National Accountability Ordinance

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DG (A&P) NAB HQ
Sequence

- Corruption Description
- International Profile of Corruption
- National Anti Corruption Strategy
- Way Forward
Corruption Description

- Corruption is a moral failure and must not be seen as economic compulsion
- It is ‘Fasad Fil Ardh’
- Corruption should be understood as the greatest security risk to a country
- Need and Greed Theory
- Quaid – Definition of Corruption
Theory Applied

- $C = (M+D)-(A+I+T)$

- Where $C$ is corruption, $M$ is monopoly, $D$ is discretion, $A$ is accountability, $I$ is integrity and $T$ is transparency.

- This equation shows that the absence of $A IT$, primarily as a consequence of weak governance, in addition to monopoly and discretion, results in corruption.
Appraisal

- Do we reward merit and hardwork?
- Rule of law and supremacy of constitution strictly enforced?
- Do citizens trust the system and think it provides equal opportunities in transparent manner?
- Does the present system have the capacity to discourage the corrupt?
- Are civil and property rights protected and contracts are fully enforced?
- Does our collective consciousness endorse meritocracy or indulges only in lip services
Reply

- Unfortunately the system in general is distorted and does not provide level playing field for the people to achieve in life whatever they are capable of!

- Public at large has accepted a very high threshold of corruption – Susceptibility to corruption

- System marginalizes the honest
The first amendment in 1789 Constitution (Holding true for all democracies)

‘whenever any form of government becomes destructive of these ends, it is the right of the people to abolish it, and to institute a new government, laying its foundations on such principles and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness’
Causes of Corruption

- **Political**
  - Lack of Political Will and Capacity of State Organs
  - Elitist, undemocratic and non-transparent political parties
  - Weak Electoral System and processes
  - History of low parliamentary integrity
  - Intermittent Military Rules weakened institutions with total collapse of Regulatory Mechanism not having internal control and authority to ensure fair play and meritocracy
Causes of Corruption...

- **Social / Cultural**
  Conflict between demands of modern bureaucracy and demands of bradri, family, ethnic and other ties; social pressures for ostentatious demonstration of wealth, dowry and to provide for one’s children

- **Developmental**
  Low rates of literacy, social empowerment and opportunities for self-improvement; inequitable distribution of wealth and economic growth

- **Legal and Judicial**
  Justice is inaccessible, slow and selective, encouraging contempt for the law and an attitude of “everyone for themselves”
Anti Corruption Efforts

- Prevention of Corruption Act 1947
- Public Representative Disqualification Act 1949
- Creation of FIA
- Pakistan Special Police Establishment 1975
- Anti Corruption Establishments – ACE
- Ehtesab Commission 1996 and Ehtesab Bureau 1997
- NAB 1999
7 Important Caveats

1. Rules are obsolete and need to be revised
2. Public service should be of benefit to many not to few
3. Orders should be speaking with reasons
4. Do we really have in government people with perceptive power – cognitive abilities
5. Can you dilute a problem and expand it to such a limit that it is not a problem
6. You have to err on right side and not on a wrong side
7. Nothing in life is impossible
## International Profile CPI- 2012

<table>
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<th>Year</th>
<th>CPI Score</th>
<th>Position</th>
<th>Rank</th>
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<td>2001</td>
<td>2.3 / 10</td>
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<td>2.5 / 10</td>
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<td>2008</td>
<td>2.5 / 10</td>
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<td>2009</td>
<td>2.4/10</td>
<td>139/180</td>
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<td>2010</td>
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<td>145/178</td>
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<td>2011</td>
<td>2.5/10</td>
<td>141/183</td>
<td>43</td>
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<td>2012</td>
<td>2.7/10</td>
<td>139/174</td>
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### Countries Surveyed:
174

### Total Marks:
10

### Least Corrupt Country – Denmark: 9

### Most Corrupt Country - Somalia: 174 Position (0.8)

### Pakistan: 35 from Bottom
Global Competitive Index - 2012

Countries Surveyed: 138

Total Marks: 07

Most Competitive Country Switzerland: (5.72)

Pakistan Ranking: 118 (3.52)
Human Development Index-2011

Countries Surveyed: 187

Total Marks: 1

Most Human Developed Country – Norway (0.934)

Least HDI Country - Democratic Republic of Congo 185

Pakistan: 145 (0.504)
Failed State Index-2012

Countries Surveyed: 177

Least Failed State: Finland

Most Failed State: Somalia

Pakistan has been ranked among bottom 13 of the 177 states around the world.
Legatum Prosperity Index

“Most people would agree that prosperity is not just about money but also about the quality of life. The Index defines prosperity as both wealth and wellbeing, and finds that the most prosperous nations in the world are not necessarily those that have only a high GDP, but are those that also have happy, healthy, and free citizens.”
Eight Dimensions

The Prosperity Index benchmarks 142 countries around the world in 89 variables grouped into eight categories:

Pakistan
Overall Prosperity Index

- Ranks **132** out of 142 Countries
  - Indonesia 63, India 101, Bangladesh 102, Cambodia 107, Nepal 108

- Pakistan is 121 in governance, 132 in personal freedom, 137 in social capital and 139 in safety and Security
Global Competitiveness

- World Economic Forum’s Global Competitiveness Index 2012-13 rates 144 countries on 111 factors
- For example, Labor market (hiring / firing)
- Pakistan ranks 21 out of 144 Countries
- Better than United Kingdom, New Zealand, Malaysia and Ireland
Capacity for Innovation

- Pakistan ranks **60** out of 144 Countries
- Better than Colombia, Philippines, Thailand
Judicial Independence

- Pakistan ranks 57 out of 144 Countries
- Better than Brazil, Korea, Spain
Pakistan ranks **51** out of 144 Countries

Ahead of Russia, Turkey, Mexico and Chile
Strength of Investment Protection

- Pakistan ranks **29** out of 144 Countries
- Better than Australia, Iceland, Finland, Turkey
Size of Domestic Market

- Pakistan ranks 26 out of 144 Countries
- Ahead of Austria, Belgium, Singapore and Sweden
Pakistan’s GDP Per Capita?

$1201
Why the Gap?
Property Rights

- Pakistan ranks 116 out of 144 Countries
- Worse than Cambodia, Suriname, Sierra Leone
Irregular Payments and Bribes

- Pakistan ranks **119** out of 144 Countries
- Behind Burkina Faso, Zambia, Mongolia
Favoritism in Decisions of Public Officials

- Pakistan ranks **129** out of 144 Countries
- Behind Nigeria, Ukraine, Zimbabwe
Transparency of Government

- Pakistan ranks **109** out of 144 Countries
- Behind Benin, Ecuador, Cambodia
Business Cost of Terrorism

- Pakistan 143 out of 144 Countries
Organized Crime

- Pakistan 136 out of 144 Countries
- Trailing Albania, Nigeria, Russia
Reliability of Police

- Pakistan 127 out of 144 Countries

- Worse than Bolivia, Zimbabwe, Nigeria

- Pakistan 132 in the business costs of crime, worse than Nigeria, the Dominican Republic and Uganda
Biggest Obstacles to Economic Advance in Pakistan?

Global Competitiveness Report 2012-2013

“What is the most problematic factor for doing business in Pakistan?”

# 1 is corruption

Followed by inefficient government bureaucracy, policy instability, and government instability/coups
International Approach to Anti Corruption (Anti Corruption Strategy)

Prevent

Fight

Educate
Strategy Approved by Government of Pakistan

Awareness

Prevention

Enforcement

Amer-bil-Marooif va Nahi-Anill-Munkir
NATIONAL INTEGRITY SYSTEM
National Accountability Ordinance
Historical Perspective

- Prevention of Corruption Act 1947
- Public Representative Officers Disqualification Act 1949
- Elective Bodies Disqualification Order 1959
- FIA Act – 1974
- Ehtesab Commission – 1996
- Ehtesab Act – 1997
- Promulgation NAB Ordinance – 1999
  - Ordinance XIX of 1999
  - Ordinance IV of 2000
  - Ordinance XXIV of 2001
  - Asfandyar Wali Case – 89 Amendments made in NAO
Types of NAO Sections

- **Pre-amble.** Key and spirit of Law
- **Substantive Clauses.** Procedures if not followed punished
- **Procedural Sections**
- **Administrative Sections**
- **Penal Sections**
Pre-amble

- Inquire, investigate for speedy disposal of cases
- Emergent recovery of bank default cases
- Urgent need for recovery of state money
- Urgent need to educate society and take measures to prevent corruption
- International Cooperation with foreign jurisdictions
- Establish NAB to achieve all above ‘5’ Objectives of Accountability
Important Sections

- **Section 2.** Commencement January 1985
- **Section 4.** Application – All citizens and whole of Pakistan including FATA
- **Section 5.** Definitions
  1. Benamidar
  2. Holder of Public Office
  3. Excludes members of Armed Forces
  4. Willful default
- **Section 6 (b) (1)** Chairman NAB
  1. Acting Chairman NAB
- **Section 7.** Deputy Chairman
Important Sections

- Section 8. PGA
- Section 9 (a). Corruption and Corrupt Practices
  (i) Illegal Gratification
  (ii) Prevention of Corruption - Obtaining gift or any valuable
  (iii) Dishonestly or fraudulently takes benefit
  (iv) Dishonestly or fraudulently takes benefit for dependants etc
  (v) Benamidars or dependants own any properly
  (vi) Misuse of authority
Important Sections

- **Section 9 (a).** Corruption and Corrupt Practices
  - (vii) Issuance of undue SRO
  - (viii) Willful default
  - (ix) Cheating public at large
  - (x) Criminal breach of trust
  - (xi) As a banker commits breach of trust
  - (xii) Abetment or aids or assist

- **Section 10.** Punishment
  - * Rigorous punishment and
  - * Fine and
  - * Forfeiture of property
  - * No alternative punishment for non payment of fine but punishment on delayed payment of fine
  - * No remission
Important Sections

- **Section 12.** Power to freeze property
- **Section 14.** Presumption against illegal gains
- **Section 15.** Disqualifications
- **Section 16(A).** Transfer of Cases
- **Section 18(b).** Cognizance
  - Reference from Government
  - Complaint
  - Own accord
- **Section 19.** Power to call information from custodian of information or record
- **Section 20.** Reporting of suspicious financial transactions failing to report punishable with five years of punishment and fine
Important Sections

- **Section 21.** International Cooperation – Request for mutual legal assistance
- **Section 22.** Chairman may under suomoto inquire on suspected crime
- **Section 23.** Transfer of Property Void – No charge can be created after inquiry or complaint processing starts
- **Section 24.** Arrest
- **Section 25.**
  - a. Section 25 (a) – Voluntary Return
  - b. Section 25 (b) – Plea Bargain
Section 25A. Payment of Loans – Willful Default

- Establishment of Conciliation Committee by Governor State Bank
  - Officer of SBP by Governor – Chairman
  - 2 x Nominees by NAB
  - 2 x CA by State Bank of Pakistan
  - 1 x CA by Council of the Institute of CA of Pakistan
  - 1 x CA by the accused person
  - 1 x CA by lender bank / lead bank

- Reference preparation within 30 days

- SBP Governor to give approval
Important Sections

- **Section 26.** Tender of Pardon / Approver
- **Section 27.** Power to seek assistance
- **Section 31.** Prohibition to hamper investigation
  - Punishment of ten years
- **Section 31A.** Absconding to avoid service of warrants
- **Section 31B.** Withdrawal of cases by PGA from prosecution
- **Section 31C.** Cases against bankers with approval of Governor SBP pertaining to rescheduling, restructuring or refinancing
- **Section 31D.** No proceedings against imprudent loans, financing till referred by Governor SBP
Important Sections

- **Section 33B.** Reporting of Public Contract
  - * Pre-procurement regime
  - * Scrutiny of all contracts 50M and above

- **Section 33C.**
  - * (a) and (b) – Awareness of Public at large
  - * (c), (d) and (e) – Prevention of Corruption

- **Section 33E.** Recovery of fines and amounts as arrears of land revenue

- **Section 34A.** Delegation of powers by Chairman
THANK YOU