



August 21, 2024

TL/20240821/1A

Mr. Sarfaraz Bugti,
Chief Minister Balochistan
CM House, Quetta

Subject: Establishment of Balochistan Information Commission under The Balochistan Right To Information Act 2021

Dear Sir,

Transparency International Pakistan would like to draw your attention towards a delay in the establishment of the Balochistan Information Commission as envisioned under Clause 18 of the Balochistan Right to Information Act 2021. The Provincial Assembly of Balochistan passed the Balochistan Right to Information Bill, 2021 on 1st February 2021. The Bill received an assent by the Governor on 15th February 2021.

The Act clearly stipulates that the Government shall within a period of 120 days, establish a Information Commission, as quoted below:

Information Commission (18) (1): *On the commencement of this Act, Government shall within a period of one hundred and twenty (120) days, establish a Information Commission to be known as the Balochistan Information Commission (Annex-A).*

However, despite the passage of three years since the RTI Act was enacted in the province, the Right to Information Commission is yet to be formed in the province. For the progress of integrity and eliminating corruption from the country, effective access to information laws are essential. Pakistan has come a long way to ensure that the effective RTI laws are in place at the federal and provincial levels. In 2002, Transparency International Pakistan was at the forefront to lead advocacy for the enactment of the Freedom of Information Ordinance 2002 and Public procurement Ordinance 2002.

Transparency International Pakistan requests the Chief Minister Balochistan to issue directives for the appointment of the Information Commissioners, so that an effective implementation of the RTI is ensured, as defined in the Act, quoted below:

Information Commission (18) (3): *The Information Commission shall be headed by the Chief Information Commissioner, who shall be a retired senior Government servant not below the rank of BPS-20 and shall be appointed by Government*

The Information Commission shall comprise of three other Members to be known as Commissioners, who shall be appointed in the following manner.

- a) *A person, who is qualified to be a Judge of High Court;*
- b) *A person who is or has been in the service of Pakistan in BPS-20 or equivalent;*
- c) *A person from civil society having experience of not less than fifteen years in the field of mass communication, academic or right to information*

Transparency International Pakistan is striving for across-the-board application of Rule of Law, which is the only way to stop corruption, and achieve Zero tolerance against corruption.



With Regards,


Advocate Daniyal Muzaffar
Trustee/Legal Advisor
Transparency International Pakistan

Copies forwarded for the information with a request to take action under their mandate to:

1. PS to President, President House, Islamabad
2. PSPM, PM House, Islamabad,
3. Law Minister, Government of Balochistan, Quetta
4. Registrar, Balochistan High Court, Quetta

Note:

This is to clarify that Transparency International Pakistan is not a complainant, it acts as a whistleblower and operate under Article 19-A, of the Constitution of Pakistan which gives the right to public to know how government is being run by public officers. Article 19-A makes the right to access of information pertaining to a public authority a fundamental right, and a three-member bench in the case of Mukhtar Ahmad Ali vs the Registrar, Supreme Court of Pakistan, Islamabad, headed by Chief Justice Qazi Faez Isa in the landmark judgment on 16 October 2023, in CP No. 3532/2023, has declared that

“What previously may have been on a need-to-know basis Article 19A of the Constitution has transformed it to a right-to-know, and the Access to information is no longer a discretion granted through occasional benevolence, but is now a fundamental right available with every Pakistani which right may be invoked under Article 19A of the Constitution”

TO BE PUBLISHED IN THE NEXT
ISSUE OF BALOCHISTAN GAZETTE.

BALOCHISTAN PROVINCIAL ASSEMBLY SECRETARIAT.

NOTIFICATION.

Dated Quetta, the 16th February, 2021. /3063

No.PAB/Legis;V(02)/2021. The Balochistan Right to Information Bill, 2021 (Bill No. 02 of 2021), having been passed by the Provincial Assembly of Balochistan on 1st February, 2021 and assented to by the Governor, Balochistan on 15th February, 2021 is hereby published as an Act of the Balochistan Provincial Assembly.

The Balochistan Right To Information Act, Act No. II of 2021.

**AN
ACT**

to provide for ensuring transparency and access to information in Balochistan.

WHEREAS Article 19 A of the Constitution of the Islamic Republic of Pakistan Proves that every citizen shall have the right to access to information in all matters of public importance, subject to regulation and reasonable restrictions imposed by Law;

AND WHEREAS it is essential that citizens shall have right to information to participate meaningfully in a democratic process and further to improve their involvement and contribution in public affairs;

It is hereby enacted as follows:-

**Short title,
extent and
Commencement.**

1. (1) This Act may be called the Balochistan Right to Information Act, 2021.
(2) It extends to the whole of Balochistan, except the Tribal Areas.
(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,-
(a) "Act" means the Balochistan Right to Information Act, 2021.
(b) "applicant" means a person who is citizen of Pakistan, seeking information under this Act and includes a person authorized on his behalf;
(c) "Complaint" means any allegation in written made by or in behalf of an applicant that his request for information has not been dealt with by a public body in accordance with the rules and procedures set out in this Act, including where he has been wrongfully denied access to record or information.
(d) "Commission" means the Balochistan Information commissioner established under this Act;
(e) "commissioner" means an Information commissioner and includes the chief information commissioner;
(f) "Complainant" means-
(i) an applicant; and
(ii) a person acting for an on behalf of an applicant;
(g) "employee or official" in relation to a public body means a person employed in a public body whether permanently or

(3) where the information is refused, the public information officer shall, within the time-limit specified under section 10, inform the applicant specifying-

- (a) the reasons on account of which and the provision of the Act under which the requested information is refused;
- (b) procedure for internal review or complaint against the decision; and
- (c) name and designation of the person who may provide full or limited access to the exempted information.

(4) notwithstanding anything contained in this section, any information mentioned in subsection (1) may be disclosed by a public information officer if the information is more than fifty years old but the Commission may, in an appropriate case on application of a public body or otherwise, extend this time period of fifty to a further twenty years.

Legal Privilege.

16. A public body may refuse a request for information which is privileged from production in legal proceedings, unless the person entitled to the privilege has waived it.

Complaints.

17. (1) an applicant who believes that his request has not been dealt in accordance with the provisions of this Act has the right to lodge a complaint with the information Commission to this effect.

(2) Complaints under sub-section (1) shall be free of charge.

(3) the Information Commission shall decide any complaint within a period of sixty (60) days.

(4) In an appeal, the public body shall bear the burden of proof of showing that it acted in accordance with the provisions of this Act.

Information Commission.

18. (1) On the commencement of this Act, Government shall within a period of one hundred and twenty (120) days, establish a Information Commission to be known as the Balochistan Information Commission.

(2) The Information Commission shall be an independent statutory body, which shall enjoy operational and administrative authority from any other person or entity, including Government and any of its agencies, except as specifically provided for by law.

(3) The Information Commission shall be headed by the Chief Information Commissioner, who shall be a retired senior Government servant not below the rank of BPS-20 and shall be appointed by Government.

(4) The Information Commission shall comprise of three other Members to be known as Commissioners, who shall be appointed in the following manner: