



# TRANSPARENCY INTERNATIONAL - PAKISTAN

February 10, 2023

Muhammad Sadiq Sanjrani  
Chairman,  
Senate of Pakistan,  
Islamabad

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## **(Reminder)**

### **Subject: RTI Amendment Bill 2021 is Unconstitutional and Targets the very Essence of Access to Information Law**

Dear Sir,

Transparency International Pakistan has received a complaint pertaining to the move by some Senators in moving the private member bill "Right of Access to Information (Amendment Act) 2021", which also elapsed couple of times earlier, to exclude Parliament from the definition of public bodies, which are bound to provide information to citizens, before the Senate.

The complainant has made following allegations;

That,

1. The amendments are aimed at excluding the Senate, National Assembly, their secretariats, committees and members from the definition of "public body" as contained in Section 2(ix) (c) of the Right of Access to Information Act, 2017 and are unconstitutional as these proposed amendments violate Article 19-A of the Constitution.
2. The right to information, as enshrined in Article 19-A of the Constitution, clearly stipulates: "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". The Lahore High Court in its landmark judgment has also declared:

*"Right to information is another corrective tool which allows public access to the working and decision making of the public authorities. It opens the working of public administration to public scrutiny. This necessitates transparent and structured exercise of discretion by the public functionaries. Article 19-A empowers the civil society of this country to seek information from public institutions and hold them answerable" PLD 2010 Lahore 605*

3. In a democracy, Parliament is the supreme institution and it is a fundamental right of every citizen to have an access to the functioning of the parliament. Excluding Senate, National Assembly, their secretariats, committees and members from the definition of "public body" tantamount to treating peoples' representatives as above the rule of law and accountability. In no democracies, such examples are found where parliamentarians are considered above the purview of the RTI law. For instance, in India, the RTI applies to Lok Sabha and the related committees and serves as a tool for ensuring a more open and inclusive governance.

The complaint has been examined and following are Transparency International Pakistan comments and recommendations.

### **Transparency International Pakistan Comments**

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.

That Pakistan has an improved version of RTI law at the federal level, efforts should be made to improve its implementation rather than weakening its scope.

The Senators who have moved these proposed amendments in their individual capacity do not realize the impact such moves may have on Pakistan's ranking on various international indices. For instance,

**A NON-PARTISAN, NON-PROFIT COALITION AGAINST CORRUPTION**

Donations exempted from tax U/S 2 (36) (c) of I. Tax Ordinance 2001



the **Corruption Perception Index (CPI)** released by Transparency International uses eight international sources to calculate Pakistan's score on CPI.

In all the eight sources, accountability of the public office holders is the central theme of the questions asked from the experts. On two of the sources, the PRS Group International Country Risk Guide and the World Bank Country Policy and Institutional Assessment, experts are asked to assess: Transparency, accountability and corruption in the public sector and legislators, and may result in lowering the score of Pakistan in future Transparency International CPI .

**PRS Group International Country Risk Guide** "The measure is most concerned with actual or potential corruption in the form of excessive patronage, nepotism, job reservations, exchange of favours, **secret party funding and suspiciously close ties between politics and business**". Pakistan Score on PRS Group International Country Risk Guide 2022 is very low: 32/100.

**World Bank Country Policy and Institutional Assessment**, Following three questions are asked and rated separately and Pakistan Score is very low: 35/100

(a) Accountability of the executive to oversight institutions and of public employees for their performance;

(b) Access of civil society to information on public affairs; and

(c) State capture by narrow vested interests.

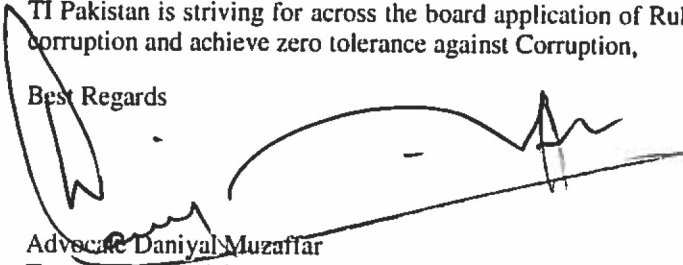
The effort to amend Right to Information Act 2017 is unconstitutional, against Article 19-A, and is similar to the Sections 4, 5 & 7 of the National Reconciliation Ordinance issued on 5 October 2007, during PML (Q) government, which was declared unconstitutional by the Supreme Court of Pakistan on December 16, 2009, and if approved and promulgated, will result in same fate as NRO 2007.

#### **Transparency International Pakistan Recommendations.**

The private bill on Right to Information Law for excluding Parliament from the definition of public bodies shall be withdrawn, to ensure that a strong RTI law is in place where every public institution provides citizens an access to information.

TI 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,

Best Regards

  
Advocate Daniyal Muzaffar  
Trustee/Legal Advisor  
Transparency International Pakistan

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

- 1.PSPM, Prime Minister House, Islamabad
- 2.Federal Minister, Ministry of Law and Justice, Islamabad
- 3.The Secretariat of PTI, Islamabad
- 4.The Secretariat of PMLN, Lahore
- 5.The Secretariat of PPP, Karachi
- 6.The Secretariat of MQM, Karachi
- 7.The Secretariat of BAP, Quetta
- 8.The Secretariat of JUI-F, Peshawar
- 9.The Secretariat of JI, Peshawar