gap in the complaint analyses as only 46 females which is only 3.7 percent out of total 1215 complainants registered their complaints to RTIC from July 2016 to June 2017.



Conclusion:

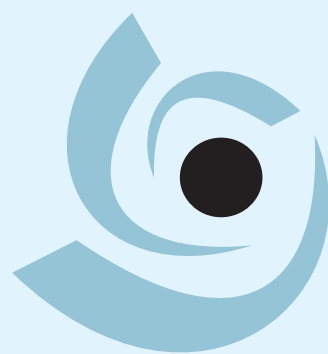
Laws are as good as their implementation. The Right to Information law was passed with a spirit to improve accountability and transparency across the province, but its implementation remained a big challenge. Proactive disclosure of the information is essence of KP RTI Act, 2013 which is clearly mentioned under Section 4 & 5. Public bodies are supposed to disclose the information in order to strengthen this Act. They have to ensure periodicity of the dissemination of the information so as to institutionalize the disclosure mechanism as envisaged in the Act. Ultimately it is the robust and dynamic interface between citizen and government through proactive disclosure which would ensure accountability and transparency within the government bodies. In this regard under section 4, KP RTI Commission has to prepare relevant rules and regulations to be implemented. However, it seems that Commission has not taken appropriate measure to ensure this important aspect of the Act. The detailed analysis of the complaints speaks a lot about the inherent deficiency to proactively disclose the information on part of public offices.

Department wise information requests analysis shows that a total of 2859 requests were filed from July 2016 to June 2017 which could only get 1546 information response attaining a flow of 54 percent. This indicates the attitude of provincial departments towards Right to Information law. These information requests were registered as the departments does not proactively public the relevant data, if the proactive disclosure would have done by the departments the flow of information requests would have minimum and on the other hand rather to proactively disclose the information 46 percent complainants were not provided the information even after putting the information requests.

The time bound complaint analyses shows revealing statistics. A total of 1215 complaints were launched during the fiscal year 2016-17, of which only 694 complaints, which is 57 percent of the total complaints, were provided the required information within 60 days. 435 complainants which is 35.8 percent of the total complaints were provided the required information beyond the 60 days while 86 complaints are still open which has already crossed 60 working days cut off time as mentioned in KP RTI law 2013. The law provides 60 days to RTIC to resolve a complaint, the above statistics shows the dismal condition of RTIC due to which public trust on RTI Law has declined. Until and unless RTIC does not respond according to the Law the citizen's trust on RTIC will keep on declining. The flow of information request and registration of complaints will decrease by times.

There is a wider gender gap in the complaint analyses as only 46 females which is only 4 percent out of total 1215 complainants registered their complaints to RTIC from July 2016 to June 2017. This indicates that RTIC has to take concrete steps in the awareness and mobilization of females who are equal in citizenry and makes half of the population.

There is dire need firstly, to change the mind-set which is prevailing among the public officers who are not ready to depart from the status-co and are continuing with the draconian laws such as Official Secrets Act, 1923 and E&D Rules. Secondly, new strategies should be devised in order to train the PIO's to make them understand the efficacy of disclosing maximum information in order to avoid influx of information and wastage of time and resources required to handle these requests. Thirdly, efforts should be made to strengthen the role of KP RTI Commission whereby they could effectively influence the public departments and in case of any violation of the any provision under the Act, could inflict penalties upon the violators.



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