

Citizens' Periodic Reports on the Performance of State Institutions

National Accountability Bureau

An Independent Review of Structure and Performance

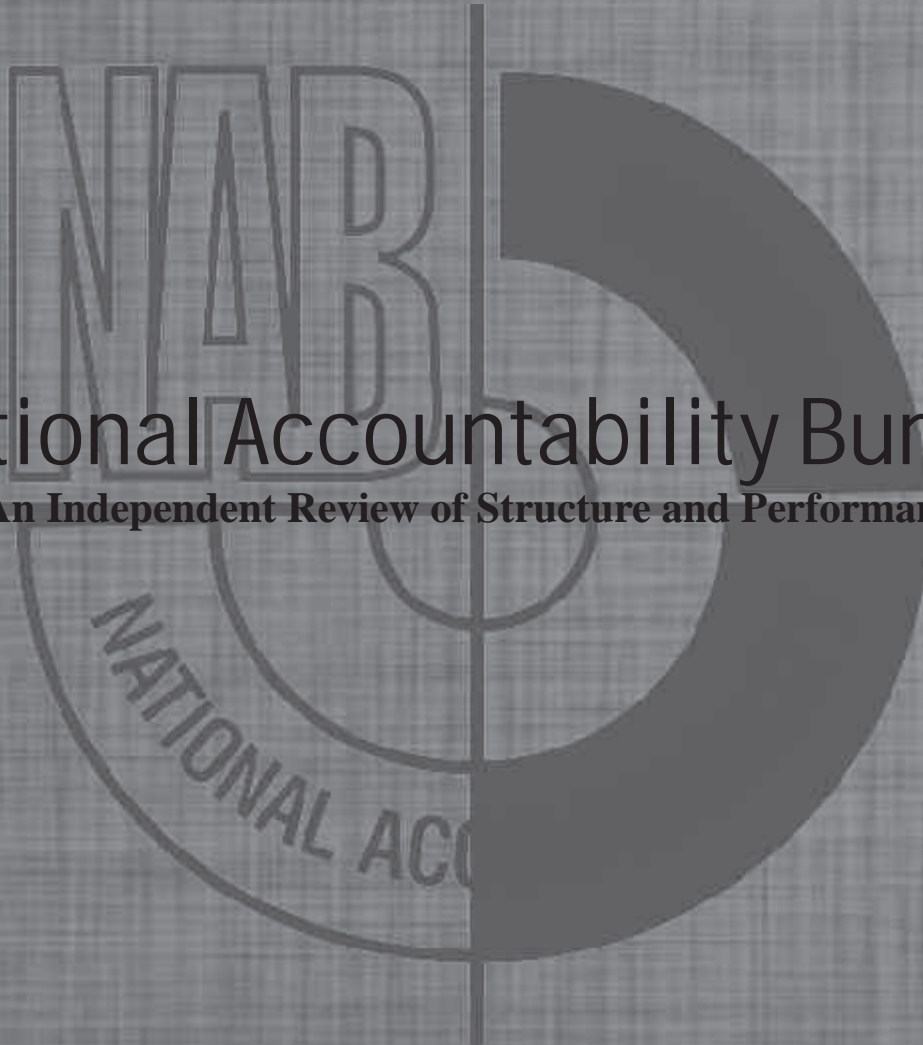
WWW.PILDAT.ORG

PILDAT
Pakistan Institute of
Legislative Development
And Transparency

Citizens' Periodic Reports on the Performance of State Institutions

National Accountability Bureau

An Independent Review of Structure and Performance



WWW.PILDAT.ORG

PILdAT
Pakistan Institute of
Legislative Development
And Transparency

PILDAT is an independent, non-partisan and not-for-profit indigenous research and training institution with the mission to strengthen democracy and democratic institutions in Pakistan.

PILDAT is a registered non-profit entity under the Societies Registration Act XXI of 1860, Pakistan.

Copyright © Pakistan Institute of Legislative Development And Transparency - PILDAT

All Rights Reserved

Printed in Pakistan

Published: April 2015

ISBN: 978-969-558-439-5

Any part of this publication can be used or cited with a clear reference to PILDAT.



Islamabad Office: P. O. Box 278, F-8, Postal Code: 44220, Islamabad, Pakistan
Lahore Office: P. O. Box 11098, L.C.C.H.S, Postal Code: 54792, Lahore, Pakistan
E-mail: info@pildat.org | Website: www.pildat.org

CONTENTS

Preface

Abbreviations and Acronyms

About the Author

Executive Summary

Scope	15
Historical Perspective	15
Implementation of the National Accountability Ordinance	17
Enforcement	18
Awareness Activities: Comparison 2012-2013 and Assessment	21
Pre-procurement Prevention Regime-Projects/Tenders Scrutiny 2012-2013	23
Prevention Committees Regime	23
Comparison State of Enforcement Driven Operations, 2012-2013	24
The Way Forward	24

References

Annexes

Annex A: Performance Profile of the NAB Year 2000-2001	37
Annex B: Anti-Corruption Laws, Rules and Regulations since 1947	47
Annex C: Three-Pronged Strategy: Awareness, Prevention and Enforcement by Mr. de Speville	51
Annex D: Draft Syllabus for a Basic NAB Induction Course	55
Annex E: International Assistance and Organizations	59
Annex F: Performance Indicators of the NAB	62

List of Tables

Table 1: Awareness Activities: Comparison 2012-13 and Assessment	22
Table 2: Pre-procurement Prevention Regime-Projects/Tenders Scrutiny-2012-13	23
Table 3: Prevention Committees Regime	24
Table 4: State of Complaints	24
Table 5: State of Inquiries	25
Table 6: State of Investigations	25
Table 7: Voluntary Returns/Plea Bargains	25
Table 8: State of Exit Control List	26
Table 9: State of Prosecution-Reference State	26
Table 10: Data of Investigation: the NAB, Punjab	37
Table 11: List of High Profile Convictions: the NAB, Punjab	37
Table 12: Important Plea Bargain Cases: the NAB, Punjab	38
Table 13: Data on Investigation: the NAB, Sindh	38
Table 14: List of High Profile Convictions: the NAB, Sindh	38
Table 15: Data on Investigations: the NAB, Khyber Pakhtunkhwa	39
Table 16: List of High Profile Convictions: the NAB Khyber Pakhtunkhwa	39
Table 17: Important Plea Bargain cases: the NAB Khyber Pakhtunkhwa	40
Table 18: Data on Investigations: the NAB, Balochistan	41
Table 19: List of High Profile Convictions: the NAB, Balochistan	41
Table 20: Plea Bargain Details of the NAB, Balochistan	42
Table 21: Data on Investigations: the NAB, Rawalpindi	43
Table 22: List of High Profile Convictions: the NAB, Rawalpindi	43
Table 23: International Assistance and Organizations	59

PREFACE

The National Accountability Bureau (NAB) is Pakistan's premier watchdog organization against all forms of corruption in the country. Formed after the promulgation of the National Accountability Ordinance in 1999, the organization due to the nature of its work, is often the centre of criticism and controversies.

The paper on 'National Accountability Bureau: An Independent Review of Structure and Performance' has been commissioned by PILDAT as part of the Democracy and Governance programme by PILDAT to assess the performance of key democratic State institutions. This assessment has been undertaken by **Brigadier (Retd.) Muhammad Musaddiq Abbasi**, former Director General of Awareness and Prevention, the National Accountability Bureau, to study the performance of the NAB, while also to shed light on various aspects of the State institution. These include the scope and nature of its work, the history and evolution of the institution, important cases it has dealt with, and other areas of its workings.

Acknowledgements

PILDAT gratefully acknowledges the support and contributions of **Brigadier (Retd.) Muhammad Musaddiq Abbasi**, former Director General Awareness and Prevention, the National Accountability Bureau, in authoring this paper.

PILDAT acknowledges with thanks the financial assistance received from the Danish International Development Agency (DANIDA), Government of Denmark, for publishing this paper.

Disclaimer

The views expressed in the paper are those of the author and do not necessarily represent the views of PILDAT or DANIDA, the Government of Denmark, and the Royal Danish Embassy, Islamabad.

Islamabad
April 2015

Abbreviations and Acronyms

A&P	Awareness and Prevention
ACE	Anti-Corruption Establishment
CDA	Capital Development Authority
CIT	Combined Investigation Team
CRPC	Code of Criminal Procedure
DCO	District Coordination Officer
DG	Director General
ECL	Exit Control List
FBR	Federal Board of Revenue
FCIW	Financial Crime Investigation Wings
FIA	Federal Investigation Agency
HQ	Headquarters
IAACA	International Association of Anti-Corruption Authorities
KP	Khyber Pakhtunkhwa
LED	Light Emitting Diode
MOU	Memorandum of Understanding
NAB	National Accountability Bureau
NACS	National Anti-Corruption Strategy
NAO	National Accountability Ordinance
NBP	National Bank of Pakistan
NHA	National Highway Authority
NRO	National Reconciliation Ordinance
PAC	Public Accounts Committee
PCC	Price Check Committee
PGA	Prosecutor General Accountability
PKR	Pakistani Rupee
PLD	Pakistan Law Digest
PPRA	Public Procurement Regulatory Authority
RI	Rigorous Imprisonment
SC	Supreme Court
SECP	Securities and Exchange Commission of Pakistan
SOP	Standard Operating Procedure
SOW	Special Operation Wing
SRO	Statutory Regulatory Order
T&E	Training and Evaluation Wing
UN	United Nations
UNCAC	United Nations Convention Against Corruption
VR	Voluntary Return

ABOUT THE AUTHOR



Brigadier (Retd.) Muhammad Musaddiq Abbasi is the former Director General of Awareness and Prevention, the National Accountability Bureau. His previous positions at the NAB include Director Inquiry and Intelligence, Director Investigation and Monitoring in Sindh, Director Awareness and Prevention, Director Special Operations Wing, Director General NAB Khyber Pakhtunkhwa Chapter, and Director General, the NAB Balochistan,.

During his service at the NAB, Brigadier (Retd.) Muhammad Musaddiq Abbasi formulated and executed an A&P Framework in 2012 for the first time in the history of the NAB. He is the author of a NAB manual covering operational and fundamental legal guidance for investigators at various tiers required to dispense their official functions. The book is part of the syllabus of the basic investigation course and is widely used by investigators. He is a contributor and author of a large number of SOPs in the NAB. He was instrumental in induction processes of NAB employees and has also been a resource person in imparting training to investigators.

Brigadier (Retd.) Muhammad Musaddiq Abbasi has also served on a United Nations Mission in Somalia and was a resource person in the United Nations Workshops on Prevention of Corruption, and also got training on Anti Money Laundering in Seoul, South Korea.

He is a graduate of the Command and Staff College, Quetta He was been commissioned in the Pakistan Army Corps of Air Defence in 1975 and then joined Army Aviation in 1978, and subsequently in 2001 got inducted in the NAB through transfer of services provision as a Brigadier. He retired in 2014 and presently is a Chief Operating Officer of Ms Research and Collection Services (Pvt.) Ltd in Islamabad.

Executive Summary

The National Accountability Ordinance (NAO) was promulgated on November 16, 1999. It applies to all persons in Pakistan, and persons who are or have been in the service of Pakistan wherever they may be, including areas that are part of the Federally and Provincially Administered Tribal Areas. The National Accountability Bureau (NAB) is the Federal State institution operating under this Ordinance to prevent both corruption and to make those who are corrupt accountable to the State and the law.

The NAB since inception has transformed into an institution with a matured leadership, established drills and procedures, and well-trained investigation staff. Despite this, corruption and mal practices have continued to impede successful governance and democracy in Pakistan. The State must seek ways to improve the performance of this State institution by continuing to improve and develop laws and practices related to anti-corruption, and seek to build accountability in governance.

The NAB must continuously to seek to improve itself by remaining abreast of current forensic and scientific methods, it must continue to work on the training of its investigation teams, recruit and promote based on merit. A number of recommendations are aimed for the NAB to attain the status of an independent anti-corruption authority at the country:

- I. Amendments in the National Accountability Ordinance
 - a. The Anti-money Laundering Act be made part of the schedule offences along with section 168, 169, 201, 218, 468, 471, 472, 477-19 of PCC.
 - b. Banks related settlements be covered under Section 25(a) and 25(b)
 - c. Court orders warranting direct recovery from the accused under the provision of Verifiable Return (VR) till reference are filed in the court. Amendment in Section 25(a) suggested.
 - d. The provision of VR till reference should be filed in the court and its validation through court, and plea bargain during trial stages. Amendment in Section 25(b) suggested.
 - e. The term inquiry should be replaced with investigation and provision of complaint verification inquiry with no facility of VR to be introduced. The case should start with investigation after complaint verification inquiry, which must not have any settlement provision.
 - f. The service charges of various natures should be specified and the NAB be given authority to deduct its portion of recovery made under 25a and 25b before depositing the recovered amount with the Government Central Depository.
 - g. A bribe giver should also be cited, and accused and suitable punishment should be awarded to him as per provisions of the law.
 - h. Provision of allocation of single liner budget of some ratio to projected Government revenue for the financial year. For instance, 0.02 to 0.03 as worked out through joint exercise/study of the NAB and the Ministry of Finance.

Section 33 E should be amended to introduce the additional punishment of three years in case the accused fails to deposit the court fine within six months after the expiry of his initial punishment and the court fine recovery under land revenue provisions be amended accordingly.

- i. Under the provision of section 37, removal of difficulties, provision of Deputy Chairman to act as Acting Chairman for a specific period or till the appointment of the new Chairman should be made.
- j. Two most appropriate sections suggested by the NAB and included in KP Ehtesab Commission Act 2014 should be included in the NAO for the purpose of transparency and speedy trials. The present system of Execution Board

Meeting should be formally legalized to structure the discretionary powers of the Chairman/DG.

ii. Prosecution Conference

- a. Upon the completion of the inquiry or the investigation there should be scheduled a prosecution conference to determine if charges should be framed and the matter referred to the court for initiation of legal proceedings against the accused.
- b. The investigation officers and prosecutors should appraise the material and evidence collected and prepare a joint report for the Director General/Chairman with a recommendation either in favour of or against the filing of a reference before the Court or proposing further investigation.
- c. If it is recommended upon conclusion of the prosecution conference that material evidence collected is insufficient to make out a prima facie case and further investigation is inadvisable in view of the facts of the case, the Director General/Chairman may order further investigation or close the investigation and seek the release of the accused from court, if in custody.

iii. Procedure for Trials

- a. Notwithstanding anything contained in any other law for the time being, each matter brought before the court under this Act should be disposed of no later than within six months from the date of the reference being filed.
- b. Within fifteen days of the filing of the reference, the accused should file or cause to be filed before the court, a written response to the charges made in the reference.
- c. Within seven days of the filing of the response by the accused, the reference shall be fixed for hearing where the court shall either acquit the accused or frame charges.
- d. Within seven days of the framing of a charge the court shall convene a pre-trial conference with the special prosecutor, the accused and the defense attorney.
- e. The court should not grant any party more than one adjournment during the period from the filing of the reference till its disposal.
- f. It should be the responsibility of the PGA and the accused to arrange for legal representation on each hearing, failing which the court shall proceed in the absence of an attorney or pleader.
- g. The court shall also offer the utilization of the plea bargain provision to the accused person as per the law and if the accused submits, such application will be referred to the Chairman/DG to give response within 15 days.

iv. Implementation of the National Anti-Corruption Strategy

The NACS' implementation should be strictly implemented through sections 33C of the NAO under the prevention regime giving it legitimate standings. The NACS was formulated under a certain given situation and it now needs revision especially after the insertion of amendments in the constitutions and the establishment of regulatory authorities at the Provincial and Federal level.

v. Underutilized Areas of the NAO

- a. The NAO provision of Section 9(a) read with Section 5(r) provides unique power of accountability of the private sector, whereby the NAB can prosecute willful revenue defaulters of all kinds. The area needs due attention by the NAB to support operations of revenue recovery by the FBR and also by Provincial Governments and subsequently District Governments.
- b. All FBR and other related tax evasion cases can be tried under the NAO whereby Section 9(a)(vi) attracts role

played by the officials concerned and 9(a)(iii) puts evader as a beneficiary.

- c. Imprudent banking coverage to bankers under the NAO is wrongly interpreted. Bad loans waived off by the banks should be reported to the NAB under Section 33(c) read with Section 9(a)[breach of trust by bankers] clause where collaterals and securities are over invoiced in connivance with bank officials causing loss to the State exchequer. Such cases should be dealt under breach of trust by bankers and loan recipient as a wrongful beneficiary.
- d. The Chairman of the NAB has to lead this discipline personally else a force trained on enforcement alone (the NAB senior employees) with a negative mindset would not allow it to succeed. A reorganized and strengthened Prevention Regime Establishment with correct orientation and clear mandate can only bring desired results.
- e. Regional NABs, in coordination with the Provincial Government, may undertake an awareness campaign down to the district level in collaboration with the ACE, district administration, particularly the education and information department.
- vi. Underdeveloped areas of the NAB such as those below must be improved:
 - a. Research and Development
 - b. Accountability Academy

A subject academy should be established on the lines of the FIA and the Anti-Corruption Academy, Malaysia, and a few other international institutes. Likewise, every regional bureau should have a small cell of one dedicated officer to arrange and coordinate training, including guest speakers, small duration trainings, etc.

vii. Advocacy Training

Prosecutors should go through central training in Islamabad. The judges of the CRPC and advocates of general law, unless given proper orientation and subjected to white collar mock trials exercises, will not be able to do justice to their cases. A suitable law firm or college can be tasked to prepare a curriculum for this purpose and also to conduct this training.

viii. Combined Investigation Team (CIT) Concept

Apply the concept of semi-independent sections in each investigation wing to improve the functioning of the CIT so as to speed up the investigation process and also to give needed administrative and operational support already issued by the NAB.

ix. Internal Affairs (Intelligence Cells)

Two independent echelons of intelligence, one at the regional level and the second under the chairman, extended to regions, to prevent corruption and corrupt practices within NAB, is a mandatory requirement.

x. Establishment of an Independent Police Force Cadre

Independent NAB Police Cadre trained to support the NAB operations must be considered on priority basis.

xi. Restructuring of the FCIW

- a. In the NAB HQ, the Financial Crime Investigation Wing should be placed under DG Operations for Administrative and Operational Control.
- b. In the regional NABs, the following is recommended:
 - The most senior banker should act as advisor to the DG on financial crimes cases.

- All bankers should be attached with investigation wings as experts and form a part of the Combined Investigation Teams.
- The Financial Crimes Wings in regional NABs be done away with since they are not in line with any international or local model.
- xii. The concept of a Combined Investigation Team should be strengthened and semi independent sections with administrative legal and operational capacity in each regional wing be created.
- xiii. The Special Operation Wing (SOW) in each Regional Bureau to cover the mandate of Section 9(a) (1) should be raised with a mandate to conduct raids to curb bribery.
- xiv. The Deputy Chairman's office should be made responsible for reaching out to the regional bureaus for strict supervision and for on spot decisions to speed up operational work.
- xv. Whistle blowers' response and protection system be established along modern lines and properly advertised for public awareness and response.
- xvi. Enhance the role of the media cell to undertake public confidence gaining measures and avert chances of corruption.

xvii. Duplication of Anti-Corruption Laws at the Federal, and Triplication at Provincial Level

xviii. Autonomous Position of the NAB

A ban on recruitment, cuts in budget and other establishment related restrictions enumerated below should be removed by bringing suitable amendments in the NAO:

- a. The illegal notification of placing the NAB under the ministry of law, notwithstanding the statutory position, should be withdrawn.
- b. Countries that have the will to fight corruption devote a percentage of their budget to the effort, realizing the importance of keeping the menace within acceptable threshold.
- c. The percentage of recoveries under Section 25(a) and 25(b) as already allowed by the Government under the rules should be deducted by the NAB before it is credited in the central depository.
- d. Administrative and budgetary instructions and notifications, after the allocation of the budget, should not be applicable to the NAB.

xix. Accountability of the NAB

A legislative council, advisory committees and internal monitoring unit must be considered. The NAB ombudsman could be another option to redress grievances against the NAB and also to monitor its functions other than judiciary, media, and advisory committees recommended in this paper.

xx. A suggested syllabus for awareness, prevention and enforcement is also recommended for the Pakistan Accountability Academy in line the UNCAC dictations enshrined in its Articles 5 to 14.

The NAB may develop permanent associations with international institutions for the development of Accountability Academy, faculty exchange programmes, training of investigators, specialists, supervisors in each discipline of the National Anti-Corruption Strategy for purposes of capacity building, and also to keep abreast with the latest developments in the field of forensic computer trainings, electronic search and seizure, forensic financial related investigations technique, crime analysis intelligence and many other areas the NAB is lagging in.

Scope

The paper on 'National Accountability Bureau: An Independent Review of Structure and Performance' aims to explain the most recent situation in the NAB's anti-corruption efforts and Standard Operating Procedures (SOPs) within the framework. Each aspect of the NAB's operations is analyzed with a view to suggest measures to enhance the efficiency of the NAB as an autonomous and effective anti-corruption authority at the national level.

Historical Perspective

a. The National Accountability Ordinance was promulgated in 1999 and extends to the whole of Pakistan. It applies to all persons in Pakistan, and persons who are or have been in the service of Pakistan, wherever they may be, including areas, which are part of the Federally and Provincially Administered Tribal Areas. The Ordinance provides for:

- The detection, investigation, prosecution, and speedy disposal of cases involving corruption, corrupt practices, misuse of power, misappropriation of property, kickbacks, commissions, and matters connected and ancillary or incidental.
- The recovery of outstanding amounts from persons who have committed default in repayments to banks, financial institutions, the Government, and other agencies.
- The recovery of State money and other assets from those people who have misappropriated such assets or removed these assets abroad.

b. Amendments to the Ordinance

As a consequence of the strict enforcement of the Ordinance, certain well-entrenched vested interests were successfully brought to justice. In reaction thereto, the accused initiated a virulent media campaign, branding the Ordinance as draconian in substance and application. Its validity was challenged in the Supreme Court on the grounds that it exceeded the powers granted by the basic laws and violated fundamental rights guaranteed by the Constitution; and that its purpose was to set up an arbitrary executive body to negate the rule of law and principles of natural justice.

The National Accountability Ordinance was promulgated in 1999 and extends to the whole of Pakistan. It applies to all persons in Pakistan, and persons who are or have been in the service of Pakistan, wherever they may be, including areas, which are part of the Federally and Provincially Administered Tribal Areas.

The landmark judgment of the Supreme Court in Khan Asfand yar Wali v Federation of Pakistan PLD 2001 SC 607 upheld the Ordinance as a valid legislation, which was neither ultra vires of the Constitution, nor had it invaded provincial authority. However, it directed the Federal Government to bring about 89 amendments in the Ordinance, which were subsequently affected. None of the substantive provisions of the Ordinance were struck down, and no ambiguity exists about its implementation. In its true sense, the Supreme Court of Pakistan, with five judges and eleven jurists, almost had re-written the NAO and validated all its major sections. The commentary, over four hundred pages in the form of PLD 2001 SC 607, is available on record.

The NAO went through evolutionary processes and various amendments in the form of the Ordinance XIX of 1999, Ordinance IV of 2000, and Ordinance No XXIV of 2000. Amendments attributable to the Supreme Court order were made through the Ordinance XXXV of 2001. Some of the important amendments pertain, inter alia to: the security of tenures of the top hierarchy of the organization (comprising the Chairman, Deputy Chairman, and the Prosecutor General, Accountability); the appointment of serving district and sessions judges to the Accountability Courts; facilitating the accused in making an application for the transfer of their case from one Accountability Court to another and requiring the prosecution to produce the accused in court after every 15 days for extension in remand.

The judgments of the Supreme Court also

recognized the jurisdiction of superior courts to grant bail in appropriate cases. Further amendments were also made after the formulation of the National Anti-Corruption Strategy (NACS) and the signing of the United Nations Convention Against Corruption (UNCAC) and the NAB becoming a member of various UN anti-corruption bodies and other jurisdictions worldwide. Sections 33B and 33C relating to the Awareness and Prevention Regimes were accordingly incorporated and the Awareness and Prevention Division at the headquarters of the NAB at the regional level was also set up. This gave a new face and mandate to the NAB bringing it at par with good international anti-corruption practices and bodies.

In 1999, NAB started with enforcement and in spite having the NACS as its guiding philosophy to fight corruption through prevention is still at its initial phase. The logical sequence to end corruption would be to raise awareness followed by prevention and then enforcement. All three disciplines must go in harmony, complementing and supplementing each other to fight the menace of corruption and corrupt practices. The top bottom approach, i.e. prevention and enforcement, and the bottom up approach, i.e. awareness, have to be given due impetus and priority.

The crackdown on loan defaulters in 1999 and 2000 created widespread unease within the banking and business communities. With the economy in recession, the Government realized that misgivings based on exaggerated perceptions could further hurt it. Consequently, amendments were introduced in the Ordinance to placate such fears.

The concept of a Conciliation Committee has also provided a useful mechanism for settlement of loan defaults, thereby allaying apprehensions of the business community in this regard. Committee proceedings have, however, slowed down the process of accountability

Meanwhile, the State Bank of Pakistan was given a role in loan default cases. The State Bank now acts as a buffer between the NAB and the business community in cases of non-payment of funds borrowed from financial institutions. Under the amended law, a person accused of willful default has been allowed to apply to the Governor of the State Bank of Pakistan for adjustment of his liability through a Conciliation Committee. The conciliation must be concluded within a period of 30 days, subject to any extension of time granted by the Governor. Once an accused accepts the recommendations of the committee (provided the Governor, State Bank, and Chairman of the NAB also approve the same), the decision is implemented.

The concept of a Conciliation Committee has also provided a useful mechanism for settlement of loan defaults, thereby allaying apprehensions of the business community in this regard. Committee proceedings have, however, slowed down the process of accountability.

As a precondition to instituting proceedings against employees of banks and financial institutions responsible for wrongfully writing off, waiving, restructuring or refinancing any facility, interest or mark-up, the NAB must first obtain the approval of the State Bank of Pakistan. In a related context, the State Bank is also required to refer to any information it may have on imprudent loans to the NAB for investigation.

The penal clauses of the Ordinance make provisions for custodial sentences ranging up to three years for absconders indicted in the accountability process. The NAB Prosecutor General Accountability does, however, have the discretion to withdraw the prosecution of an accused person at any stage of the proceedings.

On June 07, 2013, while dispensing the large number of writ petitions filed by accused persons on whether a civilian (other person as enshrined vide Section 9 of the NAO) can be tried under the NAO or otherwise, the Supreme Court of Pakistan endorsed the decision already passed in the Khan Asfand yar Wali Case (PLD 2001 Supreme Court 607) and re-validated its sections. Civilians committing crime under the ordinance can be tried by the Accountability Courts and the Supreme Court.

c. Anti-Corruption Efforts

The initial years of the NAB's performance are reflective of its effective anti-corruption drive and the results it achieved in a short span of time. The number of convictions, data on investigations and details of plea bargain cases can be found in Annex A. The data is available for the initial years from 1999 till 2002.

The list of anti-corruption laws, orders, ordinances promulgated to date is attached in Annex B.

d. Political Developments

While addressing the first Constitutional Assembly on August 11, 1947, Quaid-e-Azam Muhammad Ali Jinnah said "One of the biggest curses from which India is suffering, I do not say that other countries are free from it, but I think our condition is much worse, is bribery and corruption. That really is poison. We must put it down with an iron hand."

This vision of the Quaid-e-Azam, Muhammad Ali Jinnah was translated and promulgated in the form of Prevention of Corruption Act 1948 (mentioned in Annex B). The Act included 18 categories of public office holders, including the judiciary and the armed forces of Pakistan. Unfortunately, this was replaced with an ordinance aimed at political victimization and at the same time stonewalling the accountability system in the country. No serious efforts were made until the establishment of the NAB, which also met its Waterloo in the form of the NRO in 2007 and political plea bargaining within just four years of its formation.

The NAB was the flagship of General (Retd.) Pervez Musharraf and its performance during the initial years is reflective of its seriousness. As the three years' cushion period provided by Supreme Court started nearing, Chairman, the NAB, General Amjad, stayed on course while General Musharraf went on a tangent and stopped probes. The beneficiaries of one of the largest cooperative scams were rewarded and subsequently brought to the highest Federal Offices. A politician involved in the Peshawar Ring Road case alleged in misuse of authority, who also was charged in a NAB case of accumulation of illegal assets was illegitimately utilized to give favourable political impression to General Musharraf.

Subsequently General Musharraf promulgated the NRO in 2007. In 2008, the NAB was declared a defunct organization by the PPP regime on behest

This vision of the Quaid-e-Azam, Muhammad Ali Jinnah was translated and promulgated in the form of Prevention of Corruption Act 1948 (mentioned in Annex B). The Act included 18 categories of public office holders, including the judiciary and the armed forces of Pakistan

of the people impacted by the NAB, including the President of Pakistan. Its budget was restricted to pay allowances. Its members from the armed forces and deputationists started leaving the institution, and its strength of investigators and officers was reduced to 28%. The percentage further plunged to merely 15-18% till the situation was recovered in 2012 by Admiral Fasih who took over as Chairman, the NAB, probably with the understanding of keeping all the cases pertaining to politicians in a state of dormancy.

Admiral Fasih followed a policy of defiance with the judiciary in taking dictation from the PPP-led Government and became the casualty of an extra-judicial suo motto guerilla warfare unleashed by Chief Justice Chaudhry Iftikhar. Four Chairmen were shown the door by the judiciary, thus the NAB became most like a headless chicken as all its powers are vested in the Chairman as per the statutory mandate of the NAO. General Maqbool and General Muneer Hafeez supported the Government policies on anti-corruption; contrary to them, General Aziz went on leave not to return.

Implementation of the National Accountability Ordinance

The title of this legislation reflects the fact that the Ordinance does not deal only with the establishment of the NAB but also creates a number of offences and applies the legislation to the whole country and to its entire people.

Unlike the law that established the Anti-Corruption Establishments, the NAO is not limited to corruption in the public sector but applies to all sectors of the

community. It states that the Ordinance is to "hold accountable all those persons accused" of corrupt practices. Section 9 of the NAO, which sets out the offences falling within the remit of the NAB, makes it clear that the section applies to a holder of a public office or any other person. Section 3 of the NAO reads: "The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force."

There is a widely held belief that the NAO applies neither to serving military personnel nor to the judges of the superior courts. This belief seems to be held by the NAB itself. Regarding military personnel, the belief is based on the definition of "holder of public office" in section 5 of the NAO, which excludes serving members of the armed forces, but it seems to overlook the fact that the NAO applies to all persons, not merely those holding public office.

The NAB Annual Report 2002 points out that military personnel are subject to a regime of military law stricter than civilian law. This consideration, as a matter of policy, requires the military to continue to be dealt with under military law for conduct that amounts to an offence under the NAO. As regards the higher judiciary, it is not evident from the NAB vires case Khan Asfand yar Wali vs. Federation PLD 2001 Supreme Court 607 that the Supreme Court was establishing or confirming any rule stating that the NAO does not apply to the members of the higher judiciary or that they are not amenable to criminal law.

Enforcement

Enforcement is the most effective and swift approach towards the elimination of corruption, but being a damage control exercise, it is inferior to prevention.

Enforcement is the most effective and swift approach towards the elimination of corruption, but being a damage control exercise, it is inferior to prevention. Preventing an act of corruption from happening is far better than the long drawn out recovery or penalty processes, especially in the judicial system of Pakistan

Preventing an act of corruption from happening is far better than the long drawn out recovery or penalty processes, especially in the judicial system of Pakistan. The NAB cases till apex court take five to ten years as per the record, which amounts to justice denied.

a. Receiving Complaints

Complaints from any source are received at the regional NAB offices around the country and are received by letter or email or in person and come from individuals, Government departments, associated anti-corruption agencies, such as the Ombudsman, the PAC, the Auditor General, the courts and other sources. Some are generated internally by the NAB intelligence.

If made in person, the complainant is interviewed and, if his complaint relates to an offence in the NAB's mandate, a written statement is taken and signed by him on an affidavit. Some complaints require verifications to check if they are genuine. Those judged not to relate to the NAB's mandate are referred to other agencies for further action. Some are sent to the ACE for their investigative action. After verification, complaints falling within the ambit of the NAB are referred for inquiry.

Anonymous or pseudonymous complaints as per the SOP are excluded despite the fact that it is recognised that such complaints can contain valuable information regarding corruption. Lately, the NAB has also stopped taking cognizance of minor cases. The investigation policy regarding corruption complaints is creating substantial risks for the NAB. Discarding what seems to be unimportant does nothing to develop the public support essential in fighting corruption. The perception that NAB is being selective for the wrong reasons can grow rapidly. Some of the complaints falling within the NAB's mandate are being transferred to agencies in which the public has long since lost confidence. This cannot reflect well on the NAB.

b. Investigating Complaints

The term "investigation" has acquired a special meaning in the NAB. It means a particular stage in the process of looking into a complaint that NAB has decided to investigate. It is the third stage of a process that starts with a verification of a complaint. The verification may in turn lead to an "inquiry" that may then be followed by an

"investigation".

The standard practice of the NAB is to ascertain whether the complaint and the complainant appear genuine and whether the matter merits further investigation. This process often takes two to four weeks, or sometimes even longer. The decision is then taken whether to inquire into the complaint. A formal management decision is taken to launch an inquiry.

The inquiry involves interviewing potential witnesses, identifying the documentation and other supporting material, and deciding whether there is sufficient evidence of an offence. Much of what is revealed by the verification is reconsidered in the inquiry. Legal advice is available to the inquiring officer. The decision is then taken in light of legal advice, whether to proceed with an investigation. If the matter is referred for the authorisation of an investigation, it is sought from the regional Director General or from the Chairman. If, on the other hand, senior management takes the view that the matter should be closed, authorisation of closure is also sought from the same people.

If an investigation is authorized, the work done in the inquiry is repeated. Witnesses are re-interviewed and their statements taken, the documentary evidence secured and authenticated, and further legal advice required and provided. The case is prepared for a reference. Authorisation for a reference is sought from the Chairman or Director General. Authorisation for a closure follows a similar procedure.

The authorisation process involves the Chairman in conferences with the directorate staff and legal adviser. Video conference facilities ensure that regional offices of the NAB are involved in the decision making process at the headquarter level as necessary.

It is clear that there is a lot of duplication of work in the investigative process. For understandable reasons, the operational directorate of the NAB wants to ensure that, in the early period of its operations, the NAB should not be perceived as tending to act hastily, harshly or unfairly. The double-checking and the decision-making at the NAB directorate and Director General level are necessary.

Two distinct aspects of the problems identified in

If an investigation is authorized, the work done in the inquiry is repeated. Witnesses are re-interviewed and their statements taken, the documentary evidence secured and authenticated, and further legal advice required and provided

the investigative process should be kept in mind. The first is the duplication of work; the second is the lack of appropriate delegation of authority. The following are recommended to improve the investigative process by the NAB.

- i. An immediate sifting of the backlog of cases could be instituted at each regional the NAB office to identify those that could be sent to other agencies for investigation.
- ii. A further sifting of the remainder could identify those no longer likely to be pursuable by reason of the passage of time. They could be closed on the authority of the regional DG.
- iii. The remainder could be investigated based on merit. A strict timetable of management review of these investigations would ensure that the decision to close or continue is taken at frequent intervals at the lowest supervisory level. Recommendations to proceed no further could be put to, and taken by, the regional DG.
- iv. Incoming complaints that are classified as theft, fraud or embezzlement could be referred at once to the ACE or police as the case may be.
- v. Complaints to be investigated should be investigated from the outset with a view to prosecution. Appropriate investigative resources should be deployed in an investigation as it progresses. Frequent supervisory review would ensure that the recommendation to proceed no further is taken at the first opportunity.
- vi. As soon as investigators assess that the

investigation has a realistic prospect of prosecution, legal advice could be used to decide whether to proceed further.

c. Disposing of Investigations

Investigations that do not lead to a prosecution are ended in several ways:

- i. Investigative actions that have not reached the stage of being authorised investigations are closed administratively.
- ii. Investigations that result in no prima facie are closed with the approval of an Accountability Court under section 9(c) of the NAO.
- iii. A person may offer voluntarily to return ill-gotten gains before an investigation is authorised — Section 25(a) of the NAO. In that event the Chairman or the Director General may accept the offer and discharge the person from liability. There is no point to any further investigative action and the file is closed.
- iv. Where, after an investigation has been authorised, a suspect offers to return his ill-gotten gains, the Chairman may accept the offer under Section 25(b) of the NAO. In that event the case is referred to the court for its approval of the plea bargain and the release of the suspect.

The distinction that has been drawn between investigation and inquiry and the different treatment of voluntary return and "plea bargain" necessitated by Sections 25(a) and 25(b) have resulted in a two stage process of investigation. Sanction of the closure of investigations by the

Where, after an investigation has been authorised, a suspect offers to return his ill-gotten gains, the Chairman may accept the offer under Section 25(b) of the NAO. In that event the case is referred to the court for its approval of the plea bargain and the release of the suspect

courts in order to reassure the public that the closure is proper in the circumstances of the case is unlikely to have the desired effect if public confidence in the lower judiciary stays low, as is the case today.

Other than by amendment of the NAO (perhaps by allowing voluntary return to be available up to the time that a reference is made to the court, and making plea bargain available only after a reference to the court has occurred), the formal distinction will have to remain.

It should be noted that voluntary return and plea bargain, invaluable methods of dealing with the corrupt, would not be adversely affected if the suggested amendment could be made. However, it should be recognised that the system of voluntary return exposes the NAB to the risk of accusations of partiality, favoritism and even bribery. The public could easily come to see the system as a means by which the corrupt rich buy their way out of the penal consequences of their conduct. It may be possible to minimize these risks by introducing a method of outside independent scrutiny of proposed voluntary returns by the NAB under Section 27 of the NAO.

d. Criminal Trials

When referred to the Accountability Court, the judge draws up charges on the information contained in the reference. It seems that the accused is brought to court by means of an arrest and, since the offences under the NAO are "non-bailable", the accused is detained in custody pending completion of the trial unless he is granted bail by the High Court. During the tenure of General Aziz, the NAB on its own had cut down the powers of Section 9(b) and no accused could be arrested unless ordered by the court or if he is a fugitive or hampering the process of investigation.

The trial may be held in any of the Accountability Courts in the country and by virtue of Section 16(a) of the NAO, the trial is required to be heard from day to day, and disposed off within 30 days. The conviction rate today is 68% and trials on average are completed with one to two years of time.

The laudable aim of speedy trials seems to have been undermined by the reality of the time it takes to move from a reference to a decision. Corruption cases in particular become vulnerable through

delay. It should be noted, however, that the 30-day period specified in the law is unrealistically short for some cases and unnecessarily long for others. It is not surprising that it now bears little relation to reality. The NAB has every interest in doing what it can to have its cases dealt with speedily. There seems little prospect of cases proceeding more quickly through the courts if the current practices remain unchanged. Present trends indicate longer delays. Keeping the number of charges to a minimum, simplifying the evidence and the prosecution case, and better case management by the prosecution may offer scope for improving the speed of trials.

e. Special Assistance

Apart from the legal wing, a large number of specialists support the NAB's operations. Bankers from the NBP (mainly) head the Financial Crime Investigation Wings (FCIW) in the regions and supervise inquiries and investigations related to financial matters, including willful default, has compromising weaknesses for NAB as under:

- i. Bankers out-rightly favour their respective banks by sharing information and not letting the case technically proceed against their fellow bankers.
- ii. Bankers are neither trained nor have the capacity to handle white-collar crime cases. In contrast, the NAB investigators receive nine months of initial training, in addition to short-term cadres and courses and on the job training.
- iii. When investigators, who are not familiar with the law, the SOPs, and white-collar crimes, are placed under the command of a banker to conduct an inquiry or an investigation, it compromises the command and control element. In reality, investigators (BS-16/17) dictate to a so-called officer in charge and prepare and guide them for face-to-face briefing on related cases.

The FIA, since inception, has been handling bank-related cases without having bankers on their establishment. NAB may consider hiring bankers from the market on contract basis and repatriate all bankers as they do compromise the NAB's operations as regards to meritocracy and fair play. The recommendations for the re-organization for the FCIW are covered in the Way Forward section of this paper.

The International Cooperation Wing has yet to get

Bankers are neither trained nor have the capacity to handle white-collar crime cases. In contrast, the NAB investigators receive nine months of initial training, in addition to short-term cadres and courses and on the job training

its position made in the NAB through its performance and appropriate orientation. The wing must have trained manpower and should have the officers from Foreign Office on deputation for handling MOUs, treaties and negotiations with foreign jurisdictions. The investigators and prosecutors teams to refine MOUs and ensure timely execution of extradition processes should be imparted foreign training in various institutions and academies to fulfill their operational obligations. The UNCAC and IAACA instruments should be used to sign MOUs with countries where most of illegal wealth is parked and fugitives generally reside during self-exiled period.

Awareness Activities-Comparison 2012-13 and Assessment

In 2012, in the Punjab, 13000 Character Building Societies were established. By 2013, there were 14000. While no figure is available about other provinces or regions in the NAB annual report, regional bureaus in all provinces are active with the same impetus and zeal. These societies are formed at the school, college and university level. Students formulate a code of conduct and give an undertaking to abide by these norms in their student and professional lives. The appointment holders try to expand membership to maximum strength of the students.

Along similar lines, character building societies known as 'Kirdar Saaz Societies', will be formed at the tehsil and district levels comprising notables of different stature on non-partisan basis. They will act as supporters to education institutions' Character Building Societies and will further form small community based

Table I: Awareness Activities-Comparison 2012-13 and Assessment

Sr. No.	Activity	NAB HQ		NAB(Punjab)		NAB(Sindh)		NAB(KP)		NAB (Balochistan)		NAB (Rwp)	
		2012	2013	2012	2013	2012	2013	2012	2013	2012	2013	2012	2013
1.	Seminar/ Workshop	1	1	9	1	-	3	-	8	-	3	-	1
2.	Lecture	3	3	-	-	-	-	-	1	-	3	-	-
3.	SMS Message	1	1	-	-	-	-	-	-	-	-	-	-
4.	Students Competition	-	-	-	6	-	3	-	2	-	6	-	3
5.	Mushaira	-	-	-	1	-	-	-	-	-	-	-	-
6.	Talk Shows TV	-	1	-	2	-	-	-	1	-	1	-	-
7.	Talk Shows Radio	-	-	1	4	-	5	-	1	-	-	-	-
8.	Stage Show	-	-	-	1	-	-	-	-	-	-	-	-
9.	TV Message	-	-	-	-	-	-	-	-	-	-	-	-
10.	TV Play	-	-	-	-	-	-	-	-	-	-	-	-
11.	Walks	-	-	-	-	-	1	-	-	-	-	-	-
12.	Mobile Awareness Team	-	-	-	-	-	40	-	-	-	-	-	-
13.	Bill Boards	-	-	-	-	-	-	-	-	-	-	-	-
14.	Newsletters	-	-	-	-	-	6	-	-	-	-	-	-
15.	Supplement	1	1	-	-	-	-	-	1	-	-	-	-
Total		6	7	10	15		58		14		13		4

societies to spread their voice on a larger scale down to the *mohallah* level.

The idea is noble but needs to be developed with involvement from the provincial governments. An awareness plan should be prepared at the Chief Secretary and regional Director General, the NAB level, and should involve the education departments and technical institutes controlling authority at the provincial level. Subsequently the NAB should coordinate with the District Education Officer and the DCO to execute it in meaningful manner.

A list of notables, national heroes should be prepared for their patronage and sponsorship. The future generation, i.e. students, as planned by the NAB should be approached for coalition building on a long-term

basis. Media coverage and support can act as a force multiplier.

As a long-term measure, certain number of moral stories to build the character as a good citizen should be introduced at school level. At school level, more emphasis should be laid to nurture a good citizenry.

The NAB Prevention Committee, with detailed terms of reference constituted in 2012 to revise the curriculum at all levels, needs to take this task forward. The curriculum change has to be made at each provincial level due to devolution except for the Federal schools and private school system who have to be the common stakeholders of this committee for all provinces.

Table 2: Pre-procurement Prevention Regime Projects/Tenders Scrutiny 2012-13

Sr.No.	Bureau	Year 2012 No.of Projects	Amount Received (M)	Year 2013 No.of Projects	Amount Involved
1.	HQ	28	1426000	01	
2.	The NAB(P)	73	11204	82	
3.	The NAB(S)	68	24831	225	
4.	The NAB(KP)	14	3800	07	
5.	The NAB(B)	13	8422	15	
6.	The NAB(R)	5	967	33	
Total		201	1475224	363	+162

Pre-procurement Prevention Regime- Projects/Tenders Scrutiny 2012-2013

Figure quoted in the annual report does not match the total and is hence not given (page 37 of the NAB Annual Report 2013)

Section 33B of the NAO empowers the NAB to receive copies of contract worth PKR 50 Million and above.

In 2012, the NAB issued a comprehensive framework making the pre-procurement processes transparent with direct support of the Public Procurement Authority (PPRA) at the Federal and Provincial level. Provincial PPRA's were established with the active persuasion of NAB having independent legislation support in three provinces less Balochistan. Regional NABs work in close coordination with provincial procurement authorities and when malafide attempts are established the case is referred to enforcement for inquiry. Otherwise, in most cases the NAB lets the project proceed with due transparency and fair play.

In case of the violation of PPRA rules, processes are either corrected or re-initiated with due respect to rules or in very few cases projects are halted to avoid loss to the State. The Light Emitting Diode (LED) case of the CDA, NHA toll plaza auctions, 3G/4G auction in 2012/13 and few other cases were halted/re-done/annulled for want of transparency and fair play. In 2012, the NAB HQ interacted with 26 regulators, ministries and departments and held 49 meetings to make the regulatory system understand the importance of abundance of PPRA rules and how the ministries can support and supervise this important aspect of good governance.

Experts from Competition Commission of Pakistan,

the SECP, the PPRA and the NAB, along with the Advisor to the Chairman on pre-procurement formed permanent members while the Director General A&P NAB became the Chairman.

This particular regime needs experts at the HQ and regional bureau level who are fully conversant with the PPRA rules. The NAB needs a few well-qualified civil engineers as experts to provide input on technical feasibility and viability of any project leaving aside PPRA rules violations. If this regime alone is made transparent it can save 30% approximately in cost, kickbacks, cartelization, quality compromise, escalating costs, cutting down throw forward liabilities and purging the corrupt and inefficient contractors. This section of the NAO and framework needs a special dedicated organizational structure as powerful as that of enforcement at the NAB HQ Islamabad, and regional (provincial) levels on ground. This will ensure prevention in general and this discipline in particular for greater interest of State to get translated and executed in meaningful way.

Prevention Committees Regime

Under the provision of Section 33C, the Chairman, the NAB shall from time to time, as he deems fit, constitute committees comprising officers from the NAB or other persons or organizations from the private and public sector to:

- i. Examine the law enforcement, and also rules and regulations of various ministries, departments of the Federal Government or Provincial Government, statutory or other public corporations and bodies and to recommend amendments in such laws, rules or regulations
- ii. Instruct, advise and assist these organizations

- iii. Monitor the implementations of the instructions issued
- iv. Assess and evaluate the success of other such instructions

This was a State mandate bestowed on NAB in November 2002 but remained unattended. It was only in late 2012, when efforts were made under the directions of Chairman, the NAB Admiral (Retd.) Fashi Bukhari, that 14 such committees were formed. In the past, the NAB had formed only one such committee in 2005 on the Army Pension System, which was a success story. The need of the hour is to take this exercise forward with vigor and with the willing participation of stakeholders to accrue dividends from this world recognized good practice.

Comparison State of Enforcement Driven Operations 2012-2013

The comments by renowned anti-corruption specialist and writer Mr. de Speville on the importance of

Table 3: Prevention Committees Regime

Office	Committees Formed in 2012	Committees formed in 2013
HQ	4	4
The NAB(P)	2	-
The NAB(S)	2	-
The NAB(KP)	4	-
The NAB(B)	2	-

Table 4: State of Complaints

Sr. No.	Bureau	2012				2013			
		Backlog A	Received B	Processed D	Pending C	Backlog A	Received B	Processed C	Pending D
1.	The NAB(P)	533	2374	2876	31	31	39	-338	408
2.	The NAB(S)	0	2183	1964	219	219	3130	3349	0
3.	The NAB(KP)	992	1583	1726	849	849	1820	2181	488
4.	The NAB(B)	218	431	437	212	212	462	537	137
5.	The NAB(R)	45	649	541	153	153	11756	11763	146
Total		1788	7220	7544	1464	1464	17207	17492	1179

Awareness, Prevention and Enforcement as compulsory discipline for any anti-corruption campaign to succeed are attached in Annex C.

The Way Forward

A number recommendations aimed at the NAB attaining the status of an independent anti-corruption authority at Federal level have been made:

- i. Amendments in the National Accountability Bureau

The experience and development of law over the decade through various apex Court decisions warrants amendments in the NAO to bring it in line with the changing requirements of the legal fraternity. Under Section 37, 'Removal of Difficulties', certain sub-sections could be added maintaining consistency with the major provision of law else it should be done through a legislative process:

- a. Anti-money Laundering Act be made part of the

Table 5: State of Inquiries

Sr. No.	Bureau	2012				2013			
		Backlog	Authorized	Processed	Pending	Backlog	Authorized	Processed	Pending
1.	The NAB(P)	185	60	80	165	165	38	62	141
2.	The NAB(S)	202	106	136	172	172	127	81	218
3.	The NAB(KP)	196	27	107	116	116	39	45	110
4.	The NAB(B)	84	16	40	60	60	27	15	72
5.	The NAB(R)	79	31	37	73	76	53	40	89
Total		746	240	400	586	586	284	243	630

Table 6: State of Investigations

Sr. No.	Bureau	2012				2013			
		Backlog	Authorized	Processed	Pending	Backlog	Authorized	Processed	Pending
1.	The NAB(P)	93	20	42	71	83	26	24	85
2.	The NAB(S)	93	30	45	78	78	67	70	75
3.	The NAB(KP)	34	14	37	11	11	13	7	17
4.	The NAB(B)	28	08	11	25	25	06	12	19
5.	The NAB(R)	45	22	20	47	49	12	16	45
Total		293	94	155	232	246	124	129	241

Table 7: Voluntary Returns/Plea Bargains

Sr. No.	Bureau	2012		2013	
		No.of Accused	Amount(M)	No.of Accused	Amount(M)
1.	The NAB(P)	73	514.4	135	689.57
2.	The NAB(S)	50	355.3	131	781.61
3.	The NAB(KP)	39	175.5	132	253.5
4.	The NAB(B)	16	633.9	8	10.9
5.	The NAB(R)	30	192.7	36	888.96
5.	HQ	-	-	21	500.49
Total		208	1871.8	463	3125.03

Table 8: State of Exit Control List

Sr. No.	Bureau	No. on ECL 2012	No. on ECL 2013	Difference
1.	HQ	362	340	+22
2.	The NAB(P)	210	188	+22
3.	The NAB(S)	238	217	+21
4.	The NAB(KP)	57	56	+1
5.	The NAB(B)	66	69	-3
6.	The NAB(R)	181	167	+14
Total		1114	1037	77

Table 9: State of Prosecution-Reference State

Sr. No.	Bureau	2012				2013			
		Pending	Filed	Disposal	In Progress	Pending	Filed	Disposal	In Progress
1.	The NAB(P)	217	32	63	186	171	42	59	154
2.	The NAB(S)	172	22	22	172	172	62	16	218
3.	The NAB(KP)	53	27	17	63	61	4	8	57
4.	The NAB(B)	70	07	6	71	71	5	9	67
5.	The NAB(R)	112	07	12	107	107	6	5	108
Total		624	95	120	599	582	119	97	604

schedule offences along with section 168, 169, 201, 218, 468, 471, 472, 477-19 of PCC.

- b. Banks related settlements be covered under Section 25(a) and 25(b)
- c. Court orders warranting direct recovery from the accused under the provision of VR till reference is filed in the court. Amendment in Section 25(a) suggested.
- d. The provision of VR till reference should be filed in the court and its validation through court, and plea bargain during trial stages. Amendment in Section 25(b) suggested.
- e. The term inquiry should be replaced with investigation and provision of complaint verification inquiry with no facility of VR to be introduced. The case should start with

investigation after complaint verification inquiry, which must not have any settlement provision.

- f. The service charges of various natures should be specified and the NAB be given authority to deduct its portion of recovery made under 25a and 25b before depositing the recovered amount with the Government Central Depository.
- g. A bribe giver should also be cited, and accused and suitable punishment should be awarded to him as per provisions of the law.
- h. Provision of allocation of single liner budget of some ratio to projected Government revenue for the financial year. For instance, 0.02 to 0.03 as worked out through joint exercise/study of the NAB and the Ministry of Finance. Government budgetary instructions, bans imposed and other

SROs pertaining to governance should not be applied to the NAB. However FBR related SROs should remain applicable.

- i. Section 33 E has proved to be a failure if the court's fine recovery is closely analysed. The reason for compromise is the long drawn revenue procedure and pressure exerted by the NAB accused persons through various means. Section 33 E be amended to introduce the additional punishment of three years in case the accused fails to deposit the court fine within six months after the expiry of his initial punishment and the court fine recovery under land revenue provisions be amended accordingly.
- j. It is on record that 13 appeals submitted by the NAB prosecutors in 2013, after getting aggrieved in lower courts, were dismissed for want of signatures by the Chairman, the NAB whose office was vacant in the interlocutory period of his appointment by the Government.
- k. Under the provision of section 37, removal of difficulties, provision of Deputy Chairman to act as Acting Chairman for a specific period or till the appointment of the new Chairman should be made. The advantages gained by the accused persons on technical grounds must be reviewed by the Supreme Court of Pakistan as it amounts to a flawed piece of legislation or lack of its jurisprudence fraternity.
- l. Two most appropriate sections suggested by the NAB and included in KP Ehtesab Commission Act 2014 should be included in the NAO for the purpose of transparency and speedy trials. The present system of Execution Board Meeting should be formally legalized to structure the

discretionary powers of the Chairman/DG.

- ii. Prosecution Conference
 - a. Upon the completion of the inquiry or the investigation there shall be scheduled a prosecution conference chaired by the Chairman/DG to be attended by the relevant investigation officers and prosecutors assigned to the matter, to determine if charges should be framed and the matter referred to the court for initiation of legal proceedings against the accused.
 - b. The investigation officers and prosecutors shall appraise the material and evidence collected and prepare a joint report for the Chairman/DG with a recommendation either in favour of or against the filing of a reference before the Court or proposing further investigation; in case of lack of consensus, the investigation officers and special prosecutors shall make independent recommendations that shall be presented to the Chairman/DG.
 - c. If it is recommended upon conclusion of the prosecution conference that material evidence collected is insufficient to make out a prima facie case and further investigation is inadvisable in view of the facts of the case, the Chairman/DG may order further investigation or close the investigation and seek the release of the accused from court, if in custody.
- iii. Procedure for Trials
 - a. Notwithstanding anything contained in any other law for the time being, each matter brought before the court under this Act shall be disposed of no later than within six months from the date of the reference being filed.
 - b. Within fifteen days of the filing of the reference, the accused shall file or cause to be filed before the court, a written response to the charges made in the reference.
 - c. Within seven days of the filing of the response by the accused, the reference shall be fixed for hearing where the court shall either acquit the accused or frame charges.
 - d. Within seven days of the framing of a charge the court shall convene a pre-trial conference with the special prosecutor, the accused and the defense attorney for the following purposes:
 - Finalize the list of witnesses to be produced by

Notwithstanding anything contained in any other law for the time being, each matter brought before the court under this Act shall be disposed of no later than within six months from the date of the reference being filed

each party to record evidence in person and the order for recording evidence of witnesses.

- List of documents and details of documentary evidence of the prosecution and the defense;
 - Whether any party requires an order compelling the attendance of a witness and issuance of such order;
 - What arrangements are desirable to facilitate the recordings of evidence by witnesses;
 - What arrangements are desirable to facilitate the participation of any other person, including the accused; and the date for the commencement of trial? The court shall set a date for the commencement of the trial which shall be no later than two weeks from the pre-trial conference and the court shall proceed with the trial day to day till its conclusion and the announcement of the judgment.
- e. The court shall not grant any party more than one adjournment during the period from the filing of the reference till its disposal.
- f. It shall be the responsibility of the PGA and the accused to arrange for legal representation on each hearing, failing which the court shall proceed in the absence of an attorney or pleader.
- g. The court shall also offer the utilization of the plea bargain provision to the accused person as per the law and if the accused submits, such application will be referred to the Chairman/DG to give response within 15 days, else the court, after serving notice of another seven days, may dispose of the case in the light of Section 25(b) on behalf of the Chairman, the NAB and direct the NAB to affect recovery provided that under no circumstances will the court grant adjournment of more than seven days and provided further that once fixed the date for commencement of trial shall not be altered and during trial the court shall not grant adjournment of more than seven days.
- iv. Implementation of NACS

The National Anti-Corruption Strategy since inception in 2003 failed to make any substantive contributions to the prevention of corruption. The sole reason of its falling short of objectives was lack of adherence and its implementation through the statutory powers of the NAO enshrined in

The NACS was formulated under a certain given situation and it now needs revision especially after the insertion of amendments in the constitutions and the establishment of regulatory authorities at the Provincial and Federal level

Section 33B, 33C read with Section 27 and other sections of the NAO. The NACS' implementation should be strictly implemented through sections 33C of the NAO under the prevention regime giving it legitimate standings. The NACS was formulated under a certain given situation and it now needs revision especially after the insertion of amendments in the constitutions and the establishment of regulatory authorities at the Provincial and Federal level.

- v. Underutilized Areas of the NAO
- a. The NAO provision of Section 9(a) read with Section 5(r) provides unique power of accountability of the private sector, whereby the NAB can prosecute willful revenue defaulters of all kinds. The current NAB, barring few sectors, has generally remained focused on willful bank default only. The plea of referring such cases by the concerned department is a compromising arguments to the legitimate power bestowed to the NAB. The area needs due attention by the NAB to support operations of revenue recovery by the FBR and also by provincial governments and subsequently district governments.
 - b. All FBR and other related tax evasion cases can be tried under the NAO whereby Section 9(a)(vi) attracts role played by the officials concerned and 9(a)(iii) puts evader as a beneficiary. The NAB issued a policy contrary to its legitimate powers not undertaking the tax evasion cases. This policy needs an honest review to support the FBR and the country at large in revenue collection. Withholding tax details by banks alone, if properly investigated, can unearth the malpractices under this regime coupled with split remittances fraud already

reported in the media and under inquiry with the NAB (Sindh).

- c. Imprudent banking coverage to bankers under the NAO is wrongly interpreted. Bad loans waived off by the banks should be reported to the NAB under Section 33(c) read with Section 9(a)[breach of trust by bankers] clause where collaterals and securities are over invoiced in connivance with bank officials causing loss to the State exchequer.

Such cases should be dealt under breach of trust by bankers and loan recipient as a wrongful beneficiary. This happens in almost every political regime where the influential take undue benefit. NBP bad loans, if subjected to this scrutiny as a sample, may reveal many criminal malpractices undertaken by bankers not falling in the realm of improved banking exempted under the NAO.

- d. The NAB and its future lies in the prevention regime taking the front seat. Chairman, the NAB has to lead this discipline personally else a force trained on enforcement alone (the NAB senior employees) with a negative mindset would not allow it to succeed. A re-organized and strengthened Prevention Regime Establishment with correct orientation and clear mandate can only accrue desired dividends.
- e. Regional NABs, in coordination with the Provincial Government, may undertake an awareness campaign down to the district level in collaboration with the ACE, district administration, particularly the education and information department.

The NAB and its future lies in the prevention regime taking the front seat. Chairman, the NAB has to lead this discipline personally else a force trained on enforcement alone (the NAB senior employees) with a negative mindset would not allow it to succeed

The successful exercise undertaken by the NAB (KP) in 2010/11 whereby the Provincial Government approved a large chunk of provincial budget through the information department to support the campaign, along with a large number of orders and notifications issued to the education and industrial departments and to district governments in this regard could be a role model exercise in this direction.

Comprehensive notifications issued by the NAB for subject purpose need implementation in letter and spirit to recover subject fines due from the NAB accused persons. The revenue department should be made responsible and persuaded in discharging their duties in an effective and befitting manner till appropriate amendments are made in the NAO as suggested under the amendment of Section 33 E.

- vi. Underdeveloped Areas of the NAB
 - a. Research and Development

Dedicated cells at the headquarter under the T&E and in the regions are required to focus on the NAB decided cases, international good anti-corruption practices, improving SOPs, amendments in law, various studies to support awareness and prevention operations, improvements in trial procedures and administration of the bureau, so as to keep the institution developing and improving.

- b. Accountability Academy

A subject academy should be established on the lines of the FIA and the Anti-Corruption Academy, Malaysia, and a few other international institutes. FBI assistance, along with some donor agency, can be explored for this project. It can attract trainees from the Middle East and other developing if a suitable faculty and syllabus covering international laws could be arranged.

Likewise, every regional bureau should have a small cell of one dedicated officer to arrange and coordinate training, including guest speakers, small duration trainings, etc. The concept of a mobile training team conducting short workshops and other training events can also be considered.

- vii. Advocacy Training

The NAB has special laws, special courts and hence its judges and prosecutors need special

advocacy training. Our law fraternity development, after obtaining the degrees non-existent. Prosecutors should go through central training in Islamabad. The judges of the CRPC and advocates of general law, unless given proper orientation and subjected to white collar mock trials exercises, will not be able to do justice to their cases. A suitable law firm or college can be tasked to prepare a curriculum for this purpose and also to conduct this training.

viii. Combined Investigation Team (CIT) Concept

The concept of semi independent sections in each investigation wing to improve the functioning of the CIT so as to speed up the investigation process and also to give needed administrative and operational support already issued by the NAB to regions has to be executed in letter and spirit.

ix. Internal Affairs (Intelligence Cells)

Two independent echelons of intelligence, one at the regional level and the second under the chairman, extended to regions, to prevent corruption and corrupt practices within the NAB, is a mandatory requirement. The NAB had arrested 13 of its officers till 2008 and only one from 2008 to 2014, which speaks volumes regarding oversight and weakness in this area.

x. Establishment of an Independent Police Force Cadre

A well-trained, motivated and educated NAB police force will increase inquiries and investigations. At present disgruntled and non-willing provincial personnel manning the NAB police stations are a total compromise for NAB operations. Independent NAB Police Cadre trained to support NAB operations must be considered on priority basis.

xi. Restructuring of the FCIW

The following is suggested:

a. In the NAB HQ, the Financial Crime Investigation Wing should be placed under DG Operations for administrative and operational control.

b. In the regional NABs, the following is recommended:

· The most senior banker should act as advisor to the

***The concept of a
Combined Investigation
Team should be
strengthened and semi
independent sections with
administrative legal and
operational capacity in
each regional wing be
created***

DG on financial crimes cases.

· All bankers should be attached with investigation wings as experts and form a part of the Combined Investigation Teams (CIT).

· The Financial Crimes Wings in regional NABs be done away with, being not in line with any international or local model.

xii. The concept of a Combined Investigation Team should be strengthened and semi independent sections with administrative legal and operational capacity in each regional wing be created.

xiii. The Special Operation Wing (SOW) in each Regional Bureau to cover the mandate of Section 9(a) (1) should be raised with a mandate to conduct raids to curb bribery.

xiv. The Deputy Chairman's office be made responsible for reaching out to the regional bureaus for strict supervision and for on spot decisions to speed up the operational work.

xv. Whistleblowers' response and protection system be established along modern lines and properly advertised for public awareness and response.

xvi. Enhance the role of the media cell to undertake public confidence gaining measures and avert chances of corruption.

xvii. Duplication of Anti-Corruption Laws at the Federal, and Triplication at Provincial Level:

The Federal Investigation Agency (FIA) deals

with almost 70 sections of the CRPC pertaining to anti-corruption and has accordingly deployed resources in all the provinces. It also fights terrorism, cyber crimes, and immigration related cognizable offences. The Anti-Corruption Establishment (ACE) deals with anti-corruption cases at the provincial level. The NAB, being a federal anti-corruption authority, has the statutory license to deal with cases pertaining to provincial and federal funded projects and also officials of provincial and federal cadres. The FIA deals only with federal related crimes whereas the ACE has the powers to investigate provincial level cases of corruption.

The same offence tried under different laws goes through different procedures and punishments. Every anti-corruption agency has its police force and trial courts and deal with cases of ill-gotten State money. The FIA and the NAB both represent and participate as stakeholders in international forums and anti-corruption bodies causing confusion, sheer wastage to the exchequer and duplication of valuable resources.

In most of the developed countries there is only one agency dealing with corruption. There is need to have one law and singular authority with one set of courts to handle graft, misuse of authority and other cases of white collar crimes. This would ensure respect for human rights, removal of confusion at the international level, standardized legal procedures with same set of penalties and similar recovery procedures. The result would be huge savings for the exchequer and one window service for redress of grievances of the public.

***The complete opaqueness
of the NAB operations and
administration puts it into
high risk of misuse of
unstructured discretionary
powers by its regional
bureaus and key
appointment holders
including Chairman***

Between 2004-5, the FIA Banking and Anti-Corruption Circles were absorbed in the NAB along with the manpower but without any rationale, the position was reversed in 2008 simply on political grounds. The NAB, the FIA and the ACE's Anti-Corruption mandate should be handled by one authority with administrative autonomy and legal capacity and with visibility at all levels, including the district level, under the provisions of articles 29-40 of the Constitution. At least at the federal level, the mandate should rest with one authority specifically raised for this purpose, i.e. the NAB.

xviii. Autonomous Position of the NAB

While being placed under the president of Pakistan gives operational independence to the NAB, a serious problem lies in its financial autonomy and application of various notifications issued by the government at large. A ban on recruitment, cuts in budget and other establishment related restrictions enumerated below should be removed by bringing suitable amendments in the NAO.

- a. The illegal notification of placing the NAB under the ministry of law, notwithstanding the statutory position, should be withdrawn.
- b. Countries that have the will to fight corruption devote a percentage of their budget to the effort, realizing the importance of keeping the menace within acceptable threshold.
- c. The percentage of recoveries under Section 25(a) and 25(b) as already allowed by the Government under the rules should be deducted by the NAB before it is credited in the central depository.
- d. Administrative and budgetary instructions and notifications, after the allocation of the budget, should not be applicable to the NAB.

xix. Accountability of the NAB

Other than the annual report submitted to the President under the mandate of the NAO there is no visible accountability of the NAB. The complete opaqueness of the NAB operations and administration puts it into high risk of misuse of unstructured discretionary powers by its regional bureaus and key appointment holders including Chairman. This warrants an effective accountability mechanism for the NAB

operations. On the lines of Hong Kong, Singapore and few other countries a legislative council, advisory committees and internal monitoring unit (consisting the NAB inspection team and intelligence wing) must be considered. The NAB ombudsman could be another option to redress grievances against the NAB and also to monitor its functions other than judiciary, media, and advisory committees recommended in this paper. This will substantially reduce the blame game and pressure tactics unleashed by various quarters to malign the NAB for their vested designs and will also build much eroded public opinion in favour of the NAB.

- xx. A suggested syllabus for awareness, prevention and enforcement is attached at Annex D and is also recommended for the Pakistan Accountability Academy in line the UNCAC dictations enshrined in its Articles 5 to 14.
- xxi. To seek international assistance for the training of investigations, institutions are listed at Annex E for reference. The NAB may develop permanent associations with these institutions for the development of Accountability Academy, faculty exchange programmes, training of investigators, specialists, supervisors in each discipline of the National Anti-Corruption Strategy for purposes of capacity building, and also to keep abreast with the latest developments in the field of forensic computer trainings, electronic search and seizure, forensic financial related investigations technique, crime analysis intelligence and many other areas the NAB at present is subjectively lagging in.
- xxii. To measure and quantify the performance of each regional NAB, a performance indicator list is attached in Annex F.

References

1. Bokhari, Chairman NAB, Admiral (Retd.) Fasih. Awareness And Prevention Framework. The National Accountability Bureau, 2012. Print.
2. deSpeville,. 'Policy, Organization And Structure Review Of The NAB'. deSpeville& Associates. N.p., 2004. Web.
3. Khan Asfand yar Wali Vs Federation. PLD 2001 Supreme Court 607. 2001.
4. National Accountability Bureau,. Concept of Independent Investigation Sections.
5. PLD 2013 SC 594. Supreme Court of Pakistan. 2013.
6. PLD 2014 PESH, Peshawar High Court. 2014.
7. The National Accountability Annual Report. The National Accountability Bureau, 2012. Print.
8. The National Accountability Bureau (Recovery And Reward) Rules. 2004.
9. The National Accountability Bureau,. Awareness And Prevention Framework 2012. 2013.
10. The National Accountability Bureau,. Bank Account Analysis Report.
11. The National Accountability Bureau,. NAB Manual 2008. 2013.
12. The National Accountability Bureau,. Recovery Of NAB Cases Court Fines. Revenue Procedure.
13. The National Accountability Ordinance (XVIII Of 1999). 1999. Print.
14. The National Anti-Corruption Strategy. Islamabad: The National Accountability Bureau, 2002. Web

Annex A

Performance Profile of the NAB Year 2000-2001

ANNEX A: Performance Profile of the NAB Year 2000-2001

Table 10: Data of Investigation: the NAB Punjab

Authorized Investigations	Completed	Under Investigation	Closed
467	77	358	32

The list of successful convictions includes former Chief Ministers, bureaucrats, and businessmen. Some of the high-profile names appear below:

Table 11: List of High Profile Convictions: the NAB Punjab

Sr. No.	Name	Designation	Details
1.	Manzoor Ahmed Wattoo (2 cases)	Former Chief Minister	4 and 3 years RI, in each case. Total fine Rs 14 million
2.	Sardar M Arif Naikai	Former Chief Minister	Returned Rs1.5 million through plea bargaining
3.	Abdul Hameed	Former Member National Assembly	5 years RI, fine Rs 2.5 million
4.	Akbar Ali Bhatti	Former Member National Assembly	6 years RI, fine Rs. 11.8 million
5.	Muhammad Riaz	Fatyana ex-member Provincial Assembly	3 years RI, fine Rs. 3 million
6.	Ijaz Ahmed Shaikh	Former Member National Assembly	14 years RI, fine Rs. 47.7 million
7.	Ch. Shoukat Ali	Former Member National Assembly	3 years RI, u/s 31-A in absentia
8.	Rauf Khalid	Former Member National Assembly	3 years RI, fine Rs. 7 million
9.	Ch. Akhtar Ali Wario	Former Member National Assembly	3 years RI, u/s 31-A in absentia
10.	Ahmed Riaz Shaikh	Former Officer Federal Investigation Agency	14 years RI, fine Rs. 100 million
11.	Tariq Javed Afridi (2 cases)	Former Chairman, Cholistan Development Authority	6 and 3 years RI, in each case. Total fine Rs. 10 million
12.	Aijaz Ali Pathan	Former Assistant Commissioner Shujabad	4 years RI, fine Rs. 0.5 million
13.	Asif Saigol (2 cases)	Businessman	10 and 7 years RI in each case. Total fine Rs. 30 million

Table 12: Important Plea Bargain Cases: the NAB Punjab

Sr.No.	Name	Designation	Amount agreed (in PKR)
1.	Manzoor Ahmed Wattoo	Former Chief Minister	12 million
2.	Mehr Khudadad Lak	Former member National Assembly	15.5 million
3.	Haji Ghulam Rasool Khan	Politician	42 million
4.	Syed Ali Raza Shah	Politician	4.6 million
5.	Mohammad Tajammal Khan	Former Appraiser, Customs	8 million
6.	Tariq Saeed	Former Executive Engineer, Zila Council, Lahore	13 million
7.	Talat Mehmood	Businessman	2.5 million
8.	Inayat Ullahi	Contractor, Zila Council, Lahore	5.4 million
9.	Rana Mumtaz Noon	Politician	3.5 million
10.	Haji Ghulam Rasool Khan	Politician/Businessman	42.9 million
11.	Aitezazi Ahmad	Businessman	14,3 million
12.	Tahir Mahmood Awan	Businessman	14.3 million
13.	Sami ur Rehman	Businessman	14.3 million
14.	Javed Zia	Businessman	15 million

Table 13: Data on Investigation: the NAB Sindh

Authorized	Completed	Under Investigation	Closed
254	96	151	7

Table 14: List of High Profile Convictions: the NAB Sindh

Sr. No.	Name	Designation	Details
1.	Syed Abdullah Shah (6 cases)	Former Chief Minister	3 years RI in each of the 6 cases
2.	Islam-ud-Din Sheikh (3 cases)	Former Senator	Total fine Rs. 63 million
3.	Ch. Munawar Hussain Sindhu	Former Member Provincial Assembly	10 years RI, fine Rs. 55 million
4.	Usman Farooqi (2 cases)	Former Chairman Pakistan Steel Mills	7 years RI, in each case. Total fine Rs. 115 million

5.	Khan Mohammad Mehr	Former Deputy Secretary	10 years RI, fine Rs. 140 million
6.	Siddiq-ul-Farooq	Former Chairman House Building Finance Corporation	5 years RI, fine of Rs. 0.2 million
7.	Ch. Mohammad Sharif	Former Officer Federal Investigation Agency	14 years RI, fine Rs. 100 million
8.	Abdul SattarDero	Former DG Port Qasim Authority	7 years RI, fine Rs. 20 million
9.	Ramesh Udeshi (6 cases)	Former Secretary Land Utilization -Deptt, Sindh	7 years RI in 5 cases. Total fine Rs. 6.9 million
10.	Khush Muhammad Bhutto	Former GM Pakistan Telecommunication Corporation Limited	7 years RI, fine Rs. 100 million
11.	Rauf B Qadri (3 Cases)	Banker	7 years RI, in each of the 3 cases. Total fine Rs. 22 million
12.	Abdul Qadir Tawakkal	Businessman	7 years RI, fine Rs. 22.380 million
13.	Mian Munir	Businessman	8 years RI fine Rs. 150 million
14.	Waqar Akhtar Pagganwala	Businessman	7 years RI fine Rs. 50 million

Table 15: Data on Investigations: the NAB - Khyber Pakhtunkhwa

Authorized	Completed	Under investigation	Closed
98	58	29	11

Table 16: List of High Profile Convictions: the NAB – Khyber Pakhtunkhwa

Sr.No.	Name	Designation	Details
1.	Sardar Mehtab Abbassi	Former Chief Minister	14 years RI, fine Rs 20 million
2.	Aftab Ahmed Khan Sherpao	Former Chief Minister	3 years RI, u/s 31-A in absentia
3.	Haji Kabir Khan	Former Member National Assembly	7 years RI, fine Rs. 350 million
4.	Ghaniur Rahman	Former Provincial Minister	8 years RI, fine Rs. 20 million

5.	Habib Ur Rehman Tanoli	Former Provincial Minister	5 years RI, fine Rs. 5 million
6.	Naseem ur Rehman	Former Member Provincial Assembly	3 year RI, u/s 31-A in absentia
7.	Khalid Aziz	Former Chief Secretary	4 years RI, fine Rs 46 million
8.	Zahir Shah	Former Director General, Peshawar Development Authority	5 years RI, fine Rs 21.5 million
9.	Hamid Maghfoor Shah	Former General Manager, National Housing Authority	5 years RI
10.	Inayatullah	Gandapur Advocate	7 years RI, fine Rs. 40 million
11.	Javed Alam Khanzada	Former Secretary, Ministry of Food	14 years RI, fine Rs. 20 million

Table 17: Important Plea Bargain Cases: the NAB - Khyber Pakhtunkhwa

Sr.No.	Name	Designation	Amount agreed (in PKR)
1.	Ayub Mohammad Tanoli	Former Provincial Minister	5.5 million
2.	Mohammad Iftikhar Khan Mohmand	Former Provincial Minister	8 million
3.	Javed Anwar	Former Secretary, Workers Welfare Fund	20.5 million
4.	Javed Alam Khanzada	Former Secretary Food	64 million
5.	Saeed Wazir	Former General Manager, Pakistan Telecommunications Limited	20 million
6.	Hizbullah Gandapur	Former Superintending Engineer, Irrigation Department	15 million
7.	Hidayatullah Khan Gandapur	Former Superintending Engineer, Irrigation Department	17 million
8.	Gulzar Khan	Former Superintending Engineer, Irrigation Department	10.5 million

9.	Mohammad Baseer	Former Executive Engineer, Communications and Works Department	30 million
10.	Mohammad Ali	Former Executive Engineer, Communications and Works Department	20 million
11.	Aziz Ahmad	Former Executive Engineer, Communications and Works Department	16.5 million
12.	Taj Mohammad	Former Executive Director, Federally Administered Tribal Area Development Corporation (FATADC)	14 million
13.	Zahid Arif	Ex-Sub Divisional Officer, Communications and Works Department	17 million
14.	Tariq Khattak	Businessman	13.9 million

Table 18: Data of Investigations: the NAB Balochistan

Authorized investigations	Completed	Under investigation	Closed
116	35	71	10

Table 19: List of High Profile Convictions: the NAB Balochistan

Sr. No.	Name	Designation	Details
1.	Abdul Rehman Khetran (4 cases)	Former Provincial Minister	5 years RI in 2 cases. 9 and 6 years RI in the other 2 cases. Total fine Rs. 18 million
2.	Mohammad Ali Rind (3 cases)	Former Provincial Minister	3 years RI in 2 cases. 9 years in 1 case. Total fine Rs. 60.9 million
3.	Faiq Ali Jamali (10 cases)	Former Provincial Minister	5 years RI in 4 cases. 3 years RI in 3 cases 9 and 1 year RI in 1 case each. Total fine Rs. 63.09 million
4.	Bahram Khan Achakzai (4 cases)	Former Provincial Minister	7 years RI in 2 cases. 3 and 2 years in 1 case each. Total fine Rs. 33.1 million
5.	Bismillah Khan Kakar	Former Provincial Minister	3 years RI u/s 31-A in absentia

6.	Atta Mohammad Jafar	Former Additional Chief Secretary	10 years RI fine Rs. 397 million
7.	Capt (Retd) Yousaf Niazi	Former Secretary Finance	3 years RI u/s 31-A in absentia
8.	Hafiz-ur-Rehman (2 cases)	Former Secretary Labour	2 & 5 years RI, Total fine Rs. 2 million
9.	Abdul Saleem Durrani	Former Secretary Communications and Works	1 year RI fine Rs. 0.1 million
10.	Ali Ahmad Baloch	Former Secretary Communications and Works	7 years RI fine Rs. 50 million
11.	Shamraiz Khan	Contractor, Food Department	3 years RI fine Rs. 30 million

Table 20: Plea Bargain Details of the NAB Balochistan

Sr. No.	Name of the Accused	Designation	Amount agreed (inPKR)
1.	Nawab Zulifqar Ali Magsi	Former Chief Minister Balochistan	50 million
2.	Mir Faiq Ali Jamali	Former Provincial Minister	0.5 million
3.	Mohammad Ali Rind	Former Provincial Minister	30 million
4.	Ainud Din Siddiqui	Former Chairman, State Petroleum Refinery and Petrochemical Corporation (PERAC)	2.5 million
5.	Qasim Lasi	Co-accused in PERAC Case Contractor	5.3 million
6.	Abdul Saleem Durrani	Former Secretary Communications & Works	19.4 million
7.	Dr. Dad Mohammad	Incharge Medicine Supply Depot	17.1 million
8.	Dr. Saeed Ullah	Member Medical Board, Bolan Medical College	0.67 million
9.	Dr. Mehrullah Hashmi	Member Medical Board, Bolan Medical College	0.25 million
10.	Dr. Mehboob Ali	Member Medical Board, Bolan Medical College	0.16 million
11.	Dr. Abdul Rashid Lango	Member Medical Board, Bolan Medical College	0.15 million
12.	Dr. Nisar Ahmed Achakzai	Member Medical Board, Bolan Medical College	0.70 million
13.	Dr. Mohammad Anwar Kurd	Member Medical Board, Bolan Medical College	0.72 million
14.	Salahuddin Kakar	Assistant Director, Passports, Quetta	20. million

Table 21: Data on Investigations: the NAB Rawalpindi

Authorized	Completed	Under investigation	Closed
113	25	72	16

Table 22: List of High Profile Convictions: the NAB Rawalpindi

Sr. No.	Name	Designation	Details
1.	Mian Nawaz Sharif	Former and current Prime Minister	14 years RI, fine Rs 20 million
2.	Benazir Bhutto	Former Prime Minister	3 years RI, u/s 31- A in absentia
3.	Azam Hoti	Former Federal Minister	14 years RI, fine Rs. 20 Million
4.	Ch. Sher Ali (2 cases)	Former Member National Assembly	10 and 5 years RI, in each case. Total fine Rs 20.5 million
5.	Farooq Sattar	Former Member National Assembly	14 years RI
6.	Nawaz Khokhar	Former Member National Assembly	5 years RI, fine Rs 137 million
7.	Ch. Tanveer Khan	Former Member Provincial Assembly	1 year RI, fine Rs. 2.5 million
8.	Aamer Sher Ali	Politician	10 years RI, fine Rs. 5 million
9.	C.M. Anwar	Former Chairman, Pakistan Agricultural Research Council	3 years RI, u/s 31-A in absentia
10.	Mohammad Hashim Babar	Former Director, Military Lands & Cantonments	3 years RI, fine Rs. 2 million
11.	Brig (Retd.) Imtiaz Ahmed	Former Director, Intelligence Bureau	8 years RI, fine Rs. 7 million
12.	Mr. Amin Jan	Former General Manager, Pakistan Telecommunication Company Limited	5 years RI, fine Rs. 15 million
13.	Mr. Sadaqat Saeed	Contractor	8 years RI
14.	Air Marshal (Retd.) Waciar Azeem	Businessman	7 years RI, fine Rs. 2 million

Annex B

**Anti-Corruption Laws, Rules
and Regulations since 1947**

ANNEX B: Anti-Corruption Laws, Rules and Regulations since 1947

1. Relevant Offence under Pakistan Penal Code, 1860
2. Criminal Amendment Ordinances, 1944
3. Prevention of Corruption Act, 1947
4. The Pakistan Special Police Establishment Ordinance, 1948
5. List of Orders & Notification under Anti-Corruption Laws, 1948
6. The Public Servants (Inquiries) Act, 1950
7. The Sindh Prevention of Bribery and Corruption Act, 1950
8. The Civil Services of Pakistan (Composition and Cadre) Rules, 1954
9. Prevention of Corruption Act (West Pakistan Extension) Ordinance, 1958
10. Pakistan Criminal Law Amendment Act, 1958
11. The Police Department Delegation of Powers Rules, 1958
12. The West Pakistan Departmental Inquiries (Powers) Act, 1958
13. Anti-Corruption Establishment Ordinance, 1961
14. Pakistan Criminal Law Amendment Rules, 1962
15. Pakistan Criminal Law Amendment Rules, 1962 (Pb. Amendment 1980)
16. The Government Servants (Conduct) Rules, 1964
17. Anti-Corruption Laws (Application to Tribal Areas) Regulation, 1966
18. The Government Servants (Conduct) Rules 1966
19. The West Pakistan Government Servants (Conduct) Rules, 1966
20. The Government Servants (Efficiency and Discipline) Rules, 1973
21. The Civil Servants (Appointment, Promotion and Transfer) Rules, 1973
22. The All Pakistan Services (Change in Nomenclature) Rules, 1973
23. The Civil Services (Change in Nomenclature of Services and Abolition of Classes) Rules, 1973
24. The Sindh Civil Servants Act, 1973
25. The North-West Frontier Province Government Servants Rules, 1973
26. Rules for Appointment to the Cadre Post, 1973
27. Punjab Anti-Corruption Establishment Rules, 1974
28. The Federal Investigation Agency Act, 1974
29. The Punjab Civil Servants (Appointment and Conditions of Service) Rules, 1974
30. The Punjab Civil Servants (Appointment and Conditions of Services) Rules, 1974
31. The Punjab Civil Servants (Change in Nomenclature of Services and Abolition of Classes) Rules, 1974
32. The Railway Servants (Efficiency and Discipline) Rules, 1975
33. The Federal Investigation Agency Rules, 1975
34. The Federal Investigation Agency (Appointment, Promotion and Transfer) Rules, 1975
35. The Punjab Police (Efficiency and Discipline) Rules, 1975
36. Instructions issued under Punjab Police (Efficiency and Discipline) Rules, 1975
37. The Sindh Civil Servants (Probation, Confirmation and Seniority) Rules, 1975
38. The Balochistan Police Disciplinary Rules, 1975
39. The North-West Frontier Province Police Rules, 1975
40. Martial Law Orders Against Bribery & Corruption, 1977
41. The Civil Servants Rules, 1977.
42. The Pakistan Railway Police Act, 1977

43. The Members of the Federal Investigation Agency (Efficiency and Discipline) Rules, 1978
44. Punjab Administrative Vigilance Commission Ordinance, 1979
45. Punjab Administrative Commission Rules of Business, 1979
46. The Balochistan Government Servants (Conduct) Rules, 1979
47. Balochistan Civil Servants (Appointment, Promotion and Transfer) Rules, 1979
48. The Sindh Civil Servants Rules, 1980
49. Baluchistan Civil Servants Rules, 1983
50. Pakistan Criminal Law Amendment (Punjab) Rules, 1985
51. Punjab Anti-Corruption Establishment Rules, 1985
52. The North-West Frontier Province Civil Servants (Appeal) Rules, 1986
53. The North-West Frontier Province Government Servants (Conduct) Rules, 1987
54. The Sindh Police Efficiency Rules, 1988
55. The North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989
56. The Balochistan Civil Servants (Efficiency and Discipline) Rules, 1989
57. Sindh Anti-Corruption Rules, 1993
58. The Punjab Civil Servants (Efficiency and Discipline) Rules, 1999
59. National Accountability Ordinance 1999

Annex C

**Three-Pronged Strategy: Awareness, Prevention
and Enforcement by Mr. de Speville**

ANNEX C: Three-Pronged Strategy: Awareness, Prevention and Enforcement by Mr. de Speville

It is self-evident that one of the elements of the strategy has to be the effective enforcement of the national law against corruption. But it must be recognised that enforcement of the law alone can never bring corruption under control. That lesson has been learned many times in different countries which have tried to deal with a growing problem by making and enforcing harsher laws, only to find that the problem gets worse. Prosecution and conviction do not in themselves provide a solution. While it is essential that there should be effective action in making corruption a crime that carries a high risk of being caught, convicted and punished, it is now generally recognised that two other elements are equally essential to success.

The element of prevention by systems enhancement must seek to eliminate opportunities for corruption from the systems in which people work and the procedures by which society orders its affairs.

The element of public education and support, under the name "awareness", recognises that people must understand corruption for what it is and realise the part they have to play if it is to be defeated.

The latter two elements of the strategy are the product of two common sensical thoughts.

The first is that all people live and work in and with systems — systems large and small. As members of an orderly society people function within them. These systems present people with the opportunities to take improper advantage of them. Being only human; sooner or later most of them will yield to the temptation presented by the system they work in. It is rightly said that a system is only as good as the people who make it work. But the converse is equally true: people are only as good as the systems they have to work with. If a system is bad because it offers opportunities for corruption, the people who operate the system are likely themselves to become tainted. So it makes sense to examine each of these systems, large or small, and make some changes to the system, or even replace it or remove it altogether, so as to minimise or eliminate the opportunities for corruption that currently exist in it. A key feature of corruption prevention by systems enhancement is that the system should be made more efficient as well as less prone to corruption than it was before.

The second line of thought concerns people — everyone in the community. If they are to turn against corruption, they must first learn about corruption — what it does to the community, how it spreads like dry rot. Then they have to realise that corruption can be beaten, but only if everyone is ready to play their part. Finally, people must shun corruption and determine that they will not allow it to be part of their daily lives, as it is now in so many countries including Pakistan. So for the whole community there must be education and there must be developed the willingness to help in the fight.

But people have an ambivalent attitude to corruption — an attitude of uncertainty compounded by tolerance, indifference or resignation, a feeling that corruption is so pervasive that nothing can be done about it and they might as well learn to live with it. There seems little point in helping the authorities to combat corruption if they themselves are corrupt.

That attitude must be changed for two reasons. First, if the laws against corruption are to be enforced, allegations and suspicions of corruption have to be investigated. But, corruption being secretive and complicitous, there is nothing to investigate unless those who know that something is going on are prepared to say so. It is particularly difficult to develop the willingness to help in this way, especially in countries where denunciation to the authorities is anathema or where the authorities are deeply distrusted. But it must be done, for unless the authorities are given good information about what is happening, they will be powerless to do anything about corruption. People must therefore be brought to feel that corruption has to be resisted, that the information they have is essential in the fight and that in giving information they will be protected and respected.

The second reason why people's attitude to corruption must change is the practical recognition that in the long term success can come only with the development of intolerance of corruption in the hearts and minds of every one in the community. The effectiveness of enforcement is limited — the authorities can investigate and prosecute forever; without a change of attitude throughout the community, enforcement will not overcome corruption. Eliminating the

opportunities for corruption is limited — the authorities can go on improving the systems forever; without a change of heart and mind in the people who operate the systems, the corrupt will always find a way round them. When people do not want corruption to play a part in their lives, their attitude prevents corruption. They themselves become the strongest defence against it.

These three elements are equally important. They are to be applied together in a coordinated way for maximum effect. The message is driven home by the risk of being caught and punished. The risk of being caught is heightened when systems and procedures reduce opportunities and when the act of corruption is more likely to be reported because people understand how destructive is corruption. The elements of the strategy are interdependent in that success in any one of them enhances the other two.

Annex D

Draft Syllabus for a Basic NAB Induction Course

ANNEX D: Draft Syllabus for a Basic NAB Induction Course

1. Objectives
Familiarise recruits with the mission, goals, culture and values of NAB. Develop a strong sense of belonging. The NACS and the anti-corruption strategy along with the A&P Framework.
2. Ethics
Instill in all recruits a strong sense of the need for behaviour that is ethical as well as professional at all times.
3. Common Core
The NAB present and future strategy: community involvement, awareness, prevention and enforcement.
4. Welfare
Staff oriented assistance and stress management
5. Team Building
Out door group exercises and physical training
6. Computer skills Law
7. Powers of NAB enforcement responsibilities and techniques Prevention responsibilities and techniques
8. Awareness, responsibilities and techniques
9. Case studies
10. Government departments and ministries
11. Accountability bodies
12. Anti corruption authorities
13. Introduction to the Constitution
14. Regulatory authorities at the provincial and federal level
15. Investigation Skills Development.
The following subjects should be covered:
 - a. Team building
 - b. Criminal liabilities
 - c. The NAO
 - d. Interview techniques
 - e. Evidence
 - f. Admissions and confessions
 - g. Witness statements
 - h. Use of official diary and notebook
 - i. Corroboration of evidence
 - j. Powers of arrest
 - k. Arrest procedures
 - l. Body searches
 - m. Handling exhibits and prisoner property
 - n. Treatment of detainees
 - o. Audio and video recordings
 - p. Search of premises and vehicles
 - q. Recording statements
 - r. Charging (making a reference)
 - s. Dealing with legal advisers
 - t. Conducting an investigation
 - u. Use of fire arms and protection against reconnaissance and surveillance
 - v. Court procedures

- w. Giving evidence in court
- x. Prosecution files
- y. Report writing
- 16. Draft syllabus for Prevention of Corruption Regime:
 - a. Team building
 - b. Prevention policy and philosophy
 - c. Principles and objectives of corruption prevention
 - d. Related legislation
 - e. Identification of assignments, study areas and prioritisation
 - f. Client liaison
 - g. Identification of corruption opportunities
 - h. Conduct of assignment; protocols, do's and don'ts
 - i. Assignment management
 - j. Research principles
 - k. Fact finding
 - l. Action on detection of corruption
 - m. Principles of accountability
 - n. Conflict of interest
 - o. Report writing, identification of corruption opportunities
 - p. Formulation of recommendations
 - q. Security and confidentiality
 - r. Filing systems and procedures
 - s. Monitoring implementation of recommendations
 - t. Advisory committee liaison
 - u. The A&P Framework
 - v. Prevention committees methodology
 - w. Pre-procurement regime
 - x. PPRARules
- 17. Draft syllabus for a NAB awareness course:
 - a. Law and implementing regulations
 - b. Departmental and divisional structure and functions
 - c. Financial procedures of the NAB's code of ethics
 - d. Media relations of framework
 - e. Public relations and dealing with the public
 - f. Media campaigns
 - g. Public communication skills
 - h. Visits to media centre's and TV studios
 - i. Education system and issues
 - j. Social survey uses, techniques and analysis
 - k. Public perception and attitude survey
 - l. Interviews of complainants
 - m. Procedures for reporting corruption
 - n. Awareness methodology and techniques applied in various sectors
 - o. Character building societies

Annex E

International Assistance and Organizations

ANNEX E: International Assistance and Organizations

Table 23: International Assistance and Organizations

Subject	Where available
General Anti-corruption Training	Anti- corruption Agency, Malaysia
Special Skills	Corruption Prevention Investigation Bureau, Singapore
Special Skills	ICAC, Hong Kong
Computer Forensic Training	Metropolitan Police, London
Investigations	FBI National Academy
Electronic Search And Seizure	RCMP Canada
Undercover Training	Metropolitan Police London
Undercover Training	New South Wales Police, Australia
Management Development	Institute of Police Studies, Australia
Supervisory Criminal Investigator	International Law Enforcement Academy, Thailand
Sensitive Investigation Unit	International Law Enforcement Academy, Thailand
Crime Analysis Intelligence	International Law Enforcement Academy, Thailand
Complex Financial Investigation	International Law Enforcement Academy, Thailand
Computer Crime	International Law Enforcement Academy, Thailand
Intelligence Analysis and Collection	CPIB, Singapore
Field Intelligence	Singapore Police, Singapore
Prevention studies	ICAC, Hong Kong

Annex F

Performance Indicators of the NAB

ANNEX F: Performance Indicators of the NAB

1. Enforcement:
 - a. Number of corruption complaints
 - b. Number of identified complaints
 - c. Number of pursuable complaints
 - d. Number of non-corruption complaints referred to other agencies
 - e. Number of inquiries/investigations started
 - f. Number of inquiries/investigations completed
 - g. Number of prosecutions
 - h. Public perceptions of incidence of corruption
 - i. Public perceptions of effectiveness of investigation and prosecution prevention
 - j. Number of systems examined
 - k. Number of recommendations made
 - l. Number of recommendations adopted
 - m. Number of system changes subsequently evaluated
 - n. Client perception of value of system changes
 - o. Perceptions of quality of service delivery in systems examined
 - p. Number of anti-corruption talks given
 - q. Number of people, by sector, reached through talks
 - r. Reactions of participants at talks
 - s. Number and range of teaching institutions visited
 - t. Number of teaching institutions adopting anti-corruption ethics in curriculum
 - u. Number of teachers' training courses amended
 - v. Number of exhibitions held
 - w. Number of public service departments and agencies allowing staff to attend talks
 - x. Number of government agencies adopting anti-corruption code of conduct
 - y. Number of private sector companies contacted and addressed
 - z. Number and volume of private sector sponsorships obtained
 - aa. Number of companies adopting codes of conduct
 - bb. Number of electronic media "slots" and items of public information
 - cc. Number of print media advertisements, feature articles, news items
 - dd. Coverage achieved by media campaigns and poster campaigns
 - ee. Change in public perceptions of incidence of corruption
 - ff. Change in awareness of corruption issues
 - gg. Change in personal attitudes to corruption
 - hh. Change in awareness and evaluation of the NAB
 - ii. Number of character building societies formed
 - jj. Number of bill boards utilized



Islamabad Office: P. O. Box 278, F-8, Postal Code: 44220, Islamabad, Pakistan
Lahore Office: P. O. Box 11098, L.C.C.H.S, Postal Code: 54792, Lahore, Pakistan
E-mail: info@pildat.org | Website: www.pildat.org