

ANTI-CORRUPTION INVESTIGATION AGENCIES IN PAKISTAN: AN APPRAISAL

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Abstract

Corruption exists in all societies in varying forms and degrees. Since its inception, Pakistan has been struggling to contain corruption, initially in public sector, and subsequently in private sector. Apart from instituting oversight and regulatory mechanism in form of parliamentary Public Accounts Committees, Auditor General and Ombudsman offices, regulatory bodies and departmental mechanisms, the main focus of Pakistan's efforts has been the enactment of anti-corruption laws and their enforcement through Anti-Corruption Investigation Agencies (ACIAs) i.e. National Accountability Bureau (NAB), Federal Investigation Agency (FIA), and Provincial Anti-Corruption Establishments (ACEs).

This paper evaluates policy context, performance and effectiveness of ACIAs in curtailing corruption in Pakistan. It examines the legal, institutional and procedural framework of ACIAs. It undertakes a comparative analysis of their organizational structures, jurisdictional mandates, operational autonomy, procedural efficacy, resource adequacy and performance to identify factors impacting their performance, especially that of NAB which recovered Rs. 466 billion during 2000-2019 including Rs. 142 billion in 2019. The compelling evidence that emerges, with the cumulative recovery by ACIAs peaking in 2019, is that the political will along with enabling legal framework, resource adequacy and institutional capacity are critical factors in determining efficacy of an ACIA. The paper concludes that only a national resolve coupled with the will of the government to uproot corruption can achieve desired outcomes.

Keywords: Corruption, Anti-Corruption Investigation Agencies, Performance, NAB, FIA, ACEs

Introduction

Corruption has wide-ranging implications for a country's governance, development and economy as it undermines the rule of law, erodes state's legitimacy and weakens the institutions.¹ Besides, corruption inflicts substantial loss to the national exchequer straining government capacity to finance essential services such as education, healthcare, water, sanitation and law enforcement. The government also has to rely on huge public borrowing for

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funding current expenditure as well as public sector development programs resulting in accumulation of massive public debt.² Eventually, it inhibits future growth trajectory of the economy and affects the quality of governance.³

The founding father, and first Governor General of the country, Quaid-i-Azam Muhammad Ali Jinnah in his very first speech to the Constituent Assembly of Pakistan on 11th August 1947, expressed his unequivocal resolve to obliterate bribery and corruption with an iron hand. He termed it a poison and 'one of the biggest curses from which India was suffering'.⁴ To give legal force to this resolve, Prevention of Corruption Act 1947 (PCA) was passed by the Constituent Assembly. It was the first legislation aimed at preventing corruption among public servants in Pakistan through enactment of Public Representatives (Disqualification) Act 1949 and the Elected Bodies (Disqualification) Ordinance 1959. The ambit of anti-corruption efforts was subsequently expanded to the public representatives as well.

Notwithstanding these endeavours from the very outset, corruption in its various forms: fraud, bribery, commissions, kickbacks, extortion, nepotism, cronyism, default loans, remained the most ubiquitous feature of Pakistan's governance and political-economy in the years to come. The source and *modus operandi* of corruption, however, varied from one political era to another. For example, it was evacuee property in the early years. Later, in the 1950s, the export permits and export voucher schemes were used, inter alia, to augment exports, earn foreign exchange and seek support of the elite. In the 1970s, the paradigm shifted to state owned enterprises and financial institutions.⁵ In the 1980s, industrial and agricultural industrial bank loans were provided and waived subsequently. In the 1990s, loan defaults, opaque privatization process and in the 2000s, mismanagement/inefficiencies in State Owned Enterprises (SOEs), stock exchange inside trading/speculations, misappropriations in government subsidies were some newly maneuvered forms of corruption. Most organized and institutionalized forms of corruption could also be witnessed in property, construction, telecom, energy, power sectors, and sugar industry sectors.

Unsurprisingly, various national and international surveys including Global Corruption Index⁶ (GCI) and Corruption Perception Index (CPI)⁷ have consistently ranked Pakistan in list of countries with high incidence of corruption. Land revenue, police and the judiciary, in particular, are considered as the most corrupt government departments in public perception surveys.⁸ They are followed by taxation departments, public sector banking and non-banking development institutions, power sector and civil works departments among others. Several manifestations of mal-practices and cushion for corruption have been observed in the informal economy which constitutes about 33.1 per cent of the national economy.⁹ Petty bribery, despite being

comparatively lower in volume as opposed to mega corruption, is a bigger issue for a common person, as it directly affects the citizens. The petty bribery and mega corruption fit in well into binary classification of 'need based' and 'greed based' corruption.

The exact extent of direct financial loss to the public exchequer is hard to ascertain. However, National Accountability Bureau (NAB) estimated that 'the amount of revenue loss can go over Rs. 200 billion per annum.'¹⁰ In 2010, the cost of petty bribery was estimated to be Rs. 223 billion.¹¹ Certain internationally recognized estimates¹² carried out by highly credible organizations provide relatively more reliable estimates of incidence of corruption in a particular country.¹³

As a result of effective action by NAB following growing public demand for accountability in the last few years, Pakistan has inched up in the CPI ranking of Transparency International from 139th out of 174 countries in 2012 and to 120th out of 180 countries assessed in 2019.¹⁴ In terms of CPI score, Pakistan's performance has also improved. One fundamental reason for relative ineffectiveness of the present approach is its heavy reliance on laws and their enforcement. Realizing the limitations of this approach, the National Anti-Corruption Strategy (NACS), 2002 - a comprehensive document accentuated the need for adopting a more holistic and long term approach to prevent corruption than 'merely relying on enforcement of anti-corruption laws.' NACS had also identified some major areas to be addressed through a strategic policy framework to address systemic causes of corruption. These included wide discretionary power vested in the public office holders, incompetence, incommensurate remuneration in the public sector, lack of transparency, absence of adequate internal/external controls, cumbersome judicial processes, impertinent control of influential class and their interest in status-quo, imperfect markets, limited knowledge about and use of right to information, social acceptability and justification of corruption, instead of awareness and prevention, etc. A recent study (Quah, 2017), which examined policy context and anti-corruption strategies in 26 Asian countries, has concluded that the most important pre-requisite and effective control is existence of political will.¹⁵ Moreover, a perception created by certain sections that the establishment and subsequent actions of NAB have been politically motivated¹⁶ also adversely effects support for anti-corruption effort.

Various regulatory and oversight bodies such as parliamentary public accounts committees, regulatory bodies such as, State Bank of Pakistan (SBP), Security and Exchange Commission of Pakistan (SECP), Oil and Gas Regulatory Authority (OGRA), National Electric Power Regulatory Authority (NEPRA), audit departments, federal and provincial ombudsmen and internal

accountability mechanism in various departments have an important role to play in addressing some of these causes.

Though each aspect, highlighted above, demands a separate analysis and discussion, this paper exclusively focuses on study of legal, institutional and procedural framework of Anti-Corruption Investigation Agencies (ACIAs) in Pakistan and challenges they face in effectively discharging their functions in curbing corruption. In the light of lessons learned from Pakistan's own experience as well as international best practices, the paper also makes a set of recommendations to enhance the efficacy of ACIAs in Pakistan.

Historical Background

Pakistan inherited the Special Police Establishment (SPE), a specialized anti-corruption investigation agency in 1947 and rechristened it as Pakistan Special Police Establishment (PSPE). Concomitantly, Prevention of Corruption Act (PCA) 1947 was enacted with a wider scope to empower PSPE to investigate complaints of bribery and corruption against central government employees. Subsequently, PSPE was also mandated to undertake investigations under Official Secret Act, 1923; Foreign Exchange Regulation Act, 1947; Passport (Offences) Act, 1952; and Customs Act, 1959.

To expand the scope of anti-corruption laws to provincial government employees the West Pakistan Anti-Corruption Establishment Ordinance 1961 was promulgated. Under this law Anti-Corruption Establishment (ACE), was constituted at provincial level for the investigation of complaints of corruption against provincial public servants. Due to the constitutional shift in the shape of the breakup of One Unit in 1970, each of the provinces established their own ACEs.

In 1974, the federal government decided to replace the PSPE with a new organization on the recommendations of the Police Reforms Committee headed by Mr. G. Ahmed. The new organization called Federal Investigation Agency (FIA) was established under the Federal Investigation Agency Act, 1974. In addition to an exclusive anti-corruption role at federal level, FIA was also assigned an additional mandate, to investigate organized crimes such as smuggling, narcotics, counterfeit currency, immigration and passports offences. FIA remained the sole anti-corruption investigation agency at federal level till 1996. In the wake of growing political corruption between 1985 and 1995 and following the dismissal of PPP government, inter alia, on corruption charges in November 1996; the then caretaker government formed a new anti-corruption body called the Ehtesab (Accountability) Commission. It was later on renamed as Ehtesab (Accountability) Bureau by the incoming PML government in 1997. The Ehtesab Bureau was replaced with National Accountability Bureau (NAB) and the Ehtesab Act with NAB Ordinance (NAO) by General (R) Pervez

Musharraf, who took power in October, 1999. Apart from internal political dynamics, global trends also influenced the establishment of a new anti-corruption body in Pakistan as specialized anti-corruption agencies were established in many other countries in the 1990s and 2000s.¹⁷

The establishment of NAB significantly curtailed the anti-corruption role of FIA. Under NAO, NAB can even take cognizance of any case (pending investigation or trial) registered with FIA or any other agency and transfer it to NAB at any stage. As NAB is now the lead anti-corruption investigation agency in Pakistan, hence, there will be a greater focus on NAB in subsequent discussion and analysis in this paper.

Legal, Institutional and Procedural Framework

Legal Framework. Primarily, following major laws constitutes the legal framework on anti-corruption in Pakistan:

Prevention of Corruption Act, 1947. The Prevention of Corruption Act, 1947 was enacted to make effective provisions for the prevention of bribery and corruption in Pakistan. The Act extends to the whole of Pakistan and applies to all citizens of Pakistan and persons in the service of Governments, wherever they may be. For the purposes of this Act, “public servant” means a public servant as defined in (Section 21) of the Pakistan Penal Code.¹⁸ (Section 5) of the Act defines criminal misconduct of the public servant and prescribes a punishment up to sentence of seven years or fine or both. The criminal misconduct includes taking gratification, pecuniary advantage or any other valuable thing by the public servant for himself or for any other person for want of the consideration. It also declares illegal use of property entrusted to him and having in possession by him or by his dependents any property beyond his known sources of income, an offense punishable under the same section. The Act made the offences under sections 161, 162, 163, 164, 165 or 165-A, of PPC cognizable for the purpose of action under this Act.¹⁹

West Pakistan Anti-Corruption Establishment Ordinance, 1961. The West Pakistan Anti-Corruption Establishment Ordinance, promulgated in 1961, repealed the Sind Prevention of Bribery and Corruption Act (xxiv of 1950). It also created a specialized agency for the enquiries and investigation of certain offences relating to corruption against provincial public servants (as defined in section 21 of PPC) in the then West Pakistan. The Ordinance vested power of superintendence and general control of the ACE in the Director General and authorized an officer in the rank of a Sub Inspector or above to exercise the powers of an In-charge of a Police Station provided under CrPC.

The Ordinance is still operational in Punjab and KP, whereas Sindh and Balochistan replaced it with Sindh Enquiries and Anti-Corruption Act, 1991 and the Baluchistan Enquiries and Anti-Corruption Act, 2010 respectively. Anti-

Corruption Rules, 1965 were also substantively amended by the Punjab in 1974, 1985 and 2014 and by KP²⁰ in 1999. Sindh and Balochistan, which enacted new anti-corruption laws, also promulgated new rules called Sindh Enquiries and Anti-Corruption Rules, 1993 and the Baluchistan Enquiries and Anti-Corruption Rules 2011 respectively.

Federal Investigation Agency Act, 1974. The Federal Investigation Agency (FIA) Act, 1974 repealed the Special Police Establishment Ordinance, 1948 and created the new Agency for, inter alia, investigation of offences under PCA, 1947. The Act vested the superintendence of the Agency with the Federal Government and administration with the Director General, who was given powers of an Inspector General of Police as provided under the Police Act, 1861. The Act also empowered the officers of FIA, for the purpose of an inquiry or investigation, with such powers (specially relating to search, arrest of persons and seizure of property) duties, privileges and liabilities as the officers of a Provincial Police have, as an officer-in-charge of a Police Station in a specified area, under the CrPC and other relevant laws for investigation of offences. The Act also allowed investigating officers to arrest, without warrant, any person who has committed, or against whom a reasonable suspicion exists that he has committed any of the offences specified in the Schedule of the Act. The investigation officer may place restriction on removal, transfer or disposal of property related to any investigation.²¹

National Accountability Ordinance, 1999. Modelled on Hong Kong's anti-corruption law and evolved from Ehtesab Ordinance 1996 and Ehtesab Act, 1997, National Accountability Ordinance (NAO) was promulgated in 1999. Comprising 37 sections, NAO also attempted to address the gaps in earlier laws to provide a strong legal framework to NAB to ensure its operational effectiveness and functional independence. National Accountability Ordinance:

- Had a retrospective effect from first January 1985;
- Makes the posts of Chairman NAB and Prosecutor General statutory and provides protection of tenure by fixing their term of offices for four years;
- Gives some quasi-judicial powers to the Chairman NAB;
- Criminalizes both public (and private sector) corruption and sets the maximum penalty for corruption at 14 years rigorous imprisonment, with a fine and confiscation of assets acquired through corruption in the name of the accused or of the accused's dependents or beneficiaries;
- Broadens the definition of corruption (Section 9) to include "persons who maintain a living standard not commensurate with their known sources of income";

- Places the onus of proving innocence on the accused, in a bid to create effective deterrence against corruption and deviating from traditional doctrine of laws, though not unknown to special laws;
- Enhances remand period from 15 days, permissible under general criminal law, to 90 days;
- Empowers only High Courts are empowered to grant bails to accused arrested by NAB;
- Gives NAB special powers to ensure production of record and compliance of summons. NAO also provides for protection of witnesses;
- Allows NAB Prosecutor General to withdraw a case at any stage;
- Bars a person to avail any financial facility and hold office or contest elections for 10 years, if convicted under NAO. Moreover, NAO empowers NAB to engage in international cooperation.

Following laws also supplement above anti-corruption laws:

- Anti-Money Laundering Act (AMLA) (2010)
- Pakistan Penal Code (PPC) (Act XLV of 1860)
- Extradition Act (EA) (1972)
- Benami Transactions Act 2017

Apart from FIA Act and NAO, Code of Criminal Procedure (CrPC), 1898 and Law of Evidence (Qanoon-e-Shahadat Order (QSO), 1984, read with Electronic Transaction Ordinance (ETO), 2002,²² provide the procedural framework for investigation and prosecution of anti-corruption cases. In particular, CrPC, 1898 lays down detailed procedures for collection of information, investigation, arrest, search and seizure, confiscation and trial of cases. In case of NAB, NAO 1999 also provides much wider powers to it in relation to investigation functions.

Institutional Framework

Most prominent ACIAs working at the federal and provincial level in Pakistan are:

National Accountability Bureau. NAB is headed by a Chairman, who is appointed by the President in consultation with the Leader of the House and the Leader of the Opposition in the National Assembly for a non-extendable period of four years. He cannot be removed earlier except on the grounds provided for the removal of Judge of Supreme Court of Pakistan. The Chairman is assisted by a Deputy Chairman, Prosecutor General Accountability (PGA), and Director Generals. PGA and Deputy Chairman are also appointed by President of Pakistan in consultation with Chairman NAB for a non-extendable period of three years.

Functionally, NAB is organized into Operations, Prosecution, Awareness and Prevention, Human Resource Management and Headquarter Divisions; each headed by a Director General. Under these Divisions, there are dedicated 'Wings' dealing with Identification and Intelligence, Investigation and Monitoring, Prosecution, Overseas Operation, Research and Analysis, Training and Forensics. NAB has seven regional offices in Karachi, Lahore, Peshawar, Quetta, Rawalpindi, Multan and Sukkur, each headed by a Director General. NAB Employees Terms and Conditions of Services (TCS) 2002, Methods of Appointments and Qualifications 2002 and Code of Conduct for Employees govern the appointments, transfers, promotions, discipline and conduct of employees.

Federal Investigation Agency. FIA is headed by a Director General, a BPS 21/22 officer, traditionally from Police Service of Pakistan²³. Administratively, there are two regions headed by Additional Director General and seven zones each headed by a Director. Each zone comprises of sub-units called circles. Each circle is headed by Deputy Director and deals with an exclusive set of crimes such as human trafficking, cyber-crimes, banking crimes, corporate crimes and corruption related crimes.²⁴With the emergence of NAB, as a premier anti-corruption agency, FIA's anti-corruption role got restricted to border control functions, human trafficking and cybercrime.

FIA has 115 sections of PPC & 33 special laws on its Schedule of offences including the Prevention of Corruption Act, 1947. Preamble of FIA Act 1974 limits its jurisdiction to the matters connected to Federal government departments, organizations and corporations.

Anti-Corruption Establishment (ACE). Provincial ACEs are headed either by a Chairman (in Sindh), a Director General (in Punjab and Balochistan) or a Director (in KP),²⁵ generally from civil service, police or a retired army officer. Each district has an anti-corruption office headed by a Deputy Director called Circle In-charge. In Balochistan, ACE earlier worked under a DIG/SSP; however a separate directorate was established in 2010, with Secretary Services & General Administration Department (S&GAD) as its Ex-Officio Director General.

ACEs have jurisdiction over employees of the departments, organization and corporations set up by the provincial governments.

A detailed comparison of institutional capacity of ACIAs is tabulated below:

Table-1: Comparative Analysis of Institutional Capacity of Anti-Corruption Investigative Agencies

Capacity Parameters	Agency		
	NAB ²⁶	FIA ²⁷	ACEs ²⁸
Budget	Rs. 5.1 billion for FY 2020-21. ²⁹	Rs. 4.9 billion in FY 2020-21 ³⁰	Rs. 2.7 billion in FY 2019-20
Human Resource	Total posts 2,465	Total posts 6,871 ³¹	Total posts 2,778 ³²
Training	Has a dedicated Training & Research Division and a Training Academy. Seven months Special Training Course for fresh inductees and on job training courses for in service officers.	Has a basic training facility which in collaboration with national and international ACIA regularly imparts induction and in-service training. A state of art training facility is required.	Have specialized training facilities. Reliance on police training institutes. Resultantly, officers generally lack required level of skills for investigation of corruption cases.
Internal Accountability Mechanism	An Intelligence and Vigilance Cell monitors and investigates all complaints against NAB officers and proceeds under NAO, if they are alleged of corrupt practices. Level of effectiveness can be further enhanced.	A Performance and Internal Accountability Bureau (PIAB) investigates complaints against FIA officers. The effectiveness of this mechanism requires improvement.	There are no special mechanisms for vigilance and internal investigations against ACE officers. Complaints of corrupt practices are enquired under ordinary, often cumbersome, general disciplinary rules.
Inspection, Monitoring and Evaluation System	There is an elaborate inspection, monitoring and evaluation system. Since 2019, a dedicated	Inspections form an important part of FIA management functions, however, a dedicated unit	An elaborate inspection, monitoring and evaluation system does not exist as such in ACEs.

Capacity Parameters	Agency		
	NAB ²⁶	FIA ²⁷	ACEs ²⁸
	Monitoring and Evaluation Team is working.	does not exist presently.	
Prosecution	Statutory post of Prosecutor General and Prosecution Division exists in NAB. Robust system of prosecution and representation in courts in place.	Presently, the number of legal officers is inadequate and Law officers are overburdened. Under restructuring plan law wing being revamped.	The prosecution function is weak with few dedicated and well qualified prosecutors available.
Forensic Capacity	A well-resourced Forensic Science Laboratory exists in NAB to support investigation and prosecution.	Forensic facility needs massive revamping and modernization. However, in digital forensics FIA is still the lead agency.	ACEs don't have their independent forensic facilities and rely on other forensic analysis facilities in the provinces.
Use of IT	Use of IT quite prevalent in NAB for maintaining data basis, complaints and case management system, HR and performance evaluation system.	Most of work still being done manually. However, IT being embraced at fast pace by FIA in office management, cases management and HRM.	In the ACE Punjab, an IT based complaint and case management system has been developed but improvements are needed in terms of data management, protection and assessment. Other ACEs lag behind Punjab in this area.
Research and Analysis	The Research & Analysis Unit exists in NAB but few independent research studies conducted.	Dedicated Research & Analysis does not exist presently in FIA. However, under restructuring plan it is being	There is presently no provision for research and analysis in ACEs except for the Punjab, where an R& D section exists under a Director

Capacity Parameters	Agency		
	NAB ²⁶	FIA ²⁷	ACEs ²⁸
		established.	(R&D) but remains poorly equipped and understaffed.
Public outreach	<p>NAB also uses social media, including the website for sharing information about its activities, inquiries, recoveries, and cases.</p> <p>NAB has a strong public outreach system, with a substantial part of NAB's budget earmarked for public outreach under its Prevention, Education and outreach mandate.</p> <p>Character Building Societies (CBS) programs are also there.</p>	<p>FIA has a website which shares some information about FIA's activities, inquiries, recoveries and cases. Use of social media to propagate its outreach activities is limited. There is very little focus on public outreach for prevention and education purposes.</p>	<p>Overall, limited outreach and less emphasis on prevention and awareness.</p> <p>Only Punjab's ACE has its website which contains guidelines and information about complaint handling, enquiry, case registration, trap raids procedures.</p> <p>Other ACEs have just Facebook pages.</p>
Timelines for disposal of enquiries and investigations	<p>NAB provides maximum limit of 10 months- from complaint verification-to-inquiry-to-investigation and finally to a reference in the Accountability Court. Adherence to time limit not in all cases.</p>	<p>FIA has three months limit for finalizing enquiry and 6 months for case proceedings. These limits are extendable multiple times by different authorities. Original time limits are generally not observed.</p>	<p>ACE does not have specific timeline for completion of verification or enquiry of a complaint except for the investigation of registered cases as mandated by the Cr.PC.</p>

Capacity Parameters	Agency		
	NAB ²⁶	FIA ²⁷	ACEs ²⁸
International Cooperation	Enabled by NAO provisions NAB has been cooperating in mutual legal assistance matters with other countries under bilateral MoUs as well as United Nations Convention against Corruption (UNCAC).	FIA, being focal point for Interpol, receives, sends, processes and responds to requests for exchange of criminal information and mutual assistance.	Due to their provincial nature, ACEs have to approach the Federal Government for any mutual legal assistance request to a foreign jurisdiction.
Annual Administration Report	Submits an Annual Report to the President each year which is available on NAB website.	FIA issues an Annual Administration Report which is available on FIA's Website.	Annual reports are not publicly available and lack quality and comprehensive data.

Source: Figures taken from NAB's Annual Report 2019, FIA's Annual Reports and websites of Provincial ACEs. Senior officers of these ACIAs were also interviewed for data and information/status of capacity parameters.

Procedural Framework which governs different aspects of investigation and prosecution functions of ACIAs is summarized below:

- **Cognizance.** Generally, the ACIAs take cognizance on receiving a formal complaint. The complainant can be a private person, a government, or any other entity. They can also take cognizance on media reports, audit reports, court orders etc. They can also act upon source report, or intelligence report either self-generated by the ACIA itself or received from any other agency including the Financial Management Unit. NAO (Section 18) also empowers NAB to take cognizance of matter on its own.³³
- **Processing of Complaints, Enquiries and Investigations.** After the receipt of a complaint by NAB, it is sent to a Complaint Verification Cell to analyse and make recommendations to the Complaint Scrutiny Meeting (CSM). CSM can decide either to take no further action on the complaint, refer it to another (relevant) agency or send it to a designated team of NAB to verify it and prepare a Complaint

Verification Report (CVR) within a period of two months. If the CVR recommends its conversion to inquiry and the Regional Board approves such recommendation it is converted into an inquiry.³⁴ A Combined Investigation Team (CIT)³⁵ then conducts an inquiry.³⁶ In case, the criminality is not established or only irregularity is found then matter is closed or referred for the departmental proceedings.³⁷

However, if sufficient evidence emerges to establish potential criminality, inquiry is converted into investigation. During investigation stage formal statements of accused persons as well as witnesses are recorded. In case accused persons avails the option for Plea Bargain (PB) (under Section 25 (b) of NAO), it is sent to the court for approval. Otherwise, the investigation officer prepares final investigation report and places it before the Regional/Executive Board along with legal opinion for filing of reference or for closure. If the Board approves filing of a reference it is signed by the Chairman or the Regional Director General and filed in the Accountability Court.³⁸

In FIA, when a complaint is received, it is first verified by a Verification Officer who has to only establish if the complaint is not fake and particulars mentioned in complaint are genuine and authentic. During inquiry phase the investigator gathers evidence, interviews the victim and other witnesses. A suspect cannot be arrested at this stage. Inquiry proceedings have to be completed within 90 days which can be extended, in exceptional circumstance and only with the permission of the competent authority, up to a maximum of 2 years. At end of the inquiry, the inquiry officer submits a Confidential Final Report (CFR) to the Assistant or Deputy Director Law who places it before the Zonal Board consisting of senior officers for approval. The Board, after examining CFR may either recommend the registration or closure of enquiry. If the Board decides that further enquiry needs to be undertaken, it will direct the Investigation officer to carry out these enquiries and then submit a Supplementary Confidential Final Report (SCFR). Once further enquiry is completed to the satisfaction of the Committee, a report is submitted to Director of the Zone who is the competent authority for ordering registration of a First Information Report (FIR). The Director reviews the report and can either agree or disagree with the Board's recommendations. The Director then conveys permission to the Deputy Director of the Circle for registration of an F.I.R/case. At this stage the investigation commences, and suspects may be arrested.

ACEs have almost similar pattern on complaints verifications, inquiries and investigations. However, the process of taking action against an officer accused of corruption by ACEs is more cumbersome and time

consuming as permission from senior authorities either from within ACE or outside is required for registration of case as well as arrest of the accused officer. **Tables 2 and 3** list authorities in different ACEs empowered to give permission for case registration and arrest for different categories of accused officers according to their basic pay scales.

Table-2: Authority for Permitting Registration of a Case

BPS of accused Officer	Punjab	Sindh	KPK	Balochistan
Up to BPS-15	Investigation Officer	Deputy Director	Director	Director General
Up to BPS-16	Deputy Director	Director	Director	Director General
BPS-17 to BPS-18	Director	Chairman ACE	Director	Director General
BPS-19 and 20	Director General	Chief Secretary	Chief Secretary	Chief Secretary
BPS 21 and Above	Director General	Chief Minister	Chief Secretary	Chief Minister

Source: Interviews with senior officers of ACEs. Note: Chief Minister has special powers under Section 21 of Rules having overriding effects of any order he may pass.

Table-3: Authority for Permitting Arrests

BPS of Officer	Punjab	Sindh	KPK	Balochistan
Up to BPS-15	No Permission required	Deputy Director	Director	Director General
BPS-16	No permission required	Director	Director	Director General
BPS-17	No permission required	Chairman	Chief Secretary	Director General
BPS-18	Additional Chief Secretary	Chairman	Chief Secretary	Director General ³⁹
BPS-19	Additional Chief Secretary	Chief Secretary	Chief Secretary	Chief Secretary ⁴⁰
BPS- 20 ⁴¹	Chief Secretary	Chief Secretary	Chief Secretary	Chief Secretary
BPS 21 and above	Chief Secretary	Chief Minister	Chief Secretary	Chief Minister

Source: Interviews with senior officers of ACEs. Note: Chief Minister has special powers under Section 21 of Rules having overriding effects of any order he may pass.

Permission is also required from Director (for an officer in BPS-18 and below) and from Chief Secretary (for an officer in BPS-19 and above) for the

submission of final charge sheet before the concerned court after the completion of investigation. Moreover, if an inquiry or investigation is not completed within the stipulated time of one or two months respectively, the inquiry or investigation officer has to again seek permission of the Director for extension of time (if an accused officer is in BPS-18 or below) or the Chief Secretary (if the officer is in BPS-19 and above). Though in planned 'trap cases', no such permission is required, however, relevant senior officer in the hierarchy has still to be informed.

- **Summoning of Accused, Witnesses and Record.** FIA and ACEs under Section 160 of CrPC and NAB under section 19 of NAO can summon any accused, witness or any other person associated with enquiry for the purpose of giving evidence or producing documents relevant to the investigation.⁴² Under section 19 of NAO, NAB can also call for record from any financial institution,⁴³ while, FIA and ACEs have to first get the permission from the competent court under section 94 of CrPC for this purpose.⁴⁴ Additionally, section 27 of NAO empowers the Chairman NAB to get assistance for collection of evidence, from the federal government, provincial Governments, local authorities, banks and financial institutions.
- **Search and Seizure.** In cases where the ACIAs have reasons to believe that certain documents or records, relating to the commission of an offence under investigation, are in the possession of the company and/or its employees and that those documents or records are not forthcoming. They may obtain a search warrant from the relevant court under section 96 CrPC to seize the required documents from a particular place with or without any force or assistance. However, in cases where any document or record cannot be obtained without undue delay, sections 165 & 166 CrPC permit the officer conducting the investigation to, after fulfilling codal formalities, enter into and search any building or place and seize any such documents or records which are found therein.⁴⁵
- **Freezing, Seizing and Confiscation.** FIA and ACEs have general powers of freezing, seizing and confiscation under sections 94, 96, 102, 103, 165, 166, 516A, 517 and 550 of CrPC. In cases of money laundering FIA and NAB have powers of freezing and attaching a property under section 6 (6), 8, 9, 14 and 30 of Anti-Money Laundering Act (AMLA), 2010. In addition, section 5 (5) of FIA Act 1975, authorizes its officers of the rank of Sub-Inspector and above to issue orders in writing to the possessor of a property required in an investigation or enquiry, not to remove, transfer or dispose of that property without the permission of that officer.

NAO (sections 5(i) 10, 12 and 23) gives wide powers to NAB to freeze, seize and confiscate assets in relation to the investigation of corruption offences including the 'instrumentalities or assets that have been converted or intermingled with other property to be seized.'

NAB can freeze assets, which are subject of inquiry/investigation, for 15 days. Violation of freezing order can entail seven years imprisonment under NAO.⁴⁶ The NAB Chairman or his authorized officers have exclusive powers to seize and access bank records without a court order (NAO Sections 20 and 27). Moreover, NAO (section 12) also provides for non-conviction-based (NCB) confiscation, which is peculiar to NAB with FIA and ACEs having no such power under relevant laws.

- **Arrest.** In relation to the powers of arrest, if a public servant has to be arrested under PCA, 1947, the ACEs have to get permission of concerned authority under relevant rules. However, under NAO (section 24) the Chairman NAB may direct the arrest of the accused, if not already arrested.
- **Remand.** Under ordinary laws, courts allow FIA and ACEs up to fifteen days to detain an accused in their custody, while under NAO such custody may be given for 90 days for the purpose of an inquiry and investigation.
- **Bail.** If an accused is charged and arrested by FIA or ACEs, he may get pre-arrest or post-arrest bail from the anti-corruption courts. The procedure for bail is governed under section 496, and 497(2) of CrPC. However, NAO is completely silent about bail, whether pre-arrest or post arrest. Since no right to bail is granted under the Ordinance, therefore, the accused has to invoke the constitutional jurisdiction of High Courts under article 199 of the Constitution of the Islamic Republic of Pakistan 1973.⁴⁷ As only the special courts of NAB are legally mandated for conducting trials, therefore, the High Courts take up the bail pleas.
- **Trial.** To discourage usual delaying tactics employed by accused persons through their lawyers during trial, NAO (Section 31) makes an act which may deliberately hamper enquiry, investigation, or trial punishable up to 10 years.
- **Witness Protection.** Witnesses' statements, even in white collar crimes, play a vital role in successfully prosecuting persons facing trial under corruption charges. However, traditional criminal laws, under which FIA and ACEs largely carry out their investigation and prosecution functions, do not provide any mechanism for witness protection. Resultantly, witnesses remain exposed to threats and

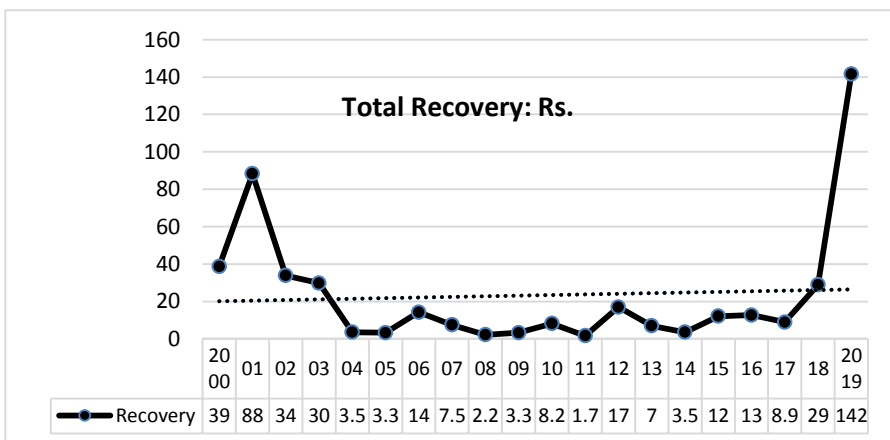
intimidations. NAO (Section 31E), therefore, empowers the Chairman NAB and the courts to take necessary measures for the safety, security and protection of witnesses and their families.

- **Pardon.** Under existing laws only NAO, Sections 25 & 26 empower Chairman NAB grant a full or conditional pardon in exchange for information and cooperation as well as return of the assets or gains acquired in return for a full discharge of criminal liability.
- **International Cooperation.** Under general criminal law there is limited scope for international cooperation but NAO (Section 21) empowers the Chairman NAB to make a request to foreign state for collecting evidence and seeking information relating to an enquiry or investigation and freezing of assets.

Performance of Investigative Anti-Corruption Agencies

NAB, being the premier investigation agency for fighting corruption recovered Rs. 466 billion during 2000-2019 from multiple sources/modes. It merits mentioning that peak recovery has been noted in 2019 at 142 billion followed by the years 2001 and 2002 when Rs. 88 billion and Rs. 34 billion were brought to the national kitty respectively. It is added that out of this recovery, Rs. 60 billion loans were restructured/rescheduled during 2000-03, with peak at Rs. 34 billion in 2000. Bank loans were more prominent issue when NAB was created but thereafter prudential regulations were strictly enforced and as a result infected loans became less prominent issue. It is evident from Figure- 1 that recoveries were noted highest when NAB started its functioning in early 2000s or judicial activism was on rise or anti-corruption drive has been strong.

Figure-1: NAB, Recoveries during 2000-2019 (in billion Rs.)

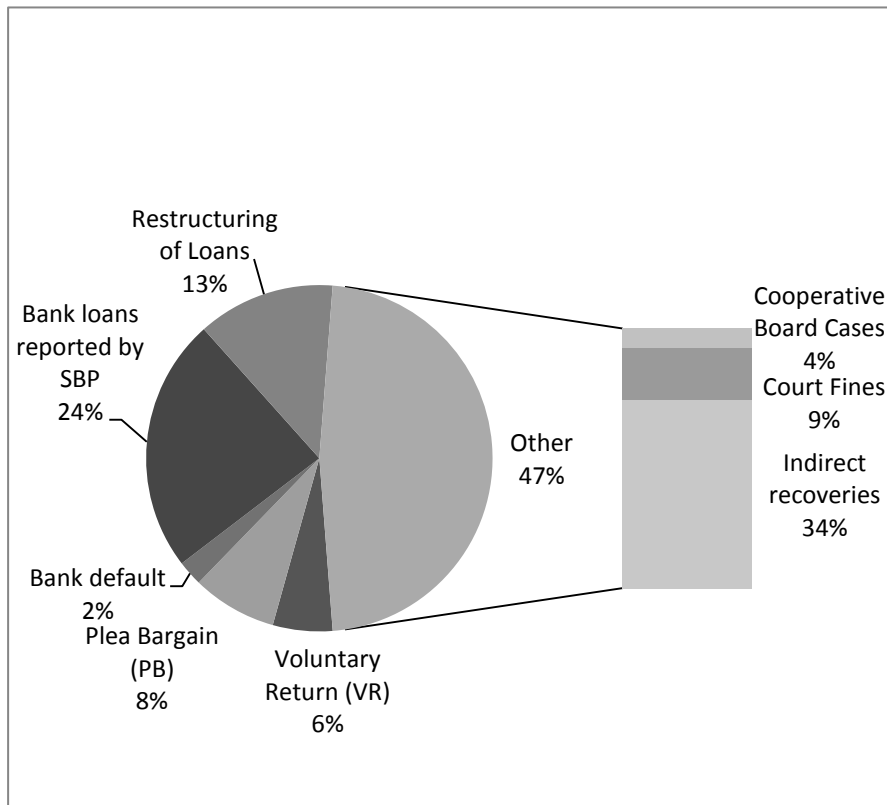


Source: Worked out from the NAB Annual Report, 2019

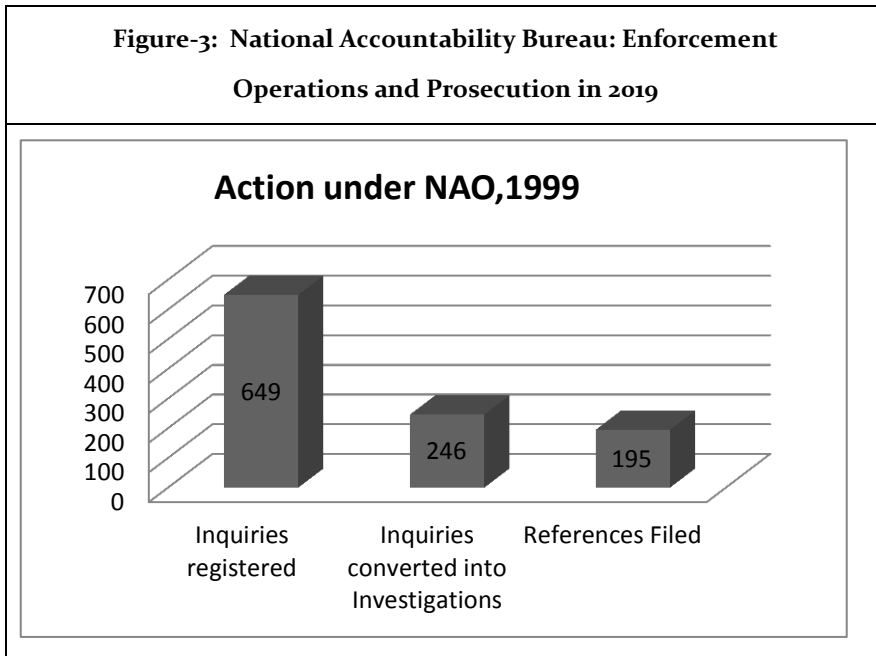
Disaggregated data transpires that different modes of recovery were pronounced in different sub-periods. **Figure 2** reveals that about one-thirds of recoveries (34%) come from NAB's indirect sources. The other major source of recovery is the bank loans reported by SBP (24%), restructuring of loans (13 %) and bank default (2%) cumulatively making 39 per cent. Voluntary Return (6%), and Plea bargain (8%) collectively make up 14 % of the recovery. Court fines also form sizeable amount of recovery at 9% of total recoveries. Voluntary Return of Rs. 26 billion were made mainly in 2010, 2016 and 2012 at Rs. 5.9 billion, Rs. 4.7 billion and Rs. 3.3 billion respectively.

Likewise, Plea bargain was witnessed highest in 2016 at 5.7 billion. Combined amount from VR and PB has been noted Rs. 63 billion. In 2016, peak amount was recovered at Rs. 10.4 billion. Bank loan defaults were reported only three years from 2001 to 2003 at Rs. 111 billion, highest in 2001 at Rs. 62 billion.

Figure - 2: Break-up of NAB Recoveries since 2000-2019



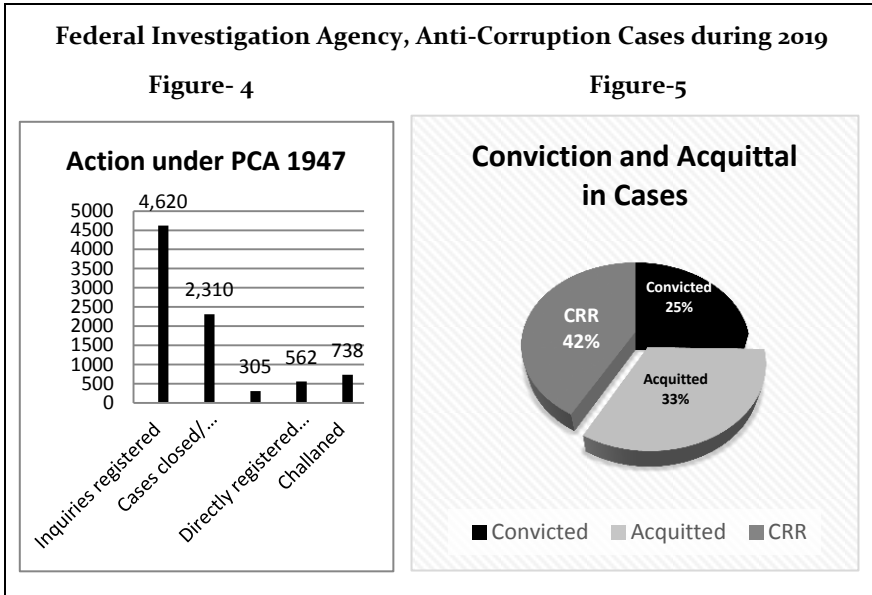
Source: Worked out from the NAB Annual Report, 2019



Source: NAB Annual Report 2019; **Note:** Initial steps such as complaints and complaints verifications not reported.

In Punjab Cooperative Board for Liquidation (PCBL) case, Rs. 11 billion was recovered out of total of Rs. 16 billion during 2 decades, 2000-2019. Court fines existed in almost all year, sizeable amount in 2012 at Rs. 11 billion followed by Rs. 4.3 billion in 2001. Out of Rs. 161 billion indirect recoveries made during 2000-2019, Rs. 121 billion was just one year i.e. 2019 while 21 billion in 2018, indicating that under this head strict action was taken in last two year and about 88 per cent under this head was recovered during these two years. NAB has recovered Rs. 179 billion in 2017-2019, which accounts about 39% of total recovery of Rs. 466 billion in two decades, 2000-2019, manifesting that the anti-corruption drive and political will is an important factor.

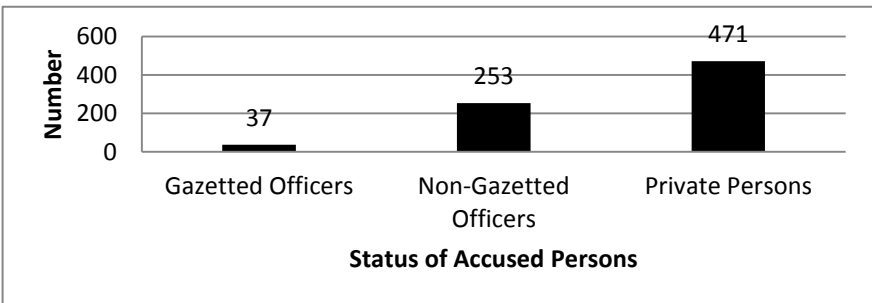
NAB in 2019 converted 246 inquiries out of 649 into investigations, a 38% of the inquiries registered. Similarly, out of 246 registered investigations 195 references were filed implying that 79% of the investigations were made references (Figure-3). Data further suggests that over 68% of the cases were convicted while about 32% were acquitted.



Source: Anti-Corruption and Economic Crime Wings, FIA, July 2020; Note: These include all cases registered in anti-corruption, SBP, commercial crimes, commercial banking circle, except relating to offenses registered under FERA, 1947. Cases authorized during the year 2019 have been reported and brought forward (B/F) cases have not been mentioned.

Likewise, FIA during 2019 registered 867 cases with 305 converted from enquiries and rest 562 directly registered. Overall 19% of the registered inquiries were converted into cases. Eighty five per cent of 867 registered cases (738) were challaned during the year. During this period, of all decided cases by courts 25% were convicted and 33% cases were acquitted. A relatively higher percentage i.e. 42% of the cases were consigned to record room with no further action.

Figure-6: FIA: Status of Accused Persons Involved in Anti-Corruption Cases, 2019



Source: FIA's Anti-Corruption Wing.

Figure-6 reveals that accused persons involved in anti-corruption cases registered by FIA are predominantly from private sector, 471 out of total of 761, over 62%, while 38% against the government servants mainly non-gazetted officers (BS: 1-16), 253 out of 761 making 33% while 37 accused are gazetted officers (BS: 17-22), 5 % of the total accused. Evidently, major anti-corruption accused are either from private sector or lower grade officers/officials.

FIA recovered Rs. 19.6 billion during 2015-2019 with an average of Rs. 4 billion per annum⁴⁸, notwithstanding its limited anti-corruption mandate as compared to NAB, FIA also led the Joint Investigation Team (JIT) constituted on the orders of the Supreme Court of Pakistan in 2018. On the basis of report of the JIT, NAB filed dozens of references and subsequently recovered sizeable amount through plea bargains. The ACIAs, led by NAB, cumulatively, recovered Rs. 251 billion⁴⁹ in 2019, the highest recovery in a single year. It is instructive to report that as a result of ACIAs' efforts over last two decades, nevertheless inconsistent at times; Pakistan's score of Corruption Perception Index (CPI)⁵⁰ has improved from 23 in 2000 to 32 in 2019, up by 39%. Pakistan's ranking in the CPI has also improved, however, not fully commensurate with its score.

Challenges

ACIAs face following strategic and operational challenges in institutional, legislative, technical, human resources, financial and technological spheres:

- **Operational Autonomy.** The bureaucratic checks on initiating an inquiry, registration of a case and subsequent action against senior public servants, significantly curtail the operational autonomy of ACEs⁵¹ and their mandated role. The undue bureaucratic influence also impedes the effectiveness of any possible action against corrupt elements in ACEs and FIA. Interference with due process and discriminatory practices are against principles of natural justice and damage the credibility of these institutions. To ensure effective accountability, it is imperative to adapt a top-down approach.
- **Institutional Framework.** With most of the officers serving in ACEs not being have serious implications. The person facing an investigation may become boss of the Investigating Officer (IO) in the future. In the absence of stringent ethical standards and rules precluding subordination of an ACE to an officer s/he investigates, it is hard to ensure transparency and effective accountability. The fear of reprisal and retaliation contributes to curbing their initiative and drive.
- **Legal Framework.** The existing institutional and legal frameworks of FIA and ACEs do not fully cater to the requirements of anti-corruption operations. Absence of strong, cohesive and empowering legal framework akin to NAO, diminishes operational effectiveness of these ACIAs in search

and seizures, arrest and custody, acquisition of records and production of witnesses, bail and plea bargain.

- **Resource Adequacy.** NAB and FIA have faced tremendous budgetary constraints in past. The situation has slightly improved for both these ACIAs recently. But the ACEs continue to encounter this issue. Inadequate budgetary allocation limits their ability and also culminates into increased operational challenges for them. ACIAs, without the required financial resources cannot undertake complex and multi-jurisdictional investigations. Additionally, because of the dearth of resources they are unable to prevent malpractices within their ranks.
- **Accountability.** A robust internal mechanism is must for ACIAs especially to prevent corruption within anti-corruption agencies. The unions among provincial ACEs⁵² further strain the already weak institutional framework of ACEs and hamper anti-corruption operations.
- **Technical Capacities.** Generally, the investigation into corruption and assets beyond means cases is complex; entailing analysis of dozens of bank accounts, assets, properties, money trail and linking them to proceeds of crime. This requires cutting edge financial forensics, technical capacity and mastery of criminal law and procedures. ACEs, generally lack professional skill-set essential for conducting and managing complex investigations. Besides, their capacity to identify financial flow, IT skills including data and information analysis, report writing, knowledge of anti-corruption laws, rules, procedures and best practices are short of desired level.
- **Data Collection and Processing.** FIA and ACEs have restricted access to bank records, registration authorities, and mobile companies among others. This impacts their performance and ability. Resultantly, they often struggle to get such data to prepare strong cases.
- **Use of Technology.** Leveraging technology to improve efficiency and efficacy of anti-corruption operations is very important. But the lack of advanced level knowledge of technology and modern devices limit the capacity of IOs. Most of the documentation, storage and retrieval of data are done manually. Similarly, use of IT based tools in data analysis and tracking money trail by IO is limited.
- **Forensic Capacity.** Forensic evidence is critical in substantiating inferences from investigation and analysis. Forensic evidence, where collected properly, is irrefutable and accepted by the judiciary. It vindicates claim of the prosecution. But the use of digital forensic is mainly confined to cybercrimes.
- **Ineffective Prosecution.** Effective prosecution of white-collar crime cases remain a challenge despite some positive headways in this regard including admissibility of electronic evidence as enunciated in the Electronic Transaction Ordinance 2002 and evidence collected through

Mutual Legal Assistance under NAB Ordinance. A number of other factors also have serious bearing on a criminal trial. These include; the standards of evidence to be the same as applicable in cases registered under the Pakistan Penal Code, top notch defence lawyers as opposed to overburdened prosecutors, bar-pressure on courts, favourable inclination towards defence, appearance and protection of witnesses.

Conclusion and Recommendations

Combating corruption has been a top public agenda priority of many governments. Five governments have been dismissed mainly on corruption charges in past three decades. Ineffectiveness of existing anti-corruption laws and institutions led to promulgation of National Accountability Ordinance - a very comprehensive and strong law in 1999. Created under NAO, NAB which enjoys operational autonomy, unprecedented powers relating to summons, arrest, remand, freezing of assets, plea bargains, pardons and international cooperation has a mixed performance record. Except during early three years of its creation and last two years it appears to have been affected by external political environment tainted by charges of corruption. FIA and ACEs which have remained under resourced, limited legal framework lacked operational autonomy and institutional independence; appear to be even less effective in their anti-corruption mandate. Performance of Anti-corruption investigation agencies has, therefore, been short of expectation and desirability. It is gratifying that Pakistan's score in Corruption Perception Index (CPI) has gradually improved from 23 in 2000 to 32 in 2019, up by 39%. To bridge the gaps in the existing system following measures are needed for institutional strengthening, enhancing capacities of personnel with technological solutions, augmenting resources and improving inter-ACIAs cooperation:

- Existence of political will is the most critical pre-requisite for optimum performance of ACIAs. Drawing on from Pakistan's own experience and international best practices it is important to build apolitical consensus to ensure sustained and bipartisan accountability.
- Like NAB, FIA and ACEs need to be accorded legally covered operational autonomy along with adequate provision of financial resources for institutional strengthening.
- Jurisdictional overlap especially between NAB and FIA be elucidated and minimized through well-defined parameters. NAB can continue to focus on public office holders, big businesses and mega public frauds while FIA can exclusively focus on cases of the federal government employees and economic crimes.
- Adequate and sustained provision of financial resources to anti-corruption investigation agencies be ensured to incentivize better

performance, modernize processes, improve infrastructure and build professional capacity.

- Institutional capacity enhancement measures be undertaken to impart competency-based training for investigators and prosecutors, promote IT based processes such as, Complaints and Case Management Systems, establish electronic databases, and develop digital forensics. Inter-agency coordination among ACAs will improve the professional and working relationship, liaison and mutual learning opportunities. Therefore, appropriate resources both human and financial be assigned to improve the knowledge base of IOs, skill-set in conducting efficient investigations that would eventually contribute to increased conviction rate, ensure due process of law and create deterrence among offenders.
- Internal accountability mechanisms within NAB, FIA and ACEs be improved by establishing and strengthening vigilance wings.
- Effective international cooperation mechanisms, enabled by recently passed Mutual Legal Assistance Act by the Parliament, be put in place to ensure lawful action against criminals and crime proceeds located in foreign jurisdictions.
- Witness protection law be enacted to complement the existing provisions in NAO and Electronic Transaction Ordinance (ETO), 2002.
- The role of Anti-corruption investigation agencies can be substantially complemented through undertaking following measures:
 - Enhancing the role and efficacy of internal accountability mechanisms as well as that of audit departments, regulatory bodies, parliamentary committee, federal and provincial Ombudsmen and Inspection Commissions. Strengthening mechanisms for sharing reports of such bodies with Anti-corruption Investigation Agencies;
 - Interconnecting three-tiered accountability structure namely, Internal Mechanism existing in every government department as first tier, the regulatory and oversight bodies as the second tier, and the Provincial ACEs, FIA and NAB as the third- tier;
 - Reducing 'need-based corruption' through improving salary structure of public servants rationalizing social benefits and incentivizing good performance;
 - Curtailing 'greed-based corruption', through promoting deregulation, transparency, whistle blowing, and strengthening oversight/regulatory mechanisms;
 - Encouraging collaboration and stronger partnerships with academia, civil society and media through sustained engagement, dialogue and advocacy at both national and regional levels.

Endnotes

- ¹ Štefan Šumah, "Corruption, Causes and Consequences" in *Trade and Global Market*, Vito Bobek, Intech Open, February 2018, <https://www.intechopen.com/books/trade-and-global-market/corruption-causes-and-consequences> (accessed 5 June 2020).
- ² Cooray, Arusha and Friedrich Schneider, "How does corruption affect public debt? An empirical analysis", *ECONSTOR*, Working Paper, No. 1322, Dec. 2013, <https://www.econstor.eu/bitstream/10419/97435/1/773137955.pdf> (accessed 22 June 2020).
- ³ Paolo Mauro, "Why Worry about Corruption", *International Monetary Fund*, Economic Issue 6, February, 1997, <https://www.imf.org/external/pubs/ft/issues6/> (accessed 17 May, 2020).
- ⁴ Shahid Hamid, "Anti-Corruption Mechanisms and Institutions to Address the Problem of Corruption in Pakistan", Pakistan Institute of Legislative Development and Transparency (PILDAT), 2015
- ⁵ Feisal Khan, "Combating corruption in Pakistan", *Asian Education and Development Studies*, 2016, Vol. 5 No. 2, pp. 195-210. <https://doi.org/10.1108/AEDS-01-2016-0006>
- ⁶ Global Corruption Index (GCI) provides a comprehensive overview of the state of corruption in 199 countries and territories around the world based on 28 variables. Country results are presented on a 0-100 scale, where 0 corresponds to the lowest risk and 100 corresponds to the highest risk.
- ⁷ Corruption Perception Index is an annual survey of business executives and experts' perception about corruption in a particular country. CPI is conducted by the Transparency International-an international civil society organisation fighting against corruption.
- ⁸ Khalid Maqbool, "Strategy for Combating Corruption in Pakistan", in the Seoul Conference on Combating Corruption in the Asia-Pacific Region, December 2000, Seoul, Republic of Korea (accessed 19 March, 2020).
- ⁹ Friedrich Schneider and Leandro Medina, *Shadow Economies around the World: What Did We Learn over the Last 20 Years*, IMF Working Papers (2018), <https://www.imf.org/~media/Files/Publications/WP/2018/wp1817> (accessed 18 March 2020).
- ¹⁰ Alexander Hamilton J., Craig Hammer, Can we measure the power of the grabbing hand? : A comparative analysis of different indicators of corruption, *World Bank Policy Research Working Paper*, no. WPS 8299 Washington, D.C.
- ¹¹ Transparency International Pakistan, 2010, <https://www.transparency.org/en/countries/pakistan> (accessed 18 March, 2020).
- ¹² These include Corruption Perceptions Index (CPI), the Control of Corruption Governance Metrics (CC), the Government Effectiveness Governance Metric (GE), the Global Corruption Barometer, the UN Survey of Crime Trends.
- ¹³ While the accuracy, consistency, validity and reliability of these tools remains contested but there is a growing consensus amongst scholars that they remain the closest approximation of actual incidence in a country.
- ¹⁴ Transparency International Report 2019, http://www.transparency.org.pk/survey/cpi19/cpi2019_map_ranking.pdf (accessed 25 March, 2020).
- ¹⁵ Quah, Jon S.T., "Combating Asian Corruption: Enhancing the Effectiveness of Anti-Corruption Agencies," *Maryland Series in Contemporary Asian Studies*: Vol. 2017: No. 2, <https://digitalcommons.law.umaryland.edu/mscas/vol2017/iss2/1>.
- ¹⁶ Ali, Zulfiqar, "Anti-corruption Institutions and Governmental Change in Pakistan", *South Asia Multi-Disciplinary Academic Journal*, Free-standing articles, April 2018, <https://journals.openedition.org/samaj/4499>.

- ¹⁷ United Nations Development Program, *Practitioners' Guide: Capacity Assessment of Anti-Assessment Agencies*, UNDP 2011, http://www.undp.org/content/dam/undp/library/Democratic%20Governance/IP/Practitioners_guideCapacity%20Assessment%20of%20ACAs.pdf.
- ¹⁸ The definition of 'public servant' given in the PPC is very wide and includes an employee of any corporation or other body or organization set up controlled or administered by or under the authority of the Federal Government.
- ¹⁹ These sections deal with taking of illegal gratification by public servants, expressing personal influence, unlawful engaging in trade and unlawful buying or bidding for property.
- ²⁰ Called North West Frontier Province or NWFP at that time.
- ²¹ Such an order is subject to any order made by the Court having jurisdiction in the matter.
- ²² With reference to admissibility of evidence collected through modern devices.
- ²³ He is appointed by the Federal Government and assisted by Additional Director Generals Economic Crime Wing, Anti-Corruption Wing, Immigration Wing, Cyber Crime Wing, Legal Wing, Headquarters and North and South Regions. Directors Counter Terrorism Wing, Administration, Intellectual Property Rights, Integrated Border Management System, National Crime Bureau (NCB-Interpol), Director Training and Director Technical also directly report to the Director General on their respective functions. The operational work is supervised by two Additional Director Generals i.e. ADG (North) & ADG (South). They are assisted by Directors (North) and (South) respectively.
- ²⁴ Some circles, especially in interior regions, called composite circles such offenses are dealt in the same circle.
- ²⁵ In the Punjab, Director General is assisted by a Deputy Director General.
- ²⁶ Figures taken from NAB Annual Report 2019.
- ²⁷ Figures compiled from FIA's Annual Reports and Offices of Director General and Additional Director Generals.
- ²⁸ Websites of provincial ACEs and Head offices. Current working strength of all four ACEs.
- ²⁹ An increase of 100% as compared to Rs. 2.5 billion in FY 2017-18, based on reported figures in 2019.
- ³⁰ An increase of 63 % as compared to Rs. 3 billion in FY 2018-19.
- ³¹ Total posts 2441 to 4330 posts in 2018.
- ³² Current working strength of all four ACEs.
- ³³ Upon receipt of a complaint, the NAB, FIA or ACE may carry out a preliminary enquiry into the allegations contained in the complaint. If the preliminary enquiry brings forth sufficient evidence to establish commission of a criminal act on part of the accused persons, a FIR is registered by FIA and ACE while NAB prepares a reference
- ³⁴ The inquiry conducted by NAB is different from the other law enforcement ACIAs.
- ³⁵ The team is constituted by the Chairman NAB or an officer designated by him and includes two Investigation Officers (IO), Case Officer (CO), Legal Consultant (LC) and a Banking Expert (BE).
- ³⁶ In certain cases, a Technical or Revenue Expert can also be attached, if required.
- ³⁷ To manage its workload and maintain quality of investigations, priority is accorded to cases referred by the superior courts, Prime Minister & President Secretariats, government departments and Public Accounts Committees, including the cases of former/sitting parliamentarians and all other 'Public Office Holders' where amount involved is Rs. 100 million or above. Cases involving NAB officers, interest of members of public at large and against public servants, whether serving or retired, bankers, businessmen and contractors (where amount involved is more than Rs. 100 million) are also assigned priority. Likewise, cases of wilful loan default, loss to financial institutions as referred by State Bank of Pakistan (SBP), matters covered under section 31 (a) of NAO, 1999, Suspicious Transaction Reports (STRs)/Currency Transaction Reports (CTRs) and money laundering reports

referred by Financial Monitoring Unit (FMU) are taken up for investigation. Any other case falling within the purview of NAB, regardless of the amount involved and status of accused person can be taken up with prior approval of Chairman NAB.

³⁸ At this stage the option of PB is still available with the accused. However, it is important to note that PB tantamount to conviction of accused. After the due process of law in the Accountability Court, either the accused is convicted or acquitted.

³⁹ In Balochistan the officers in BPS 18/19 do not include sitting DCs, SPs & DPO.

⁴⁰ DCs, SPs, DPOs, Commissioners, Secretaries, Heads of Attached Department.

⁴¹ These may include Secretaries to the Government, Heads of Attached Departments, Commissioners, District Coordination Officers.

⁴² In money laundering cases Sect. 7(5) of AMLA, empowers NAB and FIA to get banks related data.

⁴³ Non-compliance with such a directive is punishable with 5 years' imprisonment.

⁴⁴ In case of non-compliance court can take cognizance under Section 175 PPC.

⁴⁵ NAB can also carryout electronic surveillance of a suspect with the permission of High Court.

⁴⁶ FIA can issue seizure notice under section 5 (5) of FIA Act during an investigation only. Punishment for violation of such an order is only one year.

⁴⁷ There has recently an order passed by the Honourable Supreme Court of Pakistan directing the Federal Government to amend the NAB laws in terms of delegating the powers for the granting bail to the NAB trial courts. However, the proposed amendment has not been materialized yet.

⁴⁸ Worked out from FIA's Annual Report, 2015 to 2019.

⁴⁹ Figures taken from NAB Annual Report 2019, FIA's Annual Reports and websites of provincial ACEs.

⁵⁰ Score and ranking taken from various Reports of the Corruption Perception Index.

⁵¹ Though the Supreme Court of Pakistan in 2018 suspended the operation of ACE Punjab Rules 2014 relating to mandatory permission of different authorities before registration of an inquiry or case against a senior public servant and for his arrest but Rules have not been formally amended to reflect this order.

⁵² These unions are a permanent source of inefficiencies in the form of strikes and blackmailing of ACE officers. The office bearers have become so daring that they openly stage protests against their own supervisory officers and deliver derogatory speeches, who do not fulfil their demands.