

Analysis Of Effectiveness Of Anti-Corruption Laws Of Pakistan

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Abstract

During last few years, there has been an increase in the worldwide awareness against the detrimental effects of corruption on human civilization. Being a wide-reaching curse, it has cuffed Pakistan since its inception. As a multi facet phenomenon, it has tested the competence of all the pillars of our state. It has disturbed the fluency of our social order, the peacefulness of prosperity and the aptness of rule of law, resultantly has wronged the human dignity of an average citizen of Pakistan. The anti-corruption laws, the agencies established for the enforcement of such laws and national anti-corruption strategy (NACS) of Pakistan do not seem of that caliber which could cure the scar on the face of our society. In this paper, the government's approach toward the fair implementation of anti-corruption laws is discussed. It is aimed through this paper to unearth the lacunas, available in our legal framework in presence of which, the landmark of fair dispensation of duties by our anti-corruption agencies cannot be touched. Reasons behind such dubious legislation are also tried to bring to light. Sincere approach, determination, resilience and persistency are required both from Government and people to coup with this problem.

Key Words. Effectiveness, Anti-Corruption Laws, Pakistan

Historical view of the corruption in Pakistan

Corruption in Pakistan has been an apple of discord for a while now. On 11th August 1947, in the momentous speech delivered to the first Constituent Assembly of Pakistan, Quaid-e-Azam identified maintenance of law and order as the first priority of his government and then he urged to curb "bribery and corruption" with an iron hand. (http://www.pakistani.org/pakistan/legislation/constituent_address_11aug1947.html visited on August 28, 2015 at 11:50 am).

Undoubtedly it started with the Post-independence settlement of refugees, when people maneuvered, in connivance of district administration, moved false applications to get the allotment of evacuee property. Corruption thus leaches into Pakistan society stealthily. We do not find glimpses of this menace of corruption in the reign of first seven prime ministers of Pakistan till 1970. Serious allegations of corruption were also not heard during the span of Ayub Khan or Zulfikar Ali Bhutto. This curse boosted under military dictatorship of General (ret'd) Ziaul Haq, when United State was

supported by Pakistan in war against Russia in Afghanistan.

In post Zia era, the two subsequent governments of Pakistan Muslim League but of Pakistan People's Party were sacked on account of corruption charges. At that time during 1996, Transparency International placed Pakistan at second place in its list of world's most corrupt countries (**Corruption Perception Index 1996**).

In 1999, after military takeover, General Pervaiz Musharraf though promised strong and wide-ranging accountability. However political companions around him prevailed and strained him to stop the fight against corruption and to target their political rivals. Consequently, the unjust, National Reconciliation Ordinance was promulgated with the view to save the skins of those corrupt and criminal and to forgive them in the process of reconciliation at national level which was later on declared to be illegal by Supreme Court on December 2009. An article by Ehteshamul Haq a senior Islamabad-based journalist). Source

(http://www.thenews.com.pk/newsmag/mag/detail_article.asp?magId=10&id=2953) Visited on 11-09-14 at 9:45 AM (Para No 7).

Definitional Issues

One of the thorniest prospects of the study of corruption is to define the term with precision. "There is no globally accepted definition of corruption. In philosophical, theological and social discussion the term **corruption** is the abuse of bestowed power or position to acquire a personal benefit". Transparency International considers it as "The abuse of entrusted power for private gain" (<https://www.transparency.org/whatwedo/public>

[ation/theanticorruptionplainlanguageguide](https://www.transparency.org/whatwedo/public) visited on 12:50 pm Wednesday 26-08-2015).

"The level of corruption in the society ultimately depends on the values and morals of that society". (Vittal, N. and S. Mahalingam (2004 p-237). "Fighting Corruption and Restructuring Government". New Delhi: Manas Publications.). A terrifying communal evil of a community. The smooth and progressive functioning of a society is damaged by this disease. (Gire, J. T. "A psychological analysis of corruption in Nigeria"- published in 1999. Journal of Sustainable Development in Africa, Volume 1, p 1. URL: <http://www.rrojasdatabank.info/corrupt.htm> Visited on Wednesday 26-08-2015 at 1:00pm) It is an "intentional noncompliance with arm's length relationship", with the sole aim to get maximum out of such behavior¹ (Tanzi, Vito, 1995 "corruption, Arm's length Relationships, and Markets," in The Economics of Organized Crime, edited by Gianluca Fiorentini and Sam Peltzman (Cambridge: Cambridge University Press), pp 161-180. source https://books.google.com.pk/books?id=DepEk9KiKHsC&pg=PR9&lpg=PR9&dq=corruption,Arm%E2%80%99s+length+Relationships,+and+Markets&source=bl&ots=SZzNE4Lp22&sig=aowGdkHu-wJrlza_vErknstcU4&hl=en&sa=X&ved=0CDAQ6AEwAmoVChMIh8e1tpnGxwIViD8aCh0BOg0j#v=onepage&q=arm's-length%20relation&f=false (Visited on 12:35 pm on Wednesday 26-08-2015).). As defined in Dictionary, it means (a) weakening of veracity and quality of ethical principle: depravity
b: decay, DECOMPOSITION
C: encouragement to lawlessness by unsuitable or unjustifiable means (as bribery)
d: overlooking and diviating from originality or from the actual and accurate status of thing. (<http://www.merriam->

webster.com/dictionary/corruption visited on Tuesday 25-08-2015 on 2:30pm)

The political scientists offer three distinctive characteristics to speak the corrupt conduct i.e. Public interest, Public opinion, and Legal norms. (Dimant, E., & Schulte, T. (2016). **The nature of corruption: An interdisciplinary perspective. German Law Journal**, 17(1), 53-72.) From masses concern view point it includes those unusual actions, done by administrative or political bodies, which hamper the public interest. (Sandholtz, W., & Koetzle, W. (2000). **Accounting for corruption: Economic structure, democracy, and trade. International studies quarterly**, 44(1), 31-50. visited on 1:30pm Wednesday 26-08-2015.)

This area of study emphasizes to spot the intrinsic impulsiveness of public officials for preferential treatment with specific individuals for private gains as in return. Emitting light on the public opinion approach, it is all about what public think about corruption. However, cultural differences may create variations in public's perception about the term; resultantly possibility to have a clear cross-cultural definition vanishes. (Dimant, E., & Schulte, T. (2016). **The nature of corruption: An interdisciplinary perspective. German Law Journal**, 17(1), 53-72.)

Taking the legal norms approach, corruption is held as a conduct that infringes "specific rules governing the way public duties should be performed", including unjustifiable change of political affiliation for some gain. (Dimant, E., & Schulte, T. (2016). **The nature of corruption: An interdisciplinary perspective. German Law Journal**, 17(1), 53-72.) Here too, specification of such "specific rules" is yet to be

determined, thus again we may not be able to have proper definition of the term corruption.

In 2008, while hearing NAB reference of "The State Vs M. Idrees Ghauri", the apex court of Pakistan held, "...an act which is done with intent to give some advantage inconsistent with law and wrongful or unlawful use of official position to procure some benefit or personal gain. The expression corrupt practices is a series of depraved/debased/morally degenerated acts"². ("problem of corruption" an article by Mr. Affan Taj, a Lahore based lawyer, published in "Daily Dawn" on April 02, 2012, retrieved on Friday 28-08-2015 while using web source below; <http://www.dawn.com/news/707442/problem-of-corruption>) Monopolized powers, excessive "discretion over making decision", no or limited culpability and insufficient earnings, weaken the state administration are such which resultantly give birth to corruption. Shabbir, G., & Anwar, M. (2007). Determinants of corruption in developing countries. The Pakistan Development Review, 751-764.

Extracting from above it can safely be held that corruption is an attitude, developed by trampling the principle of rule of Laws, values of ethics, norms of morality, socio economic standards, basics of traditions, and intrinsic worthiness of civil society.

LAWS ON PREVENTION OF CORRUPTION AND CORRUPT PRACTICES PAKISTAN PENAL CODE, 1860,

Pakistan Penal Code 1860 (PPC) contains the definitions of offence and corresponding penal provisions for that offence. Chapter IX of the code, commencing from section 161 to section 171, discuss offences, committed by a public servant, while performing his duties. In the same code, through eleven categories, the term "Public

Servant” is defined. (**section 21, Pakistan Penal Code 1860.**). Canvas of the code is limited in its application to public servants only, thus being restricted in its approach, it may not be that much effective, required combating corruption on all fronts. On the other hand if we articulate crime as an outcome of a corrupt mind, then being penal law of the land it is the most subtle piece of legislation. But in this latter perspective we may lose the precision of the aim of our article, because in this case definition of the term would take a broad view, disabling us to wrap up.

Section 161 discuss the situation where a public servant takes an unauthorized gratification, apart from his lawful salary, for the disposal of an official duty (See **section 161** *ibid.*). Section 162 is about adopting unlawful and crooked means to take gratification to influence a public servant. This refers to the element of motive or reward involved in inducing a public servant to do something with favor or disfavor while discharging his duties. This section contains three years punishment, either rigorous or simple, or fine or both (See **section 162** *ibid.*). Section 163 describes the scenario where a person extracts gratification on the pretext of utilizing his personal influence with any official (See **section 163** *ibid.*). Section 164 lay down a three years punishment of either description or fine or both for the public servant acting as abettor in the in offences headed by section 162 and 163 (See **section 164** *ibid.*). Section 165 of the code imposes restriction upon a public servant to refrain from obtaining any valuable thing with consideration from any other person who will be sooner or later in contact with such official during the performance of his official duty. The same punishment as laid down in preceding section is also applicable in this case as well. (See **section 165** *ibid.*) A simple imprisonment of one year or fine or both is laid down for a public official who willfully disobeys law with the intention to cause injury or damage to any other person. (See

Section 166 *ibid.*). Then in section 167 three years simple or rigorous imprisonment or fine or both is prescribed for a public servant who intentionally causes damage to any person by knowingly framing an incorrect document. (See **section 167** *ibid.*) Further in section 168, one year simple imprisonment is specified for a public servant, being engaged in trade for which under the law he was not authorized to do so as a public servant. (See **section 168** *ibid.*) In section 169 a public officer is refrained from a purchase or bidding of certain property for which under the law he is not allowed. Section lays a two years simple imprisonment along with fine and confiscation of purchased property. (See **section 169** *ibid.*). Section 170 provides a two years imprisonment along with fine for a person who intentionally assumes the character of a public servant and by adopting such impersonation he does any act under the color of that office.(See **section 170** *ibid.*) In section 171, a person, who imitates a public servant by way of wearing a garb or carrying a token which is normally used by that public servant with the fraudulent intention, is held guilty of the offence and a three month imprisonment along with six hundred rupees is laid as punishment for it.(See **section 171** *ibid.*).

Scanning above summery of chapter IX, it can safely be held that this law is not adequate to tackle the menace like corruption. There are few aspects involved,

- i. As mentioned the first thing is its restricted approach. Study of crime has shown that corruption has manifested in many ways, each of which necessitates proper attention by the legislature. It is thus required that it should not be confined to public servants only rather canvass of the code should be expanded by aiding new provisions based on latest study and research.
- ii. Further the quantum of punishment also gives a sense of lack of seriousness on the

- part of legislature. Realizing the heinousness of corruption, our laws should be stricter in order to create deterrence in the mind of not only the culprits but the likeminded as well.
- iii. Then question of adherence to the said provisions of the code arises, which is not even pained to take notice of. Merely laying a law is not enough, proper check on its effective implementation by quarter concerned is also the need of situation. Strict measures are required to adopt in order to ensure the dominance of law and smooth functioning of law enforcing agencies.
 - iv. Further these provisions lack those ways and means which are mandatory to create a sense of awareness and to educate the society about corruption and its disastrous impacts on daily life.

Thus being so coiled, Pakistan Penal Code 1860 is not up to that mark which is the prerequisite of modern days to take down corruption.

PREVENTION OF CORRUPTION ACT, 1947

“The prevention of corruption Act 1947(II OF 1947)” was the first piece of legislation on anti-corruption which was adopted on 11 march 1947. Though in “Preamble” it was urged by such adoption to “make effective provision for the prevention of bribery and corruption;” however it only defined criminal misconduct of a public servant rather than the term corruption. (See “Preamble” and “Section 5” of “**The Prevention of Corruption Act 1947(II OF 1947)**”). Section 5 of the code is an imitation of the relevant provisions of Pakistan Penal Code 1860 supra with some added features, including,

- i. Dishonest and fraudulent misappropriation or conversion of a property by a public servant, which is either entrusted to him or is in his control

as public servant.(See **section 5 sub section (c) ibid**)

- ii. Financial strength of a public servant or any of his dependent or possessing a property, which ordinarily is not possible for a public servant to be within his known resources of income. (See **section 5 sub section (e) ibid.**)

It is mostly improvised by provincial anti-corruption establishments of Pakistan. This law also stands on the same footings as Pakistan Penal Code 1860 does. Suffice it to say that it is a kind of supplementary to what had been ordained in Pakistan Penal Code 1860. Because,

- i. It is confined to the public servant. Such limited flight does not allow the sway against corruption.
- ii. Quantum of punishment is seven years imprisonment or fine or both. No specification is there whether such punishment would be rigorous or simple. (See **section 5(2)** of “**The Prevention of Corruption Act 1947(II OF 1947)**”).
- iii. Glimpses of adherence to the provisions by anti- corruption establishments are available but rapid growth of corruption questions their effectiveness to cure the ailment.
- iv. Reformatory clauses, as inevitable in modern days, also do not find any place in the act.

So comparatively it stepped bit ahead to Pakistan Penal Code 1860 by defining the misconduct of a public servant, but this is not enough as such definition does not qualify the litmus test of what corruption actual is and how to knock it down.

FEDERAL INVESTIGATION AGENCY ACT, 1974

In 1942 there was special police establishment operating in subcontinent. After the

independence in 1947, the name was changed to be Pakistan special police establishment (PSPE). Vide an ordinance of VIII of 1948 this PSPE was given a schedule of offences. Time passed on, this establishment, apart from investigating the offences of bribery and corruption committed by federal government employees, was further empowered to investigate the cases within the ambit of Official Secret Act, 1923, Foreign Exchange Regulation Act, 1947, Passport (offences) Act 1952, Custom Act, 1959. (http://www.fia.gov.pk/History_of_the_FIA.htm retrieved on 10/09/2015 at 10:15 AM.) When the war of 1971 against India ended, Prime Minister Zulfikar Ali Bhutto urged to carry out police reforms. Consequently The federal investigation agency Act 1974 (VIII OF 1975) was promulgated on 13 January 1975 which brought into existence the Federal Investigation Agency of Pakistan. (https://en.wikipedia.org/wiki/Federal_Investigation_Agency retrieved on 10/09/2015 at 10:45AM).

(F.I.A). to ensure smooth functioning, FIA has certain wings which are;

- a. Anti corruption
- b. Economic crime
- c. Technical wing
- d. Immigration
- e. Anti trafficking
- f. Legal branch
- g. I.P.R (Intellectual property rights) branch
- h. Interpol
- i. Counter terrorism
- j. FIA Academy (<http://www.fia.gov.pk/wing.html> retrieved on 16/10/2015 at 10:35 AM)

The Federal investigation Agency Act 1974(VIII Of 1975) bestowed certain area of Pakistan penal code 1860 in its schedule along with other Acts to FIA. (See schedule of Federal Investigation

Agency Act, 1974 (VII of 1975) available at http://www.fia.gov.pk/abt_background.htm retrieved on 30/09/2015 at 10:05 AM).

This has enriched the domain of FIA. However it is pertinent to mention here that initiating procedure under these provisions of law has been made subject to prior permission of the high ups. In section 5 of Federal Investigation Agency (Inquiries and Investigation) Rules 2002 there is a hierarchy which has been empowered to permit the initiation of inquiry or registration of criminal case against any public servant. (See section 5 of Federal Investigation Agency (Inquiries and Investigation) Rules 2002, available at <http://nasirlawsite.com/laws/fiaii.htm> retrieved on 29/09/2015 at 11:25 AM) Here a question arises, when an agency with such a huge infrastructure ranging all over the country is established and heavy fundings are allotted, then why such restrictions are imposed on its functions? Why not it is to proceed straight away with the case if it finds a complaint genuine? Such clogs rotten the cases from the very beginning, what to say rest of the procedure. The agency does have an impact factor to some extent, however it is not that much harder which could craft the fear of accountability, and rightly so, because head of the agency i.e. Director General F.I.A, is appointed by the President upon the advice of Prime Minister. Which is undoubtedly based upon liking and disliking and not on merits, as we do not find any appointment criteria laid down by a competent authority for such post? When merit is trampled in a society, nothing is impossible. These circumstances drive mind to think, whether Government is sincere to crush this evil or it is only to press the political opponents and nothing more.

NATIONAL ACCOUNTABILITY ORDINANCE 1999

Up till 1997, the term corruption did not find any place in prevailing anti-corruption laws of

Pakistan. It was Ehtesab ordinance 1997 which elucidated six characteristics to define ‘corruption and corrupt practices’ (See “**section 3, (1), (a), (b), (c), (d), (e), (f)**” of Ehtesab Ordinance 1997. “The Gazette of Pakistan” extraordinary published by authority, Islamabad, Saturday, May 31, 1997 No. F. 9(32)/97 under the title “Act No ix of 1997, an act to eradicate corruption and corrupt practices from public office”.

. However with the commencement of National Accountability Ordinance 1999, these six characteristics were out dated by introducing twelve characteristics of ‘corruption and corrupt practices’. (See “**section 9,(I),(ii),(iii),(iv),(v),(vi),(vii),(viii),(ix),(x),(xi),(xii)**” of National Accountability Ordinance (XVIII of 1999)(as modified as on 26-03-2010)

Some added feature like rigorous imprisonment of 14 years along with fine and forfeiture of property (See **section 10 ibid**), imposition of fine (See **section 11 ibid**)

And power to seize property (See **section 12 ibid**), are also inserted in this ordinance which comparatively create sense of accountability. Another section of law which gives edge over other existing anti-corruption laws is Section 33 C which lays down preventive measures against corruption and corrupt practices (See **section 33 C ibid**)

NAB has set the following landmarks before it in order to have a professional approach in the discharge of its duties

VISION

NAB is committed to place itself amongst the most effective efficient and dynamic anticorruption organizations. It is thus, starving to create a favorable atmosphere to ensure a society free from corruption. It is urging all the stake holders to prove their worthiness and strength in the combat against corruption.

MISSION

- To get rid of corruption through a comprehensive measures by ensuring fair implementation of the provisions of law, speedy trial of the cases, to create awareness amongst the people by utilizing all the public information mediums and to adopt preventive measure with special focus on young generation.
- To revive the operational structure of government’s institutions, to improve their potentials to take better care of public resources.
- To set strict anticorruption laws this will aid to broad and solid legal and penal system across the board.

MANDATE

The National Accountability Ordinance 1999 authorizes the agency:

- To take cognizance of acts amounting to the “offences of corruption and corrupt practices”, curb the curse and all the like practices and deal with the culprits involved according to the strict provisions of law.
- To make available all the credible measures for spotting, investigating, prosecuting and timely disposal of corruption cases.

Objective

Short term: Creating and upgrading a mechanism which will strengthen not only our national integrity system and but will aware the people as well against the ill effects of corruption.

Long term: the eradicate corruption by involving all the pillars of the state in sway against corruption. (NAB Annual Report 2014 P 23-25 available at

<http://www.nab.gov.pk/Downloads/Annual-Report-2014.pdf>, retrieved on 05/10/2015)

CRITICISM (National Anticorruption Strategy (NACS) 2002 page 50.)

Much criticism has been laid down on NAB. Grant of exceptional powers and misuse of authority to harass the public officials is vehemently criticized. Section 25 of NAB ordinance presents the idea of Voluntary Return and Plea Bargain (See section 25 of National Accountability Ordinance (XVIII of 1999) (as modified as on 26-03-2010). In its first sub section voluntary return is described Chairman NAB is empowered to allow it. Then in next Sub section Plea Bargain is touched. Which is referred to the court by the Chairman and then court allows it. It is more like submitting a compromise in an ordinary court of justice. Which is presented to the court after both the consenting parties reach to an amicable solution and present a deed before the court in this respect, for disposal of the case on the basis of compromise? Those who advocate this section, are of the opinion that it is the court of law which allows the plea bargain, on the other hand those who differ, say that the coercive impact of NAB is involved here which drives an accused to plead his guilt and return what he illegally gained. General public take it as a sort of a secret deal between NAB authorities and the culprit/ accused.

Then the exclusion of military men from its domain floats on surface. Question arises why they are given edge over general public taking the shield of Military Act. Supporters are of the view that as Army is governed by Military Act which is special law that is why all other anti-corruption laws including NAB Ordinance are silent in this regard. Opponents are of the view that, if it is so, then where the rule of law stands? What about that fundamental right, which is guaranteed by the constitution of Pakistan under article 25? However, those who are retired from Army can be investigated or prosecuted by NAB.

NAB is further not ever heard to have prosecuted any judge from judiciary. Again if the same notion of separate mechanism like Army is also applied here then we should bear in mind that each institution has a code of conduct for its employees in order to ensure its smooth functioning. What is required is just implementation of it. If every institution makes sure its functions according to the prescribed rules then we may hope that much of the workload of anti corruption agencies will be minimized.

NAB enjoys work free from any stress or intervention from the executives but such mandate is used zealously against ordinary public officials guilty of corruption cases at low level on the other hand such efficiency is not felt in cases of big guns. (**“Is NAB transparent?” An article By: Naeem Ashraf available at <http://www.samaa.tv/blogs/2015/09/is-nab-transparent/> retrieved on 10/08/2015 at 1:35PM**) This fact is very much clear from that list pertaining to 150 mega corruption cases, which was submitted before the August Supreme Court, by NAB authorities in a case filed by Mazoor Ahmad Ghauri against chairman NAB and its other officials. This case was related to the scrutiny of the NAB (**“NAB submits list of 150 mega corruption cases before SC” by Sarfraz Ali, on July 7, 2015 6:40 pm available at <http://en.dailypakistan.com.pk/pakistan/nab-submits-list-of-150-mega-corruption-cases-before-sc/> retrieved on 9:30AM**)

On 17th and 18th of February 2015 the NAB's functions were seriously scrutinized by the August Supreme Court. The court showed deep concern over the extreme maladministration of the NAB. The Court emphasized on want of proper procedure and supervision within NAB to make sure the enhancement of its efficiency while pursuing that for which National Accountability Ordinance was promulgated. (**NAB affairs come under scrutiny at Supreme**

Court by Nasir Iqbal Published in, “Daily Dawn” on February 19th, 2015 available at <http://www.dawn.com/news/1164534> retrieved at 9:15AM.)

AUDITOR GENERAL OF PAKISTAN

Office of the Auditor General endeavors to ensure accountability and financial transparency in governmental business. Office the auditor is supposed to provide such directions which will reduce the chance of waste and fraud of the resources of executive departments. This will improve the financial order and internal control of such bodies. The authority vested in auditor General enables him to provide a self-sufficient and purposeful evaluation of the process of both federal and provincial governments with the view to strengthen their legislative frameworks and to omit the existing errors. (<http://www.agp.gov.pk/about-us.html> retrieved on 02/09/2015 at 11:15am).

Article 168 of the constitution of Pakistan deals with the office of the Auditor General of Pakistan. Where in it is mentioned that he shall be appointed by the president, shall take oath before the chief justice. Removal from the office would be in the same way as ordained for a judge of Supreme Court. (See Article 168 of the constitution of Islamic republic of Pakistan 1973)

In Article 169 his powers are not only extended to the federal and provincial accounts but to the accounts of all those institutions as well which are controlled by them. (See Article 169 *ibid*) In article 170 office of the auditor general is given mandate to issue directions to federal or provincial government to keep their accounts in such form and method as prescribed to them by the auditor general which would be given to them after acquiring the approval of president. (See Article 170 *Ibid*) Reports of auditor general, pertaining to federal government would be presented to president, whereas those of

provincial government would be to the governor of that province who would route them to the national and provincial assemblies respectively. (See Article 171 constitution of Islamic republic of Pakistan 1973.) Efficiency of the office is under severe criticism. This office lacks the professional attitude required to uncover the corruption. Focusing area of the office are minor and petty, issues. Resultantly as an anti-corruption watch dog, this office is not being respected the way it should be.

CRITICISM ON THE AUDITOR GENERAL'S DEPARTMENT

However, things may not be that much credible, the way they seem. This office, as an anti-corruption watchdog over financial matters, has been under immense criticism. This department lacks the efficiency, required to detect corruption. The poor financial controls, old-fashioned and difficult financial rules and procedures and non-compliance of its methodology all amount to waste the time on non-vital issues, resultantly it lessens the credibility of its functions. This office has not yet received that respect, which it deserved, neither from Parliament, public nor from media. Though now it has started to prove its worth, however like other anti-corruption units, there is still some way to go to improve its required capacity, to have a discernable impact on corruption. Then comes the allegations about involvement of auditors and bureaucrats to cover-up the existing irregularities. The low pay, non-congenial working conditions and lack of Professional attitude are those issues which not only slow down the public service, but also tempt the auditors to corruption. Where specialist expertise is required to uncover corruption office of the auditor is way behind, because of no availability of proper and high standard training due to low resources.

OMBUDSMAN

There has been a debate over the establishment of the office of ombudsman in Pakistan for some time. The Office was established under Wafaqi Mohtasib (Ombudsman) Order, 1983 (President's Order No. 1 of 1983), which has become the part of constitution under Article 270-A. (See article 270-A of constitution of Pakistan, 1973) It is the president of Pakistan who appoints ombudsman. He holds this office for four years. Holding its headquarter at Islamabad it has regional offices in Lahore, Peshawar, Dera Ismail Khan, Sukkhar, Karachi, Quetta, Faisal Abad, Multan and Hyderabad.

Purpose of this office is to ensure the enforcement of administrative accountability. Further it is also empowered to award compensation to those who sustained loss or damage as a result of maladministration. Matters pertaining to service, foreign affairs, and national defense and to armed forces are excluded from the jurisdiction of ombudsman. It works like a bridge between administrator and citizen. It endeavors to develop and improve executive actions and procedures, and to help in reducing the misuse of discretionary powers. (https://en.wikipedia.org/wiki/Ombudsmen_in_Pakistan Retrieved on 19/10/2015 at 11:50 AM)

As it is imperative to have such laws which could change according to the changing values and requirement, the Federal Ombudsmen Institutional Reforms Act-2013 was introduced in order to strengthen the existing legal framework. Office of the Ombudsman has been made more sensitive and responsive to the grievances of the aggrieved. It can be inferred from the provisions binding the Office to accomplish findings within 60 days. (See Section 9 Sub section (5) , the Federal Ombudsmen Institutional Reforms Act-2013) and then if any person is dissatisfied with the findings of ombudsman he is allowed to submit directly a representation to the office of the President who

is bound to decide such representation within 90 days of its submission. (See Section 14 ibid) Right of reviewing the findings has also been inserted. (See Section 13 ibid) Earlier no such right was available to the complainants.

Challenges Faced to Mohtasib

(http://www.policy.hu/bokhari/ombud_pak.htm retrieved on 19/10/2015 at 1:50PM)

Initially office of ombudsman exerted its energy a lot in vigorously pursuing its authority and mandate. Unfortunately it was not kept alive in following years. Tenure based appointment of the ombudsman is a noticeable setback in its performance, creating a sense of hesitation among the staff. This office is not totally independent from executive, as it has to go through government channels in certain matters like that of staff and financial expenditures. 47 out of 78 positions of officers are lying vacant in the office of ombudsman. Though it has been nearly two decades but staff rules of the ombudsman have not been finalized. This certainly has a demoralizing impact on the staff. It gives the impression that this office is not functioning according to its caliber. In last 20 years, there has been no survey, to assess the value and effectiveness of the office. In light of the feedback by the citizens, reorganization of the office is dearly required. Apart from dealing with complaints the office should provide aid and assistance to the anti-corruption agencies to set up an inside evaluation system in the government institutions, making them more open and transparent in their functions. Public awareness programs, using electronic and print media, are also useful to enable general public to have at least basic information about the office and its functions. Further officials should be equipped with modern training and skills in order to get the best out of their ability and potentials, while dealing with cases of complex nature. Issuance of Annual Report is a must. It helps to have a liaison with the government and the public. Government

should focus on that along with public area the private sector should also be brought under the domain of ombudsman, to resolve the long standing issues of the public in that area.

CONCLUSION

If the question that despite of plenty of anti-corruption laws and agencies, why this ailment still exists? Is asked from those in power, they would merely recount the laws and agencies. Measures, adopted by the Government to combat corruption are in itself, not free from corruption. As manifested, at times when there was an authority with the mandate to handle the issue. What was the need to create another agency for the same purpose, with the same authority? Founding Federal Investigation Agency in presence of Special police Establishment and then subsequent establishment of Ehtesab Bureau and National Accountability Bureau respectively are sheer examples. Each government has its own motives, amongst which political victimization stands at the top. Though a lot of expenditures and resources have been spent, even then no significant or remarkable achievement is made so far.

RECOMMENDATIONS

Following were the recommendations of the study:

- The equality of citizens as guaranteed by the constitution is the only mean which can overshadow the corruption to a great extent. Strict adherence to it would compel the one to think at least several times before stepping against the law.
- Then it is earnestly required to amend the existing provisions in anti-corruption laws which relate to the discretionary powers, available to the higher authorities with special reference to proceed or not, with an inquiry or investigation. As discretionary powers give birth to corruption.

- Those provisions which make it binding upon the Investigating officers to get prior approval of the high ups to initiate any proceedings upon complaints should be abandoned. He should be empowered to proceed, the moment he receives any complaint, where his prime duty would be ascertaining the genuines of the content of that complaint and subsequently should collect all the proof before submitting the case directly to the court and not to his high up.
- Appointment of the head of the agency should purely be based on merits and not on political whims. Government should provide every possible sincere support, restraining any possibility of influence, favor or coercion.
- A committee, composed of senior jurists, should be constituted to review the anti-corruption legal frame work, and to suggest those steps which ought to be taken inevitably.
- We require a strict, transparent and a separate mechanism comprising only one piece of legislation and a corresponding anti-corruption watchdog which should completely be independent.

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