# Your Right to Know

#### Article 19A of the constitution of Pakistan.

"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"







This guidebook covers the provisions & sections of Federal, Sindh & Baluchistan FOI laws.



#### **SHEHRI - CITIZENS FOR A BETTER ENVIRONMENT**

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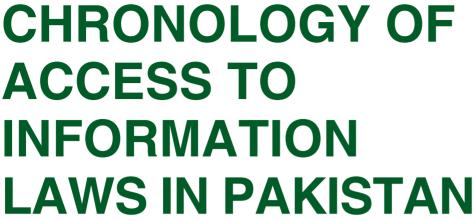
"Every citizen shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law"

~ Article 19A of the constitution of Pakistan.

- "Freedom of Information is a fundamental human right and is the touchstone of all the freedoms to which the UN is consecrator".
   Resolution 59(1) of the UN General Assembly, adopted in 1946, during its first session
- "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

Article 19 of the UN Declaration on Human Rights in 1948:

 2 Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. International Covenant on Civil and Political Rights (ICCPR) adopted by General Assembly resolution 2200A (XXI) of 16 December 1966.





- 1990: First attempt was made by Professor Khurshid Ahmad, who tabled a private Bill on FOI in the Senate in 1990. It was forcefully resisted and failed to be enacted.
- 1994: The Public Accounts Committee, headed by Senator Malik Qasim, made the second attempt in 1994. It too could not be enacted.
- 1997: On the initiative of Fakhruddin G. Ibrahim, the Federal Minister of Law in the Interim Government headed by Malik Mairaj Khalid, the President of Pakistan promulgated a Freedom of Information Ordinance on January 29, 1997. However, the successive government of Mian Nawaz Sharif allowed this Ordinance to laps and did not enact it into law.
- **2001:** Sindh Local Government Ordinance 2001, Section 137: "Every citizen shall have the right information about any office of the District Government. Taluka, Tehsil, Municipal Administration and Union Administration."
- 2002: The President of Pakistan, Gen. Pervez Musharraf, promulgated the Freedom of Information Ordinance on 26th October, 2002.
- 2004: Federal Freedom Of Information Rules 2004.
- 2005: Balochistan Freedom Of Information Act 2005.
- 2006: Sindh Freedom Of Information Bill 2006.
- 2007: Balochistan Freedom Of Information Rules 2007.
- 2010: Article 19-A, in the 18th Amendment to the Constitution.
- 2012: Sindh Local Government Ordinance 2012, Section 151: "Every citizen shall have the right to information about any office of the Councils. Every office shall provide requisite information, if not restricted under any law for the time being in force, on the prescribed forms and on payment of such fee as may be prescribed."
- 2013: The Sindh Local Government Act, 2013. Section # 150 & 154.
- 2013: KP Right To Information Act, 2013.
- 2013: Punjab Transparency & Right To Information Act, 2013.
- 2015: Punjab Transparency & Right To Information Rules, 2014.



- \* Article 19-A of the Constitution of Pakistan: "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."
- \* Federal Freedom Of Information Ordinance, 2002.
- \* Federal Freedom Of Information Rules, 2004.
- \* Balochistan Freedom Of Information Act, 2005.
- \* Sindh Freedom Of Information Act, 2006.
- \* Balochistan Freedom Of Information Rules 2007.
- \* KPK Right to Information Act, 2013.
- Punjab Transparency & Right To Information Act, 2013
- \* The Sindh Local Government Act, 2013 (Section 150 & 154)
- \* Punjab Transparency & Right To Information Rules, 2014

# YOU CAN ASK FOR INFORMATION FROM ANY PUBLIC BODY



#### A Public Body means:

- a. Any ministry, division or department of the Federal or Provincial Government.
- b. Any Federal or Provincial Legislature (national assembly or provincial assembly secretariat).
- c. Any office of any Board, Commission, Council,
   Municipal or Local Authority established by or under a Federal or Provincial Government.
- d. Any Federal or Provincial court or tribunal.
- e. Any corporation, body or institution set up, established, owned or controlled by the Federal or Provincial Government.





A citizen can ask for any information except for the category defined as 'exempt from disclosure'. Following are some examples of the type of information you may ask for under the Freedom of Information Act:

- Under what authority are the people building houses on land reserved for parks or utilities?
- How are residential areas being converted into commercial areas?
- How many government schools are operational in a particular area?
- Who all received government contracts, for what amount and on what grounds?
- What amounts are spent on a politician or a government servant to support his perks, travel, cars, house rents, foreign visits, office, entertainment, advertisements, etc?
- What is the budget and how is it spent. Ask this information about a school, hospital or any public body?
- What is the crime rate for each police station, cases pending in courts, cases of violence against women and why are the culprits not punished?
- What licenses, contracts, allotments and other benefits were made / given by the public body?
- Any information or record held by any public body that the government declares as public information.

# INFORMATION YOU CANNOT ASK FOR: X



#### This includes information that:

- May cause grave and significant damage to the interests of Pakistan in the conduct of international relations
- May cause harm to the enforcement of law
- May result in the commission of an offence
- May harm the detection, prevention, investigation or inquiry in a particular case
- May reveal the identity of a confidential source of information
- May facilitate an escape from legal custody
- May harm the security of any property or system
- May lead to invasion of privacy of an 'identifiable individual'
- May cause grave and significant damage to the economy as a result of the premature disclosure of the proposed introduction, abolition of variation of any tax, duty, interest rate, exchange rate or any other instrument of economic management
- May cause significant damage to the financial interests of the public body by giving unreasonable advantage to any person in relation to a contract which that perso is seeking to enter into with the public body for acquisition, or disposal of property or the supply of goods or services
- May cause significant damage to the lawful commercial activities of the public body



- Noting on the files
- Minutes of meetings
- Any intermediary opinion or recommendation
- Records of banking companies and financial institutions relating to the accounts of their customers
- Records relating to defence forces, defence installations or connected or ancillary to defence and national security
- Records declared as classified by the Federal Government
- Records relating to the personal privacy of any individual
- Record of private documents furnished to a public body either on an express or implied condition that information contained in it shall not be disclosed to a third person
- Any other record which the Federal Government may in public interest exclude from purview of this ordinance

# KEY FEATURES OF THE FREEDOM OF INFORMATION LAW



- Any citizen can seek any information or record from any public body (except for information categorized by law as 'exempt from disclosure').
- Every public body will designate an official to provide true and easy public access to information or records. The Designated Official shall be a senior officer of the public body not below BPS-19. In case no such official has been designated or in the event of the absence or non-availability of the Designated Official, the person in charge of the public body shall be the Designated Official, for the purposes of these rules.



 Each public body shall also make available the Application Form (App. A) on its website.



 The Designated Official shall provide the information / record within 21 days of the receipt of request. The information form or the copy of record supplied to the applicant shall contain a certificate that the information is correct or the record is a true copy and this certificate will be dated and signed by the Designated Official.



• If the information cannot be provided for any reason, the Designated Official shall record his decision in writing and the applicant shall be informed within 21 days of the receipt of request for information / record.



- In case the requisite information is not provided by the Designated Official of a public body within twenty-one days, the applicant may, file a complaint with the Head of that public body and the Head of such public body shall dispose of the complaint under intimation to the complainant within thirty days of its receipt.
- If the Head of the public body also fails to provide the requested information (within 30 days), the complainant can file an appeal with the Federal or Provincial Ombudsman (Mohtasib) as the case may be. For cases relating to Revenue Division (or its subordinate departments, offices and agencies) appeal may be led with the Federal Tax Ombudsman.



 The Mohtasib or the Federal Tax Ombudsman, may, within 60 days, after hearing the applicant and the Designated Official, direct the Designated Official to give the information / the copy of the record or may reject the complaint.

# GUIDELINES FOR MAKING AN FOI APPLICATION

- 1. Ensure you are writing to the correct government department.
- Ensure you demand a specific record by name and period such as "Please give me the record under the heading 'purchase of medicine' from 1st January 2011 to 31 December 2011 for Government Hospital XYZ".
- 3. Ask for specific information such as "How many employees from Grade 10 to 18 are employed in the XYZ ministry of Sindh Government."
- 4. Do not ask general questions which may involve views of various individuals such as "Why is the newly constructed underpass in my area in such a bad shape".
- 5. Do not ask for vague information such as "Give details (what details) of the project to build the underpass in XYZ area."
- 6. Try to confine your request to one subject per application.
- 7. If you are hand delivering your request, get a receipt that shows receiving date. If you are using a courier, save the courier receipt, just in case you need to follow up or appeal.





# FIVE STEPS FOR OBTAINING INFORMATION / RECORDS



Applicant determines the information / record that he / she requires.





Applicant identifies the custodian ministry / department / public body which must be approached for obtaining the required information.





Applicant fills Application Form (App.A) along with the declaration. Attaches a copy of National ID Card.





Applicant deposits a Challan of Rs.50 (only for FOI requests and Shehri FOI) in any branch of National / State Bank Account No. 1391221. (see instructions for Challan at App.B).





Applicant submits / posts the application (along with a copy of Challan and a copy of NIC) to the Designated Official of the concerned Public body. Applicant retains a copy of these documents for future possible use.



### **APPENDIX A**



#### APPLICATION FORM FOR OBTAINING RECORD UNDER FREEDOM OF INFORMATION ORDINANCE, 2002 (XCVI OF 2002)

Name of the applicant	
NIC No.	(attach a photocopy of the NIC)
Father's Name	
Address	
Phone No.	
Name of the Public Body from which inform	nation is to be obtained
Subject matter of record requested	
Nature of the record requested	
Purpose of acquisition of the information or	record

## **DECLARATION**



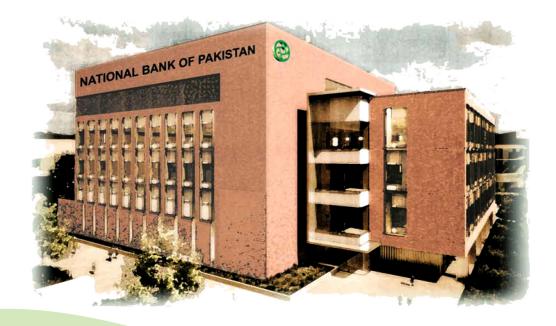
(a) Application Fee of Rs.50/- (Non-refundable	) has been deposited with the					
Cash Branch of the department or in State Ba	nk of Pakistan or National					
Bank of Pakistan or Treasury	vide challan or receipt No.					
dated	_, an original copy of which					
is attached.						
(b) The information obtained would not be used for any purpose other than						
specified above.						
Signature of the Applicant:						
Name of the Applicant:						

# APPENDIX B INSTRUCTIONS FOR CHALLAN

- 1. Any citizen of Pakistan may apply on the Application Form (App.A) for obtaining information or photocopy of the public record available with the respective public body along with an initial fee of fifty rupees for ten or less than ten pages. (Five rupees for every additional page if the number of the pages of the record requested exceeds ten pages.)
- 2. This amount should be deposited with the Cash Branch of the respective department under proper receipt or in the State Bank of Pakistan or National Bank of Pakistan or Treasury under the following Head of Account namely:-

Head of Account: C 03885

3. In case of any Board, Commission, Council or other body established by, or under, a Federal / Provincial law, charges shall be deposited in their respective heads of account.



## **CHALLAN**

Г R.6 Treasury Rule 92) Challan of cash paid ii		Treasury / Sub Trea	-			1/4546: "
Challan of cash paid in		National / State Bank		at _		KARACH
		illed by the remitter	Orranstan		To be filled in Officer of the	by the Departmen Treasury
By whom tendered	Name (or designation) and address of the person on whose behalf money is paid	Full Particulars of the remittance and of authority (if any)	Amount		Head of Account	Order to the Bank
Name			Rs.	Ps.	C-03885	Date Correct - Receive and grant receipt (Signature and full designation of the officer ordering the money to be paid in)
Signature		Total			'	s)
(In words) Rupees Received payment (in	words) Rupe	es			case of re Bank thro	sed only in the emittance to the ugh Department ne Treasury Office
Treasurer		ecountant	Date		Treas	ury Officer

## KHYBER PAKHTUNKHWA RIGHT TO INFORMATION ACT, 2013

- RTI request can also be sent via fax or emails.
- Requester under no obligation to provide reasons for his request.
- Designated officer to assist the requester in filling RTI application.
- If the RTI request has been sent to the wrong public body (Dept.), then it is the responsibility of that department to forward the application to the right department and inform the applicant.
- RTI request to be responded within 10 days, max 20 days.
- No fee for lodging requests.
- No fee for the first 20 pages, and also where the requester is below the poverty line.
- Harm Test for exemptions/classified documents.
- All classified information to be declassified after 20 years.
- Appeals against refusals to be decided within 60 days. The burden of proof for the refusal lies with the dept.
- Appeals lie with the Information Commission, headed by a Chief Information Commissioner, a retired senior bureaucrat, and three other members; (i) a retired judge of the HC appointed by the CJ PHC, (ii) an advocate of the HC or SC appointed by the Bar Council, and (iii) a representative of the civil society appointed by the Human Rights Commission.
- The Information Commission shall have the powers of a civil court under CPC 1908.
- A penalty on the erring officer of Rs. 250/day to a maximum of Rs. 25,000/-
- Failure to respect the decision of the Information Commission shall be dealt as contempt
  of court.
- Whistleblower protection clause.



## PUNJAB TRANSPARENCY & RIGHT TO INFORMATION ACT, 2013

- "Applicant": means a citizen of Pakistan or a legal person registered or incorporated in Pakistan, seeking information under this Ordinance and includes a person authorized on behalf of the legal person;
- Right to Information also includes the right to inspect any work or document, and to take notes.
- Proactive disclosure of legislations, information about the Public Body, a directory of its officers and employees with their remunerations, perks and privileges, decision making process and opportunities for public, budgets, subsidies and details of beneficiaries, contact details of Public Information Officer.
- Punjab Information Commission to be appointed from amongst (i) Retired Judge of the High Court, or equivalent, (ii) a serving or retired bureaucrat of Grade 21, and (iii) civil society representative with 15 years' experience in mass communication, academia or RTI.
- The Punjab Information Commission will decide complaints within 30 days, (60 days max).
- The Punjab Information Commission shall prepare an Annual report on the status of FOI law and its rules & regulations, district and department wise summaries of information requests with their current status, and hurdles in the implementation of FOI law.
- Will designate and notify as many Public Information Officers in all administrative units as may be necessary.
- The application for information can also be made on a plain paper.
- It will be the duty of the Public Information Officers to assist the applicant in making a request for information.
- Information to be provided within 14 days (28 days max). Information relating to life or liberty to be provided within 2 days.
- If the application for information has been sent to a wrong department, then it will be the duty of that Public Information Officer to forward that application to the right department within 7 days with intimation to the applicant.
- In case of refusal or unsatisfactory response, the applicant has 60 days to file a request with the Head of the department for an internal review. The internal review is to be finalized with 14 days.
- "Harm Test" for exceptions.
- Two years prison term and fine for willful destruction of documents which at that time were the subject of request for access to information.



#### DRAFTING A GOOD FOI APPLICATION

Drafting a good FOI application is as easy as writing a simple leave letter. As long as the applicant knows the basics of the FOI Act, drafting an application for information from any public body is child's play.

#### 1. PRE-REQUISITES:

Your full name and address have to be mentioned in the application, along with a copy of your CNIC.

Know beforehand the public authority that holds the information that you require, the name of the PIO or the officer incharge, the designation, address etc. If you are unsure which public authority hold your information, then write to multiple public bodies which you think will hold the requested information. This will save your time.

Do not address your FOI application to the PIO or the officer incharge by his name, just in case he gets transferred or a new officer is designated in his place.

#### 2. PREPARING TO DRAFT AN FOI APPLICATION:

- a) Your request for information should contain the words "THIS INFORMATION IS BEING REQUESTED UNDER THE FREEDOM OF INFORMATION LAW".
- b) Use a white sheet of paper to write an application. Use of note sheet or the Court stamp paper should be avoided. The FOI application can be either written by hand or typed. The application should be easy to read and well legible.
- c) The application should preferably be written in Urdu or English.
- d) The application should be worded so as to request for information, rather than making a complaint.
- e) The wordings of the request should be polite.

#### 3. WHY DO YOU NEED THE INFORMATION?

First, ask yourself why you need the information? Unless you have an answer to this question, there is no point in requesting for the information in the first place. What is the issue you are facing? What information needs to be asked to help in getting the issue resolved?

#### 4. WHAT WILL YOU DO WITH THE "INFORMATION", ONCE YOU GET IT?

Once you get the information, you need to decide what will you do with the information? Are you going to get it published in the media, will you use it in a court case, is it for furthering your case in your office, is it to get some wrong corrected? The answers to these questions will help you decide what exact information to ask for as well as in what form to request the information.

#### 5. ASK FOR ONLY "INFORMATION"!

Try to draft an FOI application that DOES NOT disclose the overall nature of the problem in your mind. It MUST NOT give a glimpse of what you intend to do with the requested information e.g. register police complaints, approach investigating agencies, file a PIL etc. Also, your FOI application MUST NOT indicate how badly you want the information. When you write an FOI application, you must try to gain only information i.e. copies of relevant records and documents. Don't make your application sound like a letter of complaint, just ask for "information" - plain and simple.

#### 6. BE SPECIFIC IN ASKING FOR "INFORMATION"!

While filing an FOI request, ask for specific information. Avoid vague expressions and requests. The framing of the questions is very important. A slight misunderstanding or vague questions gives the PIO a chance to reject your application. Be specific and name the documents that you want copied. Make it difficult for the PIO to loosely interpret your request.

#### 7. HOW LONG SHOULD YOUR FOI APPLICATION BE?

Do not make your application very long. Ideally your FOI application should not be more than one A4 size paper sheet - after all your objective is to get "information" and not to test the PIO in collecting maximum information in the shortest possible time! If you put three related queries in one application, you may get answers to all of them. If you pack thirty queries instead, chances are slim that you will get satisfactory information on any. Think that you are a PIO, and then think about how to draft an FOI application that you would like to give a reply to without any delay.

Send a small, manageable FOI application with only 3-4 questions. Then, after you receive a reply to that, send another one... and another. Or maybe, many applicants can file small applications seeking related information, at the same time.

#### 8. SPECIFY THE PERIOD FOR WHICH INFORMATION IS SOUGHT

Don't be over-ambitious. For an FOI applicant, it is very easy to write a question like, "Give copies of all licences issued from January 1981 till date" or "provide a list of all vehicles registered since 1990". For the PIO, this means searching 25 or 30 years of files and records. Don't request 30 years data if five years data will suffice for your purposes. Don't ask for five years data if six months data is sufficient.

#### 9. ASCERTAIN IF THE INFORMATION IS ALREADY AVAILABLE:

Before writing an FOI application, ascertain if the information you are seeking is already available in the public domain. Many public authorities have already uploaded information on their website. Search for the information on the internet - even if the information you seek might not be available on the public authority's website, it might be available elsewhere.

### 10. EXHAUST ALL POSSIBLE MEANS OF GRIEVANCE REDRESSAL BEFORE USING RTI:

If there is a pending issue or a grievance for which you want to use FOI, first exhaust all possible means of redressing that grievance by already available means, like reminder letters, letters to the head of the public authority, etc. Only if you have exhausted all means of grievance redressal, use FOI as the last resort. Some Government departments have indicated fixed time limits for certain issues in their respective citizen charters. For example, the if the Income Tax department states that it takes 9 months from the end of the financial year to refund your excess tax, then obviously there is no point in filing an FOI application before that time limit.

#### 11. GENERAL:

- Never draft an FOI application when you are in an angry, revengeful or even a bad mood. Such applications are bound to fail. Relax, and then prepare your first application draft. Always be polite and respectful.
- After you have written down your first draft of FOI application, wait for a couple of days, then take a re-look and think about making improvements. Ask a friend or colleague to have a look and give you suggestions. Can the friend understand what are you asking for? Does he find it easy to understand?
- There is no harm in redrafting the application several times before you get to the final version.
- After you have successfully received a satisfactory answer to your request for information, do the right thing and send a thank you letter to the authority. It will help you in your successive requests to the same authority.



#### **GLOSSARY**

Whistle blower: The one who brings to light the internal wrongdoings in good faith and in the larger public interest.

CPC 1908: Code of Civil Procedure

**Harm Test:** The Harm test requires that a public authority, or oversight body, weigh the harm that disclosure would cause to the public interest served by disclosure of the information. The existence of this test is considered as a sign of the strength of the law.



### LIST OF ACRONYMS

**FOI:** Freedom of Information

**KP:** Khyber Pakhtunkhwa

**RTI:** Right to information

**BPS:** Basic Pay Scale

NIC: National Identity Card

**HC:** High court

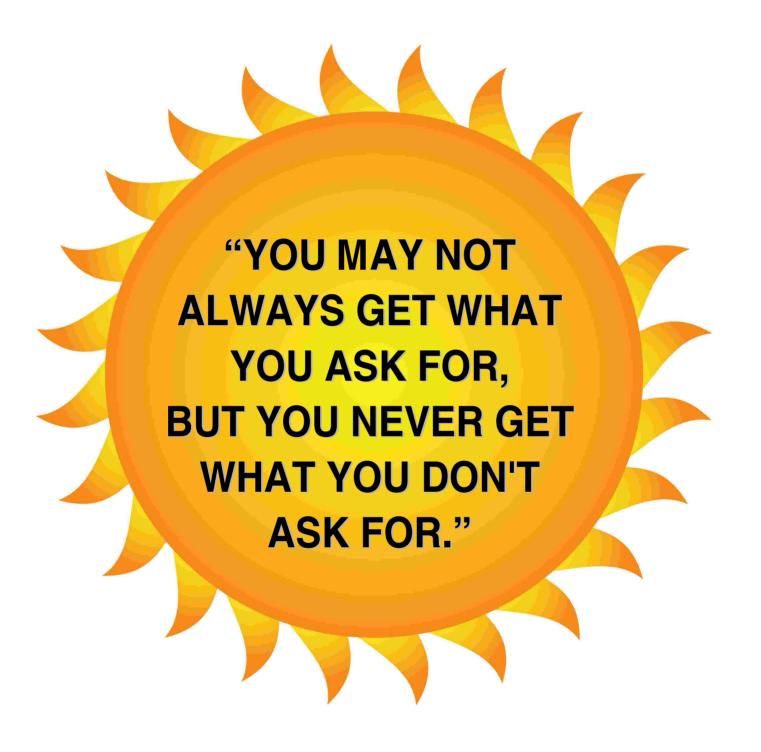
CJ PHC: Chief Justice Peshawar High Court

**SC:** Supreme Court

**PIO:** Public Information Officer

PIL: Public Interest Litigation





## **YOUR RIGHT TO KNOW**



What is the process to get a driving licence, passport

How can I get the annual budget of the medicines for a hospital

What are the specifications & budget of the road repair

What is the sanitation strength of my area

What is the salary budget of the school in my neighborhood



# YES! YOU TOO CAN GET ANSWERS TO THESE AND OTHER SUCH QUESTIONS

#### ARTICLE 19-A OF THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN GIVES YOU THIS RIGHT.

"Every citizen shall have the right to have access to information in all matter of public importance subject to regulation and reasonable restrictions imposed by law".

#### "Write to know"

Five steps for obtaining information / records.

#### Step 1

Applicant determines the information / record that is required.

The request should be in a question form.

#### Step 2

Identify the correct public body which must be approached for obtaining the required information.

#### Step 3

Applicant fills the Application Form and attaches a copy of National Identity Card.

#### Step 4

Applicant deposits a Challan of Rs. 50/= (Rupees Fifty) in any branch of National Bank of Pakistan.

#### Step 5

Applicant submits the application (along with Challan and CNIC) to the concerned Public Body.



#### **SHEHRI - CITIZENS FOR A BETTER ENVIRONMENT**



### A WINDOW ON SHEHRI





**SHEHRI** was formed in 1988 by a group of concerned citizens to provide citizens with a platform to effectively voice their concerns in determining their future and taking action in arresting the deterioration in their living environment and proper reform with a view to improve the same.



**SHEHRI** is based in the city of Karachi and operates as a pressure group and a concious raising organization interfacing with citizens, civic and metropolitan bodies and higher tiers of government. It acts as a catalyst for generating debates and searching for solutions to the urban problems.



**SHEHRI** - Citizens for a Better Environment is registered as a non-political organization under the Societies Registration Act. Its membership is open to all who subscribe to its memorandum. It functions in an open, transparent and democratic manner. Elections to the Managing Committee are held every two years. Its accounts are audited by chartered accountants.



We are aware of the steadily worsening environmental conditions in our cities, towns and villages and degradation of our living spaces. We are convinced that it is only through raising public consciousness and effectively articulating public pressure that the process of wanton neglect and corruption can be arrested and an improvement in our environment can be brought about.

#### SHEHRI AIMS

- Working for the establishment of an informed and pro-active civil society.
- To promote dialogue, assist in the preparation of policies
- To ensure implementation of landuse/zoning management laws and regulations
- Research/documentation and promotion of effective policies and initiatives on the issue of urban pollution control.
- Research and action to promote initiatives in the areas of Recreational Development, Heritage Conservation.
- Strive to ensure that Human Right violations do not take place in our society.
- Promotion of Article 19-A of the Constitution of the Islamic Republic of Pakistan for transparent governance and citizen empowerment.

### SHEHRI - CBE CITIZENS FOR A BETTER ENVIRONMENT

Shehri-CBE's mandate to work for the betterment and protection of the environment does not simply mean tackling air and water pollution or growing more trees; it means promoting all those laws, policies and actions of government which make our living environment conducive to happiness. In our quest for a better environment, Shehri's group of volunteers has, for the past two decades, with help from within and outside Pakistan, raised awareness among the citizens, judiciary, professional bodies, press / media, politicians and other concerned institutions about the problems facing our urban landscape and how closed-door discussions and non-transparent decision making processes employed by pubic servants and elected representatives continue to play havoc with our daily lives.

Shehri-CBE has exposed through advocacy efforts, using social accountability tools public interest litigation (PIL), citizens' help desk, seminars / workshops, newsletters / brochures, press statements and website, the lack of transparency and accountability within the system which thwarts the citizens' attempts to get good governance. In 2007, we used the Freedom of Information (FOI) Ordinance 2002, including an appeal before the Federal Ombudsman, and were successful in obtaining relevant information that was successfully used in a high court petition against violations of the town-planning rules. Since then, we have used the FOI Ordinance 2002 where necessary to obtain similar information.

As happens in all developing countries, especially where corruption is high, awareness of people's rights among citizens and government department is extremely limited. Our government officials are so used to violating laws-they simply are unwilling to accept requirements of FOI legislation.

The recent inclusion of Article 19-A in our Constitution has generated an opportune moment to promote awareness about FOI as a universally accepted tool for good governance.

"Our detractors give us credit for making building violations an issue that the entire country is now aware of".



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