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FROM DISCLOSURE TO PROTECTION: A JURISPRUDENTIAL APPRAISAL OF PAKISTAN'S SHIFT IN WHISTLEBLOWER LEGISLATION

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Abstract
This article examines Pakistan's evolving journey in transparency and accountability by critically analyzing the shift from the Public Interest Disclosure Act, 2017 (PIDA), to the newly proposed Whistleblower Protection Act. Both laws are designed to promote integrity in governance. Yet, replacing PIDA without a structured review raises serious concerns about consistency in legislation, the strength of constitutional safeguards, and the resilience of Pakistan's democratic framework.

Drawing on comparative experiences from jurisdictions such as the United Kingdom, the United States, and the European Union, the article highlights a clear contrast. In mature democracies, changes to whistleblower or disclosure laws are usually preceded by empirical studies, public consultations, and impact assessments. Pakistan's approach, however, bypasses this essential diagnostic process. As a result, whistleblower protection risks being reduced to a symbolic act rather than a meaningful safeguard.

The discussion also underscores the broader implications for the constitutional right to information under Article 19-A. Repealing an existing law without evidence-based justification not only diverges from international best practices but also undermines the institutional framework of accountability.

The article ultimately argues that genuine progress requires recognising the right to know and whistleblower protection as complementary, not interchangeable. Instead of discarding existing legislation, Pakistan's lawmakers should pursue a reformist approach that strengthens, rather than weakens, the architecture of democratic accountability.

Keywords:
Democracy, Governance, Integrity, Reform, Transparency, Accountability, Justice.

1. Introduction:

In every constitutional democracy, accountability rests upon two interconnected rights: the people's right to know and the individual's duty to disclose wrongdoing. These rights are not only legal but jurisprudential pillars of democratic culture. The first ensures that the citizenry is empowered through access to information; the second safeguards individuals who, often at personal risk, expose corruption or abuse of power. Together, they form a twin architecture of transparency and accountability, reinforcing one another rather than existing in isolation.[1]

In Pakistan, this dual framework was partly institutionalized through the Public Interest Disclosure Act, 2017 (PIDA), a legislation that allowed individuals to disclose matters of corruption, maladministration, and abuse of authority in the public interest. Now, however, the

[1] Mark Bovens, Information Rights: Citizenship in the Information Society (Amsterdam: Amsterdam University Press, 2002), 57.

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Government has introduced the Whistleblower Protection Act (WPA), which, while appearing progressive in language, is designed to replace rather than complement the existing framework.[2]

This raises serious jurisprudential concerns. First, the repeal of a statute without a comprehensive review or collection of empirical data violates the principle of legislative economy, the idea that democracies amend and refine laws rather than discard them altogether.[3] Second, it risks diluting the constitutional right to information, enshrined in Article 19-A of the Constitution of Pakistan, 1973, by shifting the emphasis from public disclosure to confidential whistleblowing mechanisms. Finally, the move departs from international best practices, where most mature democracies preserve both frameworks side by side.[4]

Thus, the central argument of this paper is simple: the Whistleblower Protection Act cannot and should not replace the Public Interest Disclosure Act, 2017. At best, it may complement it. At worst, it risks undermining Pakistan's fragile culture of openness and accountability.

2. The Public Interest Disclosure Act, 2017: A Legislative Milestone:

The Public Interest Disclosure Act, 2017, was passed by the Parliament as part of Pakistan's obligations under the United Nations Convention Against Corruption (UNCAC), to which Pakistan is a signatory.[5] Its purpose was to encourage and protect disclosures of information in the public interest, specifically targeting corruption, abuse of office, and other forms of maladministration.

The Act was designed to provide a workable framework through which a public servant, or indeed any individual, could bring to light instances of corruption, maladministration, or abuse of authority before a competent forum. What made this framework significant was its departure from the idea of a mere service-related complaint mechanism. Instead, it carried the ambition of being a law of public accountability, one that recognized the citizens' collective right to know when state power was being misused. In doing so, the legislation gave voice to a democratic principle: that the disclosure of wrongdoing is not only an individual act of courage but also a public good, tied directly to the health of governance and the integrity of institutions. The very recognition that secrecy breeds impunity, while disclosure strengthens democracy, placed the law in the broader family of modern legal instruments that treat access to truth as a cornerstone of constitutional order.[6]

The Act was explicitly rooted in Article 19-A, which guarantees that "every citizen shall have the right to have access to information in all matters of public importance.[7]" In fact, the 2017 law was a statutory extension of the constitutional right to information, designed to operationalize it by giving individuals a safe mechanism to bring matters to light.

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[2] Government of Pakistan, Public Interest Disclosure Act, 2017 (Islamabad: National Assembly Secretariat, 2017).
3 A.V. Dicey, Introduction to the Study of the Law of the Constitution (10th ed., London: Macmillan, 1959), 186.

[4] OECD, Committing to Effective Whistleblower Protection (Paris: OECD Publishing, 2016), 19–22
[5] United Nations, United Nations Convention Against Corruption, 2003, Art. 33.
6 Transparency International Pakistan, "Brief on Whistleblower and Public Disclosure Laws," Policy Paper, 2018, 4.

[7] Constitution of the Islamic Republic of Pakistan, 1973, Art. 19-A

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While the Act represented a step forward, it suffered from significant shortcomings. Enforcement agencies were not adequately empowered or resourced, and public awareness of the law remained limited.[8] As a result, its potential remained underutilized. However, the appropriate legislative response would have been amendment and strengthening, not repeal.

3. The Proposed Whistleblower Protection Act: A New Direction, or a Dangerous Retreat?

The Government's decision to introduce a Whistleblower Protection Act (WPA) presents itself as a step toward aligning Pakistan with global standards of accountability and transparency. On the surface, such legislation signals a commitment to strengthening democratic governance by empowering citizens and public officials to speak out against corruption, abuse of authority, and maladministration. Whistleblower protection, in its essence, is not simply a legal mechanism; it is a safeguard that reassures individuals that their voices will be protected when they challenge entrenched misconduct. Without such protection, potential whistleblowers are silenced by the fear of reprisals, whether in the form of professional retaliation, social stigma, or even legal consequences.

International experience shows that effective whistleblower frameworks serve as an indispensable complement to access-to-information laws, anti-corruption agencies, and judicial oversight. They work not only to uncover individual acts of wrongdoing but also to build a culture of accountability within public institutions. In this sense, the introduction of the WPA appears promising. Yet, the manner in which it seeks to replace the Public Interest Disclosure Act, 2017, raises difficult questions about legislative continuity, constitutional safeguards, and the depth of the government's commitment to reform.[9]

However, the design of the proposed Act suggests a troubling legislative philosophy. Instead of supplementing the Public Interest Disclosure Act, it is framed as a replacement. This substitution risks narrowing the scope of disclosures by focusing on internal compliance and protection rather than public accountability and transparency.[10]

The proposed Whistleblower Protection Act (WPA) aims to construct a legal shield for those who come forward to disclose corruption, abuse of authority, or other forms of wrongdoing within public institutions. First, the Act envisages that disclosures be made to designated authorities, thereby ensuring that sensitive information is routed through forums with both the competence and independence to act upon it. This design aligns with comparative practices in established democracies, where designated oversight bodies, rather than internal departmental channels, are considered vital for credible accountability.[11]

A second and defining feature of the WPA is its emphatic commitment to confidentiality and anonymity. The statute recognizes that whistleblowers often refrain from reporting due to fear of reprisal or social stigma, and thus mandates legal safeguards to preserve their identity. Similar guarantees are found in the United Kingdom's Public Interest Disclosure Act 1998 (PIDA), which allows disclosures to prescribed persons while protecting identity, and in the

[8] Ahmad Rafay Alam, "Right to Information and the Public Interest Disclosure Act," Dawn, July 14, 2018
[9] OECD, Whistleblower Protection: Encouraging Reporting (Paris: OECD Publishing, 2014), 5.
[10] Centre for Law and Democracy, "Global Standards for Whistleblower Protection," Working Paper, 2019, 8.
[11] Organization for Economic Co-operation and Development (OECD), Committing to Effective Whistleblower Protection (Paris: OECD Publishing, 2016), 21–25.

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United States' Whistleblower Protection Act 1989, which obligates federal agencies to prevent the release of identifying information without consent.[12]

Third, the WPA does not stop at the stage of reporting. It creates a framework for the investigation of disclosures, requiring designated authorities to act with promptness and impartiality. This mirrors international best practice, where the value of whistleblowing lies not in the act of disclosure alone but in the capacity of institutions to translate that disclosure into remedial action.

Finally, the Act provides explicit penalties against retaliation. Any attempt to harass, dismiss, or otherwise disadvantage a whistleblower would be subject to disciplinary proceedings, and in severe instances, criminal sanctions. By embedding such deterrents, the law aims to recalibrate whistleblowing from being a personal choice with risks to being a protected act of civic responsibility. In this respect, the WPA resonates with reforms across jurisdictions, such as the European Union's Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law, all of which stress that protection against retaliation is the linchpin of effective disclosure regimes.[13]

4. Data-Deficient Legislation: Replacing Without Reviewing:

A cardinal principle of modern lawmaking is that statutory reform must be evidence-based. Mature democracies do not discard existing legislation in the absence of empirical data, impact assessments, or public consultations. Instead, they conduct periodic reviews, parliamentary inquiries, and comparative studies before determining whether repeal or replacement is warranted. The proposed Whistleblower Protection Act in Pakistan, however, appears to have been introduced in haste, without any documented research on the effectiveness, challenges, or enforcement gaps of the Public Interest Disclosure Act, 2017.

The absence of any serious review before replacing the 2017 Act raises deep democratic and jurisprudential concerns. That law has been in force for less than a decade, yet no parliamentary white paper, no Law Commission study, and no official assessment has been carried out to understand how well it has worked, or where it has fallen short. In such circumstances, moving to repeal it looks less like a careful reform and more like an arbitrary experiment. Lawmaking without evidence not only erodes confidence in the process but also risks narrowing the constitutional right to information under Article 19-A. When governments legislate without listening, learning, or testing the ground, they risk weakening accountability rather than strengthening it.[14]

International practice shows a different path. In the United Kingdom, the Public Interest Disclosure Act, 1998 was subject to multiple parliamentary reviews, including the 2013 Whistleblowing Commission Report, which identified strengths and weaknesses before

[12] Public Interest Disclosure Act 1998, c. 23, UK; see also Whistleblower Protection Act of 1989, Pub. L. No. 101–12, 103 Stat. 16 (US)

[13] Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the Protection of Persons Who Report Breaches of Union Law, OJ L 305, 26.11.2019, p. 17–56

14 United Kingdom, Law Commission Consultation Paper on Protection of Official Data, No. 230 (2017), which emphasized evidence-based consultation before repeal or amendment of secrecy and disclosure laws; Government of Canada, House of Commons Standing Committee on Government Operations and Estimates, Strengthening the Access to Information Act (2016), highlighting the need for systematic review before reform; Government of India, Second Administrative Reforms Commission, Ethics in Governance (2007), which recommended comprehensive evaluation of existing disclosure frameworks before introducing new legislation.

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recommending reforms rather than repeal.[15] In the United States, the Whistleblower Protection Act of 1989 was amended in 2012 through the Whistleblower Protection Enhancement Act, after years of litigation and congressional hearings revealed systemic gaps in protection.[16] Similarly, the European Union adopted its Directive on the Protection of Whistleblowers (2019/1937) after a wide-ranging consultation with civil society, trade unions, and comparative studies across Member States.[17]

Likewise, Australia's Public Interest Disclosure Act 2013 was reviewed by the Moss Committee in 2016, which published a comprehensive report identifying the Act's weaknesses before recommending reforms.[18] New Zealand's repeal of the Protected Disclosures Act 2000 came only after two decades of operational data and nationwide consultation, culminating in the Protected Disclosures (Protection of Whistleblowers) Act 2022, which strengthened rather than weakened existing protections.[19]

Pakistan's proposed repeal of PIDA, by contrast, proceeds in the absence of evidence, without consultation, and without a jurisprudential map. Such lawmaking amounts to legislating in the dark. The danger is not merely theoretical: statutes enacted without evidentiary foundation often fail in practice, invite constitutional challenge, and undermine public confidence in the very institutions tasked with accountability. Law, in this sense, ceases to be an instrument of governance and degenerates into an act of political improvisation.

In sum, a jurisprudence of accountability requires evidence-based reform, not statutory erasure. Where repeal is unaccompanied by study, it cannot claim the mantle of reform; it is instead an abdication of legislative responsibility. By discarding PIDA, 2017, without evaluation, Pakistan risks weakening the constitutional guarantee of transparency, eroding democratic credibility, and sending the regressive signal that laws may be enacted and repealed as transient experiments rather than as enduring frameworks of governance. Such a course is inconsistent not only with Article 19-A but also with the comparative democratic practices that treat accountability legislation as a public trust, not a political convenience.

In light of the foregoing discussion, the task is not to replace one statute with another but to build a coherent and complementary framework. To make this balance effective, reforms must rest on evidence, ensure confidentiality, guarantee strong anti-retaliation protections, and provide independent oversight free from political interference. With these principles in view, a side-by-side comparison of the two enactments helps to show where they converge and where they depart. The following table sets out their key features in structured form.

Topic	Whistleblower Protection Bill,2025 (Proposed)	Public Interest Disclosure Act,2017 (In Force)
Institutional Design	Establishes a standalone, independent Commission at Islamabad with	Does not create a new body; it relies on existing "competent

[15] UK Whistleblowing Commission, Report on the Effectiveness of the Public Interest Disclosure Act 1998 (London: Public Concern at Work, 2013), 7–12.
[16] U.S. Congress, Whistleblower Protection Enhancement Act of 2012: A Legislative History, Congressional Record (Washington D.C.: U.S. Government Publishing Office, 2013).
[17] European Union, Directive (EU) 2019/1937 on the Protection of Persons Who Report Breaches of Union Law, Official Journal of the European Union, L 305/17 (2019).
[18] Commonwealth of Australia, Review of the Public Interest Disclosure Act 2013 (Canberra: Moss Committee, 2016).
[19] New Zealand State Services Commission, Review of the Protected Disclosures Act 2000 (Wellington: 2017); Protected Disclosures (Protection of Whistleblowers) Act 2022.

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	possible regional offices, designed to function free from administrative control.	authorities" within government departments and organizations.
Scope & Coverage	A broad federal mandate to receive information on corruption, maladministration, and related wrongdoing across Pakistan.	Primarily confined to federal public bodies, addressing corruption, abuse of discretion, or misuse of authority within the public sector.
Intake & Screening of Complaints	The Commission acts as a single-window forum to receive disclosures, screen them, and forward substantiated cases to NAB, FIA, or provincial Anti-Corruption Establishments.	Complaints are submitted to the designated competent authority of each organization, which then conducts an inquiry or investigation under the Act.
Protection Against Reprisals	Expressly mandates protection against retaliatory or disadvantageous actions, empowering the Commission to order relief and safeguards.	Provides legal cover for whistleblowers through the inquiry framework, but protections are applied through existing authorities rather than a dedicated body.
Rewards & Incentives	Explicitly recognizes monetary rewards for whistleblowers upon recovery of public funds, with policy benchmarks often citing up to 20%.	Does not envisage a structured reward or bounty system; the focus remains on disclosure rather than incentivization.
Confidentiality	The Commission is bound to maintain strict secrecy of whistleblower identities, with institutional safeguards for secure handling.	Confidentiality is recognized, but protection of identity is left to the competent authority's internal process.
False or Malicious Claims	Provides for penalties against mala fide or false disclosures, thereby deterring abuse of the system.	Also recognizes that knowingly false disclosures attract action under the law, but mechanisms are less detailed.
Legislative Status	Introduced in 2025; passed by the Senate; conceived as a revival and improvement of the 2019 Ordinance, which had lapsed.	In force since 2017, and remains the baseline law on public-interest disclosures at the federal level.
Link with Anti-Corruption Agencies	The Commission functions as a referral hub, transmitting cases to NAB, FIA, or other agencies after preliminary scrutiny.	Competent authorities may pass matters to relevant agencies, but there is no centralized gateway role.

5. Recommendations:

Drawing on constitutional principles, comparative practice, and the democratic imperatives of Pakistan, several recommendations emerge for shaping a credible and rights-affirming framework of accountability.

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First, the Public Interest Disclosure Act, 2017, should not be repealed but retained and reformed. Despite its institutional weaknesses, it remains the only statute that directly operationalizes the citizen's constitutional right to information under Article 19-A. Rather than legislative erasure, the more principled course is targeted amendment to address enforcement gaps, strengthen institutional capacity, and enhance public awareness.

Second, the proposed Whistleblower Protection Act (WPA) must be understood as a complement, not a substitute, to PIDA. Its strength lies in safeguarding individuals who take the risk of disclosure, yet its jurisprudential basis, rooted in employment law and individual rights, cannot replace the constitutional promise of collective transparency. The two statutes must therefore operate in tandem: one protecting individuals from retaliation, the other affirming society's right to know.

Third, all legislative reform must be evidence-based. Parliamentary committees, or the Law and Justice Commission of Pakistan, should be under a constitutional and statutory obligation to undertake impact assessments, public consultations, and empirical studies before recommending repeal or major amendments to accountability legislation. Reform without such inquiry reduces lawmaking to conjecture, thereby undermining democratic legitimacy.

Fourth, Pakistan requires an independent oversight authority, insulated from departmental hierarchies and political interference, to receive, investigate, and act upon disclosures. Only a body vested with statutory autonomy can command public trust, guarantee impartiality, and provide effective remedies where misconduct is revealed.

Fifth, public awareness and accessibility must be placed at the heart of any accountability framework. Laws that remain obscure or procedurally complex risk becoming dead letters. Awareness campaigns, mandatory training programs for civil servants, and simplified reporting mechanisms accessible to ordinary citizens are therefore indispensable to ensure meaningful implementation.

Sixth, robust anti-retaliation protections are non-negotiable. Whistleblowers who act in good faith must be shielded from reprisals through criminal sanctions, disciplinary measures, and enforceable civil remedies against those who retaliate. Without such safeguards, no legal framework can cultivate the culture of trust necessary for disclosures to occur.

Seventh, Pakistan's accountability laws must be harmonized with international standards, particularly its obligations under the United Nations Convention against Corruption (UNCAC). This requires aligning domestic reform with comparative best practices, ensuring that laws are consultative, transparent, and rooted in rights-affirming principles rather than expediency.

Finally, all such legislation should be anchored in judicial review and constitutional safeguards. Explicit statutory provisions must affirm the supremacy of Article 19-A, clarify avenues for judicial oversight, and prevent executive overreach. Only by embedding these guarantees within the legislative text can Pakistan ensure that accountability laws operate not as instruments of administrative discretion but as enduring pillars of constitutional democracy.

6. Conclusion

The debate over Pakistan's whistleblower protection framework cannot be reduced to a choice between old and new legislation. The Public Interest Disclosure Act, 2017, represents the first statutory recognition of the citizens' constitutional right to information under Article 19-A, and despite its procedural limitations, it remains an important safeguard of collective transparency. To repeal it outright would be to dilute the spirit of open government. On the other hand, the Whistleblower Protection and Vigilance Commission Bill, 2025, addresses a

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different but equally vital concern: the safety and dignity of individuals who step forward to expose corruption and abuse of power. Both statutes are therefore complementary, not competing, and must be allowed to work in tandem.

The challenge before Parliament is to move beyond ad-hoc amendments and to legislate with constitutional discipline. That means reforms must be grounded in evidence, enriched by public consultation, and aligned with Pakistan's obligations under international conventions against corruption. A credible system will require an independent oversight body with real autonomy, clear rules against reprisals, and simple procedures that ordinary citizens can navigate. Without such guarantees, the promise of accountability will remain rhetorical.

Accountability laws should not be viewed as instruments of executive discretion but as structural pillars of democratic life. When disclosures are protected, when whistleblowers are not left to fend for themselves, and when the public can access truth without obstruction, Article 19-A acquires practical force. That is the standard against which Pakistan's legislative reforms must be measured. The credibility of democratic governance depends on it.