

REPORT OF THE STANDING COMMITTEE ON LAW, JUSTICE AND HUMAN RIGHTS



“Corruption in Federal Government Departments”

**Report No. 07
(Thirteenth Parliamentary Year)**

PRESENTED BY

**SENATOR MUHAMMAD JAVED ABBASI
CHAIRMAN**

SENATE SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON LAW, JUSTICE AND HUMAN RIGHTS ON “CORRUPTION IN FEDERAL GOVERNMENT DEPARTMENTS”

I, Chairman of the Standing Committee on Law, Justice and Human Rights, have the honour to present report on a matter referred by the House on 4th May, 2015 “Corruption in Federal Government Departments”.

2. The composition of the Standing Committee on Law, Justice and Human Rights is as under:-

1. <i>Senator Muhammad Javed Abbasi</i>	<i>Chairman</i>
2. <i>Senator Raja Muhammad Zafarul Haq</i>	<i>Member</i>
3. <i>Senator Aitzaz Ahsan</i>	<i>Member</i>
4. <i>Senator Mrs. Zahida Khan</i>	<i>Member</i>
5. <i>Senator Dr. Muhammad Farogh Naseem</i>	<i>Member</i>
6. <i>Senator Syed Muzafar Hussain Shah</i>	<i>Member</i>
7. <i>Senator Ms. Ayesha Raza Farooq</i>	<i>Member</i>
8. <i>Senator Nawabzada Saifullah Magsi</i>	<i>Member</i>
9. <i>Senator Saeed Ghani</i>	<i>Member</i>
10. <i>Senator Zaheerud Din Babar Awan</i>	<i>Member</i>
11. <i>Senator Farooq Hamid Naek</i>	<i>Member</i>
12. <i>Senator Saleem Zia</i>	<i>Member</i>
13. <i>Minister for Law, Justice and Human Rights</i>	<i>Ex-officio Member</i>

3. The Committee considered the matter in its meetings dated 1st July, 2015, 17th August, 2015, 1st September, 2015 and 8th September, 2015, respectively. During the meetings relevant institutions dealing with the subject were invited which included, Ministry of Interior, Federal investigating Agency (FIA) and National Accountability Bureau (NAB). It is pertinent to mentioned that D.G. Khyber Pakhtunkhwa Ehtesab Commission was also invited to apprise and share good practices with the Members, however, neither the D.G. nor any representative attended the meeting.

4. The Committee recognizes and appreciates efforts of all Members of the Committee, Secretary Ministry of Law, Justice and Human Rights, Sheikh Sarfraz Ahmed, Additional Draftsman, Ministry of Law, Justice and Human Rights and Ms. Aliya Rashid, Director General, NAB, their contributions have added to the effectiveness of the Committee's Report.

5. Section 9 of the National Accountability Ordinance, 1999, provides that a holder of a public office, or any other person, is said to commit or to have committed the offence of corruption and corrupt practices-

- (i) if he accepts or obtains from any person or offers any gratification directly or indirectly, other than legal remuneration, as a motive or reward such as is specified in section 161 of the Pakistan Penal Code (Act XLV of 1860) for doing or for-bearing to do any official act, or for showing or for-bearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person; or
- (ii) if he accepts or obtains or offers any valuable thing without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or likely to be, concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with his official functions or [from] any person whom he knows to be interested in or related to the person so concerned; or
- (iii) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use, or for the use of any other person, any property entrusted to him, or under his control, or willfully allows any other person so to do; or
- (iv) if he by corrupt, dishonest, or illegal means, obtains or seeks to obtain for himself, or for his spouse or dependents or any other person, any property, valuable thing, or pecuniary advantage; or
- (v) if he or any of his dependents or benamidar owns, possesses, or has [acquired] right or title in any ["assets or holds irrevocable power of attorney in respect of any assets] or pecuniary resources disproportionate to his known sources of

income, which he cannot [reasonably] account for [or maintains a standard of living beyond that which is commensurate with his sources of income]; or

- (vi) [if he misuses his authority so as to gain any benefit or favour for himself or any other person, or [renders or attempts to render] [or willfully fails to exercise his authority to prevent the grant, or rendition of any undue benefit or favour which he could have prevented by exercising his authority];
- (vii) if he has issued any directive, policy, or any SRO (Statutory Regulatory Order) or any other order which grants or [attempts to grant] any [undue] concession or benefit in any taxation matter or law or otherwise so as to benefit himself or any relative or associate or a benamidar or any other person
- (viii) if he commits an offence of willful default, or
- (ix) if he commits the offence of cheating as defined in section 415 of the Pakistan Penal Code, 1860 (Act XLV of 1860), and thereby dishonestly induces members of the public at large to deliver any property including money or valuable security to any person; or
- (x) if he commits the offence of criminal breach of trust as defined in section 405 of the Pakistan Penal Code, 1860 (Act XLV of 1860) with regard to any property including money or valuable security entrusted to him by members of the public at large;
- (xi) if he, in his capacity as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust as provided in section 409 of the Pakistan Penal Code, 1860 (Act XLV of 1860) in respect of property entrusted to him or over which he has dominion; and
- (xii) if he aids, assists, abets, attempts or acts in conspiracy with a person or a holder of public office accused of an offence as provided in clauses (i) to (xi)

6. During the course of briefings by the NAB and FIA, it transpired that both institutions have overlapping jurisdictions and neither the NAB Ordinance, 1999, nor the FIA Act, 1974 draws a clear distinction between the mandate and jurisdiction of NAB and FIA. The Committee took serious note of this lacuna.

7. The Committee, being cognizant of the fact that Corruption is a complex social, political and economic phenomenon that affects and erodes development, formulated following recommendations for eradication of corruption:-

- 1. Following provisions provided in the Estacode for Eradication of Corruption from Government Departments shall be strictly implemented. An Annual Report regarding steps/action taken shall be submitted before respective/concerned Senate Standing Committees.**

“Sl. No. 148

Responsibility of Head of Department for Corruption in Department .- A Head of Department will bear the responsibility, and be answerable for proven charges of corruption within the area of his administrative jurisdiction. It is self-evident that corruption prevails in a department if its Head is:

- (a) himself corrupt, or
- (b) wilfully blind to corruption taking place, or
- (c) so inefficient that he is unable to control it.

Sl. No. 175

Responsibility of Heads of Departments/Organizations to Eradicate Corruption from Officials Working Under Them

“Heads of Organizations” should be made responsible for rectifying and punishing corrupt officials working under them. It is the duty of all officers to watch the conduct of their subordinates and to ensure that corruption does not spread among them. The Inspector General, Special Police Establishment, is being asked to furnish to the heads of departments/organizations, lists of suspected corrupt officials of their departments/organizations.”

“Sl. No. 178

Setting-up of Committees to Deal with Cases of Corruption

The Inspector General, Special Police Establishment should periodically compile lists of government servants who are either guilty of

corrupt practices or enjoy a persistent reputation of being corrupt. These lists should be forwarded to the Establishment Division in the case of officers of Grade 17 and above and to the concerned Ministries in case of government servants of Grade 16 and below. Secretaries to the Government and heads of departments may also report, in respect of the Ministries and Departments under them, such cases of government servants in Grade 17 and above to the Establishment Division.

2. The cases thus referred to the Establishment Division will be looked into by a Committee consisting of Establishment Secretary, Interior Secretary and Secretary of the Ministry concerned. The Committee will be responsible for making recommendations to the Prime Minister as to the action that may be taken against the corrupt officials concerned. In respect of Government servants of grade 16 and below Ministries may take final action.

3. In big departments such as Railways, Telephones and Telegraphs and Pakistan Public Works Department, where corruption is rampant in a big way, separate Committee should be set up. These Committees should finalize action in respect of officers in Grade 16 and below. For Grade 17 and above they should make recommendations to the Committee referred in para 3, who after scrutiny will submit cases to Prime Minister. There should be a separate Committee for corporations.

4. These departments should also have their own separate anti-corruption cells, which they may organize in consultation with the Interior Division and I.G., S.P.E.”

- 2. Following provisions contained in Government Servants Conduct Rules, 1964 for Eradication of Corruption from Government Departments shall be strictly implemented.** An Annual Report regarding steps/action taken shall be submitted before respective/concerned Senate Standing Committees.

“Rule 5.—(1) Save as otherwise provided in this rule, no Government servant shall, except with the previous sanction of the Government, accept, or permit any member of his family to accept from any person any gift the receipt of which will place him under any form of official obligation to the donor. If, however, due to very exceptional reasons, a gift cannot be refused, the same may, under intimation to the Cabinet Division, be kept for official use in the Department or Organization in which he is working.

Rule 12.—(1) Every Government servant shall, at the time of entering Government Service, make a declaration to the Government, through the usual channel, of all immovable and movable properties including shares, certificates, securities, insurance policies and jewellery having a total value of (Rs. 50,000/-) (fifty thousand rupees) or more belonging to or held by him or a member of his family and such declaration shall—

- (a). state the district within which the property is situated;
 - (b). show separately individual items of jewellery exceeding (Rs. 50,000/-) (fifty thousand rupees) in value, and
 - (c). give such further information as the Government may, by general or special order, require.
- (2) Every Government Servant shall submit to the Government, through the usual channel an annual declaration of income, assets and expenses for the financial year, ending on 30th June, showing any increase or decrease of property as shown in the declaration under sub-rule (1) or the last annual return as the case may be.”; and
- (3) Declaration of Assets Performa shall be opened in the concerned section each year and entered into the relevant database.”

Rule 13.- A Government servant shall, as and he is so required by government by a general or special order furnish information as to his assets disclosing liquid assets and all other properties, immovable and movable, including shares, certificates, insurance policies, jewelry.

Rule 13A. The assets of all those who are paid from the government exchequer shall be made public.”

3. Review of National Accountability Ordinance, 1999 and Federal Investigating Agency Act, 1974

Both laws shall be reviewed by the Government at priority basis and clear mandate, jurisdiction and smooth mechanism for coordinated working of both institutions shall be provided.

4. Pay & Pension reforms

Pay and Pensions Committee of Ministry of Finance & Provincial Government Departments have to Increase job motivation, morale, & efficiency of Public sector management and review perks & privileges system to bring them at par with living standards and yearly adjustments as per the levels of inflation, CPI etc.

5. Single anti-Corruption Agency at Federal Level with Administrative and Financial Autonomy

- Single Anti Corruption Agency may be declared at Federal Level with administrative and financial autonomy and without political influence.
- External factor can be minimized which may sabotage or influence the official proceedings in the course of justice.

6. Mass media campaigns for Raising awareness in fight against corruption

Strengthening civil society / govt coalition against corruption and designing mass media campaigns, collaboration with media for developing articles & supplements in local languages on issues of corruption, using cultural media e.g. theatre groups and films to highlight fight against corruption.

7. Curbing the Tendency to over-classify

- Periodic classification and de-classification of secret and confidential documents.
- Rules may be made by the Cabinet Division according to present requirements.

8. Formulating time limits for service delivery

- Government departments and agencies, responsible for provision of utilities to the public, need to be much more open and transparent to the public, since their actions have a bearing on the common man's life.
- Elimination of middleman / agencies in service delivery.

9. Sharing Information / Eliciting Public Opinion

- Information on major issues needs to be made available to the public more openly, for closer scrutiny.
- Eliciting public opinion on sensitive issues through public debate and disseminating information voluntarily on economic policies through media and internet
- Consensus building and public participation in government decision making can come about only if government working is made open to public scrutiny.

10. Comprehensive Civil service reforms for all levels of Government of Pakistan

Cabinet Secretariat, Establishment Division and Finance Division should be responsible for comprehensive Civil Service Reforms for all levels of Government of Pakistan. There should be motivated, meritocratic, performance driven, professional civil services, rationalization of Institutions, reducing size & shape of civil service, enhancing pay to living standards in real terms, continuous training, rightsizing targets and modern HR management systems with emphasis on career management & planning systems.

11. Developing open & transparent mechanisms for public participation for fighting corruption

Anti corruption agencies i.e. NAB , ACEs, Local Governments have to increased levels of social empowerment & participation, creating broad based anticorruption civil society coalition at the local level, development of a whistle blowing mechanism, holding public meetings to ensure public participation

12. Auditor General's Office

Establishment of benchmark of quality audits. Give AG independence from Ministry of Finance to ensure administrative and financial autonomy and increase professionalism and competence of auditors.

13. Review of all public sector corporations & statutory bodies & other areas of non-core government activity against pre-agreed criteria to determine their future role, function & form

14. Strengthening external & internal accountability mechanisms for the Executive

All service delivery departments should increase transparency & make ensure public participation. Institutions have to report against planned objectives, strategies, plans, accounting for what achieved for given resources, Feedback mechanism be strengthened via electronic & open forums, Automation of selected processes, e.g. computerization of land records, e-tendering, e-governance etc, one window operation, reducing official / customer contact, Introduction of complaints redressal mechanism, Undertaking review of unfinished projects & entire projects

15. Development of coherent & transparent legal framework

Ministry of Law, Provincial Law departments, Respective Division & Departments have to get rid of plethora of confusing, contradictory, overlapping, redundant & inaccessible laws Systematic & periodic review (5 years) of primary statute book, Institutional strengthening of Pakistan Law Commission, Establishment of Provincial Law commissions.

16. Revitalizing existing procedures for fiscal transparency

How effective is the fiscal management of the country, depends in no small measure, upon government's fiscal transparency measures. This would also require revitalization of the procedures/bodies/systems, already provided for in the existing laws. Implementation of these procedures by government agencies,

like monthly reconciliation of accounts both on the expenditure and revenue side, attending to audit observations, submitting to oversight of the Public Accounts Committees etc. and then dissemination of the results to the public through media, internet etc., would make fiscal management not only effective, but also transparent.

17. Making budget preparation/reporting transparent

The current legal framework for formulation of budget does not make specific provision for reporting on performance to the parliament or the public beyond the annual budget and annual accounts presentation. In its present shape, the budget document does not lend itself to a clear presentation of performance in terms of economic or social objectives to be achieved by specific elements of expenditure, although some elements of a performance oriented approach have been achieved through the Social Action Program (SAP). In line with the general principle of transparency that information being made available should be in a form that it is easily understood, budget reporting too can be made more transparent, if fiscal targets of expenditure and performance measures to be achieved, are made available in social and economic terms. Further, monthly or quarterly reports on the implementation of the budget need to be made available to the public (mid-year budget review is currently being done by the Ministry of Finance). There is also a need to clearly point out any significant divergence from the approved budget in the shape of reallocation of funds/re-appropriation etc.

18. Accountability for all and sundry

To operate successfully, an accountability agency must possess committed political backing at the highest levels of the government, political and operational independence to investigate the practices of even the highest levels of political and bureaucratic functionaries, adequate powers of access to documentation and to question witnesses and leadership which is seen to be of the highest integrity. It must also exercise its powers in conformity with the international human rights norms and be accountable to the law of the land.

The National Accountability Bureau, which has been entrusted with the task of investigating and prosecuting corruption, falls short of the above given criterion to some extent. The transparency of its prosecution has increasingly been called to question being selective as the excesses of the military and the judiciary have by and large, been ignored by the Bureau. In some isolated cases, the Bureau's investigation methods have also been reported in the national press as a violation of the standard human rights norms. These perceptions need to be rectified, if the accountability process is to gain credibility and transparency.

19. Establishment of vigilance units within a Government Department

There is a need for establishment of non-intrusive vigilance units on need basis reporting directly to institutional head. These vigilance units shall also be the eyes and ears of Establishment Division. These units shall be formed on the lines of Assistant Financial Advisers working in each Division who are the eyes and ears of the Finance Division for financial matters.

20. One Window Operation

- a. Just as government-induced distortions provide many opportunities for corruption; it is also the case that frequent, direct contact between government officials and citizens can open the way for illicit transactions. One way to address this problem is to use readily available technologies to encourage more of an arms-length relationship between officials and civil society; in this respect the Internet has been proved to be an effective tool to reduce corruption. Establishment of IT based One Window Operation in all Federal Government Departments will make the service delivery process transparent and convenient to the general public. One window system should be fully computerized with complete check and balances mechanism.
- b. CCTV camera's shall be installed in all Government departments for effective surveillance and security.

- c. Red tapism is the major cause of corruption and e-governance is the best solution for this solving this problem. E-governance may be introduced to reduce the chances of corruption and corrupt practices.

21. Whistle Blower and Right to Information Laws

- a. Proper legislation regarding whistle blower and Right to Information need to be done because there is a broad consensus on the importance of these laws in enhancing transparency and accountability, thus reducing the opportunities for corruption. Demonstrated by several studies, the these laws alone can have a positive impact and help in the solution of specific cases, but it is unlikely to bring sustainable change if not effectively implemented and accompanied of other measures, such as guaranteed freedom of press and association, effective checks and balances mechanisms, including the prosecution and dismissal of public officials found to be involved in corruption, and coherent policy responses to problems detected in service delivery.
- b. Successful implementation of RTI laws requires a strong leadership and political will as well as the establishment of independent and well-resourced oversight institutions, a clear legal framework and appeal mechanisms, training and capacity building of public officials, and awareness raising activities to inform citizens, civil society, the media and organization on how to exercise their right to know.
- c. The protection to the whistle blower is provided through the several mechanisms namely the anonymity, immunity from legal actions, protection against reprisal as well as relocation, reinstatement and back pay. People who expose abuses of power are open to reprisal as whistleblower protection laws are weak (India), ineffective (Bangladesh) or non-existent (Nepal, Maldives, Pakistan, Sri Lanka). This is despite all six countries analyzed in the report having signed the UN Convention against Corruption that clearly commits them to consider implementing whistleblower protection laws. Governments need to create simple routes for whistleblowers to make their disclosures, and ensure that they are protected from those who would do them harm.

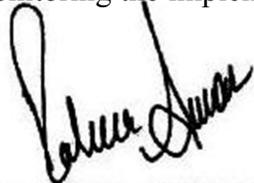
22. Each department to report on specific deregulation measures to be implemented or adopted;
23. Create new models of government which provide for enhanced autonomy (HR, financial, operational) with increased accountability of institutional heads e.g. executive agencies;
24. Require senior officials to issue annual performance objectives and achievements targets;
25. All organizations to publish annual reports giving performance against planned annual objectives;
26. Introduce transparency and strict compliance with rules in all recruitments;
27. Agree, adopt and publish departmental integrity pacts;
28. Include integrity and ethics as major feature of induction program;
29. Each individual to sign off on compliance with code of conduct on appointment;
30. Workshops and training, using case studies, role play and discussion, to regularly reinforce ethic systems;
31. Publicize and reward cases of integrity and high performance;
32. Institutions required to involve staff in key initiatives e.g to develop new code of conduct, determine new process or staffing needs;
33. Strengthen feedback mechanisms e.g Question & Answer sessions of senior officials and staff;
34. Increase transparency of operational matters to staff e.g. organizational charts, budgets, responsibilities of other staff and functions;
35. Restructure management, cascading management authority and responsibility with managers held accountable for the performance of their staff;
36. Improved performance evaluation system to be rolled out at all levels across government. System to include: objective and target setting; self-assessment; independent evaluation of quantifiable results/tangible achievements by a cross section of managers not to be confidential and to have an inbuilt continuous feedback and counseling mechanism;
37. Assign clearer responsibility for internal controls to senior officials and each layer of management in letters of appointment and job descriptions;

38. Require senior officials to undertake formal risk management yearly and report on how they intend to minimise risks of corruption;
39. Separation of functions/ de-concentration and rationalization of functions;
40. Strengthen assets/income disclosure and monitoring mechanisms, introducing random monitoring, financial year to be disclosure period;
41. Formalize system of job rotation, starting with high risk functions;
42. Highlight PAO responsibilities maintaining robust and speedy disciplinary procedures;
43. All departments may be advised to constitute committee of experts for examination of the system, laws, rules and procedures and suggest administrative improvement and stopping the corruption from happening through a mechanism of timely intervention.
44. Effective Consumer Feedback & Monitoring Mechanism shall be established in all Federal Government departments.
45. All Government Employees may sign an Affidavit to be a responsible and honest citizen, and to undertake to: “neither pay nor take bribes; obey the law and encourage others around me to obey the law and to treat public resources respectfully; neither abuse any public money entrusted to my care, nor any position I hold as a public servant; act with integrity in all my dealings with government; and always remember that public resources are intended for the benefit of the public, not for private gain.”
46. Education and training for all employees about corruption and how to avoid or report it should be part of any induction program.
47. Corruption is a multi-faceted problem and needs to be addressed on multiple fronts and at all levels. Joint efforts by Government, civil society, private sector and the international community in addressing the challenges of corruption are crucial to bring about visible and positive results. A stronger partnership among different stakeholders will make it possible to tackle the issue in a more coordinated, comprehensive and coherent manner.
48. Proper education about the ill effects of corruption and corrupt practices has to be inculcated in the minds of people specially the youth at the grass root level.

49. The government may incorporate themes relevant to anti-corruption in the curriculum from class I to X at national level to educate the youth against this monster evil.
50. All public institutions / departments may introduce transparent system by promoting paperless environment. All the information relevant to the general public may be displayed on the official websites to provide access to information to the public. All public procurements may be displayed on the web pages for information of the general public.
51. Internal audit / accountability mechanism may be introduced by Government departments / public organizations to promote culture of good governance and establish certain level of deterrence against corruption and corrupt practices.

Parliamentary Oversight Committee

A Bipartisan Oversight Committee of the Senate shall be constituted for monitoring the implementation of this Report.



(RABEEA ANWAR)
D.S / Secretary Committee



(SENATOR MUHAMMAD JAVED ABBASI)
Chairman