
Assessment of Anti-Corruption Agency of Pakistan

DR.SAMRA JAVED¹

¹Assistant Professor, Institute of Business Management, Korangi Creek, Karachi - 75190, Pakistan

Abstract: The assessment of Pakistan's Anti-Corruption Agency, National Accountability Bureau (NAB), is a continuation of the collaborative effort initially taken by Bhutan and currently in place in other Asia Pacific countries. This report presents an analysis of Pakistan's policy and corruption context as well as a thorough research employing the desk review of NAB's reports, website and other relevant resources. Besides, it also presents the qualitative analysis of the interviews conducted with relevant stakeholders. The research resulted in the assessment of NAB against the set series of indicators. The assessment is followed by a series of recommendations to NAB and other relevant stakeholders including the government officials. The assessment of NAB tested 50 indicators, drafted to assess its performance, effectiveness and competence as well as to identify its weaknesses and areas for opportunity. NAB scored high in 49 per cent of the indicators assessed, moderate in 33 per cent of the indicators assessed, and low in 18 per cent of the indicators assessed. The findings indicate that two dimensions emerge out to be strong in NAB's assessment: its Cooperation with other Organizations and its Oversight and Accountability. NAB's Perception of Effectiveness is its weakest dimension scoring the lowest ranking. Two sets of recommendations were formulated to improve NAB's performance. One set of recommendations were for the Government and the other set is for NAB itself.

Keywords: Anti-Corruption Agency, Assessment, National Accountability Bureau, Pakistan.

INTRODUCTION

The World Economic Forum's (WEF) Global Competitiveness Index (GCI) for the year 2015-2016 has ranked Pakistan at 129 out of 144 economies. The five most challenging factors for doing business in Pakistan during 2015-2016 are cited as corruption, tax rates, inflation, access to financing and insufficient government bureaucracy. Corruption is cited as the most problematic among these factors. As per a recent World Bank report, over the past two and a half years, Pakistan has focused on achieving economic stability after the implementation of reform agenda. However, its slim export bases and lack of efficient and enabling trade policies are hindering its export competitiveness. The rate of inflation that slowed down in the beginning of 2016 has once again begun to increase. The economic stability is not sufficient to generate jobs for the emerging workforce every year. The GDP per capita, though increased over the last 25 years is still lower than other middle income countries. A recent World Bank report states that 33% of the population lives below the poverty line.

Since the time of inception when corruption was pointed out as a big menace, it has continued to remain a huge impediment for Pakistan in its way to growth and performance. A research conducted by Transparency International in 2010-2011 reported that the majority of the people of Pakistan perceive that the level of corruption has been on a constant rise. They further perceive the government as ineffective in terms of its control. Members of Parliament, the wealthiest citizens of the country, avoid paying taxes which has resulted in Pakistan having one of the "lowest tax-to GDP ratios" in the world. Corruption is pervasive in all domains of Pakistan, from politics to private and corporate sector. Its history reflects governments being overthrown in the past owing to the charges of corruption. Unfortunately, the same governments came back to power and performed even worse with 30 to 40% increased level of perceived corruption. The succeeding corrupt governments of 2008 and 2013 strengthened people's lack of confidence in their integrity and hence ineffectiveness to control corruption. In 2008, Pakistan's ranking in the Corruption Perception Index (CPI) was 134 out of 180 countries. Recently, in 2014-2015, it has improved to 117 out of 175 countries with a score of 30 out of 100. This is the highest ranking Pakistan has received since the inception of CPI 1995. The need for accountability is paramount in Pakistan not only for the masses but also for the public office-bearers and the service providers. The fact that social accountability in the country can serve as a catalyst to good governance was realized rather late by Pakistan.

The leading anti-corruption agency in the country has not been able to achieve its desired objectives. Although the need for better mechanisms for governance has been pointed out, no such mechanisms are formulated. It is surprising that besides the presence of laws such as Pakistan Penal Code (PPC), the Prevention of Corruption Act, and the National Accountability Ordinance as well as institutional mechanisms like the constitutional office

of the Auditor-General of Pakistan supported by Public Accounts Committee of the National Assembly, public procurement regulatory authority, offices of the Federal and Provincial Ombudsmen, National Accountability Bureau (NAB), the Federal Investigating Agency (FIA) and Provincial Anti-Corruption establishments, the country suffers at the hands of a high degree of corruption.

The PILDAT survey conducted in 2015 reports citizens' mistrust in these mechanisms. Moreover, the survey further reports that the people do not consider corruption as a main issue of the society in the country since energy crisis, unemployment, poverty and other issues are perceived as huge. Selection and decisions on merit are substantially supported by the citizens but when it comes to their own vested interests, they tend to ignore merit. The country faces corruption not only at the individual but also at the institutional level. Institutions such as the police, tax administrations, and the subordinate judiciary contribute immensely to the dismal picture .

Table 1: Perception of Corruption in Three Global Indicators, 2013-2014

Indicators	Rank/Score
CPI 2015 (Transparency International)	117/175
Control of Corruption (World Bank)	21.6
Irregular Payments and Bribes (World Economic Forum)	1.05

What is encouraging is the recent freedom of both the electronic media and the social media that has become instrumental in revealing corruption. Furthermore, the Right to Information Laws being enacted by the Federation and the Provinces under the aegis of Article 19A is yet another ray of hope .

Economic Forum's WEF Global Competitiveness Report (GCR) 2014-15 has ranked the country as the third least safe place in the world due to its security situation. Of the 144 nations surveyed in the report, Pakistan is ranked 142 out of 144 nations. The ranking has remained basically the same since last year. Other factors impeding competitiveness besides security are insufficient infra-structure, political stability and inefficient government, inefficient labor market, technological readiness and lack of female participation in labor market .

Transparency International Asia Pacific Department has worked for the last few years with a group of regional and international experts and anti-corruption agencies (ACAs) to develop a collaborative framework to assess the enabling environment, performance and competence of these ACAs. An advisory group coordinated by Transparency International has developed a set of indicators and benchmarking standard, led by Professor Jon Quah, which aims to highlight the strengths and weaknesses of ACAs. The assessment of Pakistan's Anti-Corruption Agency, National Accountability Bureau (NAB), a continuation of the collaborative effort initially taken by Bhutan and currently in place in other Asia Pacific countries, was aimed at identification of strengths and weaknesses of NAB and development of recommendations for improvement of its performance.

METHODOLOGY

In the first phase, the process of assessment comprised document analysis, including review of NAB's annual reports, its website, TI, Pakistan's National Integrity System Report 2014 and media pieces. In the second phase, semi- structured interviews were conducted with the relevant stakeholders. Field work took place between August and September, 2016 followed by a focus group discussion with relevant stakeholders on October 1, 2016. Later, a draft report was shared first with NAB and later with the key stakeholders.

The assessment of NAB tested 50 indicators, drafted to assess its performance, effectiveness and competence as well as to identify its weaknesses and areas for opportunity. The details below show the number of indicators for each of the seven dimensions of NAB's performance.

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| 1. ACA's Legal Independence and Status | (Seven indicators) |
| 2. ACA's Financial and Human Resources | (Nine indicators) |
| 3. ACA's Detection and Investigation Function | (Nine indicators) |
| 4. ACA's Prevention, Education and Outreach Functions | (Nine indicators) |
| 5. ACA's Cooperation with other Organizations | (Five indicators) |
| 6. ACA's Oversight and Accountability | (Four indicators) |
| 7. Public Perceptions of NAB's Performance | (Seven indicators) |

Key Findings

NAB has scored high in 49 per cent of the indicators assessed, moderate in 33 per cent of the indicators assessed, and low in 18 per cent of the indicators assessed.

The findings indicate that two dimensions emerge out to be strong in NAB's assessment: its Cooperation with other Organizations and its Oversight and Accountability. NAB's Perception of Effectiveness is its weakest dimension scoring the lowest ranking.

Table 2 illustrates all indicators and scores. The indicators rated as high are represented in green color, the moderate ones in yellow and the low ones in green, respectively. The indicators colored grey are not scored, because the research team did not have sufficient information to score them.

The indicators that could not be rated were 1) frequency of including corruption prevention recommendations in NAB's investigation reports, 2) its oversight mechanism, 3) public perception of adherence to due process in its use of powers among those having direct contact with NAB, 4) perception of NAB's effectiveness in corruption control among persons with direct contact with NAB and 5) its effectiveness in dealing with females who were in direct contact with NAB.

The indicators that could not be rated and the reasons for not being able to rate them are as follows:

The indicator for Frequency of including corruption prevention recommendations in NAB's investigation reports could not be rated as recommendations are not a part of NAB's investigations.

No external accountability mechanism exists to monitor NAB's actions; therefore, the indicator for NAB's oversight mechanism could not be rated. In addition, three indicators in the dimension of public perception(public perception of adherence to due process, impartiality and fairness in its use of powers control among persons with direct contact with NAB, public perception of NAB's effectiveness in corruption control among persons with direct contact with NAB and its effectiveness in dealing with females who were in direct contact with NAB) could not be rated as the research team could meet only a few persons having direct contact with NAB. The sample was too small to generalize the response. Moreover, the views of the accused persons may be biased and may not reflect NAB's actual effectiveness.

Scoring Key

Table 2: Assessment Summary: Indicators by Dimension (more detail provided in section 3)

HIGH SCORE	Green
MODERATE SCORE	Yellow
LOW SCORE	Red
SCORING NOT	Grey

Table 3

Dimension									
LEGAL BASIS, INDEPENDENCE AND MANDATE (7)	Independence	Mandate	Legal powers	Appointment of Commissioners	Removal of Commissioners	Operational autonomy	Political use of power		
FINANCIAL AND HUMAN RESOURCES (9)	Budget proportion	Budget sufficiency	Budget stability	Staff salary	Staff selection	Staff expertise (Investigation)	Staff expertise (prevention)	Staff Training	Staff stability
DETECTION AND INVESTIGATION (9)	Accessibility	Responsiveness	Willingness to initiate complaints	Cases Investigated	Efficiency & professionalism	Conviction rate	Investigation of influential persons	Restitution and asset recovery	Complainants by gender
PREVENTION, EDUCATION AND OUTREACH (9)	Budget	Prevention initiatives	System/ Agency reviews	Prevention recommendations	Outreach and education plans	Stakeholders engagement	Research	Campaigns	Website and social media
STATE SUPPORT, INTERAGENCY COOPERATION (5)	Government Support	Cooperation with agencies	Cooperation With civil society and private sector	International participation	Collaboration with other countries' ACAs				
OVERSIGHT AND ACCOUNTABILITY (4)	Annual report	Oversight mechanism	Internal Complaints Procedure	Staff disciplinary					
PERCEPTIONS OF EFFECTIVENESS (7)	Government giving support	Adherence to due process, impartiality, and fairness in use of power	Adherence to due process in use of power among those having direct contact	Confidence in dignified treatment of persons under investigation	Effectiveness in corruption control	Effectiveness in corruption control among persons with direct contact	Effectiveness in dealing with females in direct contact		

CONCLUSION

NAB's assessment reflects that it is a legally independent organization by law and has been given maximum powers to carry out its duties. However, the findings depict that NAB is not exercising the given powers fully and effectively which is recommended so as to win back the trust and confidence of the public. Although, NAB itself reports sufficiency the budget assigned by the government, a higher proportion of budget is recommended. In such a case, the additional financial resources can be spent on the areas for improvement such as training in outsourcing its recruitment, strengthening its outreach, etc.

The inability to punish the influential persons needs to be addressed. Perhaps this is the reason behind the public's mistrust in the effectiveness of NAB. Strong support from the stakeholders including the government is required to do that. Another issue related to public's confidence and good governance that the government needs

to address is strong oversight and accountability mechanism. An effective and transparent monitoring and evaluation system needs to be developed immediately.

NAB's effectiveness and integrity will be addressed itself if the measures mentioned above are undertaken. NAB needs to exercise its powers fully and improve its processes so that it leads to the prosecution of powerful persons in the country to set examples for the public. Furthermore, NAB should conduct public perception surveys periodically to be informed of its strengths and weaknesses.

RECOMMENDATIONS

Based on the gaps analyzed and the opportunities identified as a result of the assessment of NAB, Transparency International, Pakistan recommends a number of strategic and practical recommendations for reform.

Two sets of recommendations have been formulated. One set of recommendations are for the Government and the other set is for NAB itself.

Recommendations for Government of Pakistan are as follows:

Revision in the following clauses of NAO should be made.

The clause of Article 6 of NAO 1999 should be revised to include wider range of options in terms of selection of Chairman NAB.

Revision in Article 25 (b) of the NAO should be made to include nominees of Chief Justice, Supreme Court of Pakistan and Provincial High Courts in the Conciliation Committee.

Article 31-C states: "No Court established under this Ordinance shall take cognizance of an offence against an officer or an employee of a bank or financial institution for writing off, waving, restructuring or refinancing any financial facility, interest or mark-up without prior approval of the State Bank of Pakistan. Court to take cognizance of offence with prior approval of the State Bank." The article should be deleted as it provides protection to corrupt bank officials and businessmen and hence, increases corruption in the country.

The provision of Voluntary Return should be eliminated. The option of Plea Bargain should only be exercised for approver/s in a transparent manner, only when the main accused in a corruption case can be prosecuted on the approver/s confession. It was further recommended that NAB should make a thorough analysis of the entire chain of system to improve its conviction rate and an Oversight Committee should be formulated comprising five judges of Supreme Court. The Committee should be headed by the Chief Justice. Anti-Corruption should be included in the curriculum of the elementary, secondary and degree programs of educational institutions.

Recommendations for NAB are as follows:

It was recommended that NAB should increase collaboration with the media to encourage the public to report corruption and improve its public image. Prosecutors and investigating officers of NAB should receive training in asset recovery stashed in offshore companies/foreign countries, public procurement, banking and share trading. NAB should also make full use of social media as a catalyst for public engagement. Further, it should ensure that its investigation procedures should be completely compliant with the basic rights of the citizens enshrined in Qanoon-e-Shahdat and the country's constitution. The timeline for inquiries should be in accordance with the provision in Ehtesab Act 1996. NAB should deal with the accused and the witnesses in a dignified and respectful manner. Precautionary measures need to ensure the agency does not itself become a source for extortion and corruption.

NAB should also ensure that the reference prepared and successfully tried in the Accountability Courts should be upheld in all subsequent review petitions in High Courts and Supreme Court.

Indicators

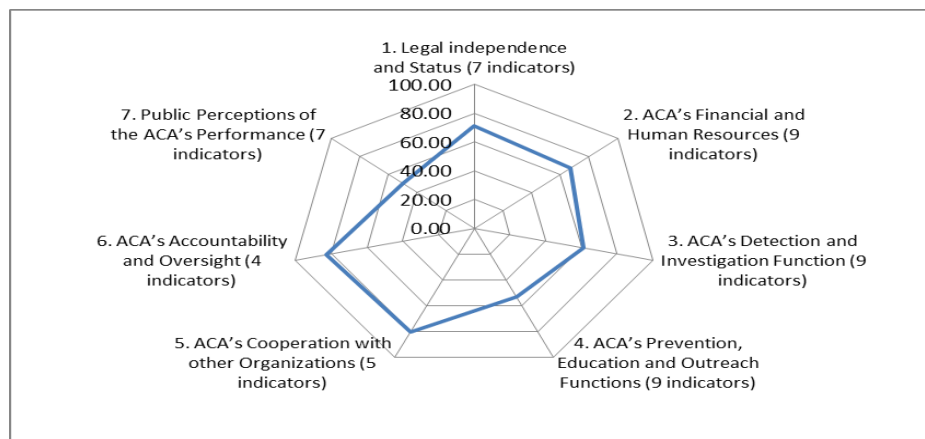


Fig.1: Dimension-NAB Assessment

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