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Abstract

Pakistan's development is greatly endangered by the corruption problem. This issue necessitates the administration of justice. The primary cause of corruption is institutional dysfunction, which is negatively impacting our nation's reputation abroad. The goal of the current study, "Solution of Corruptions in Pakistan through Legal Aspects," is to categorize the various ways that corruption, a wicked practice, has crept into Pakistan's political system. In addition, the study aims to offer recommendations for the practical elimination of corruption as a societal ill via the Pakistani legal system.

Keywords: Corruption, Governance, Society, Pakistan

1. Introduction

The Corruption is a complex and multifaceted phenomenon with multiple causes and effects, as it takes on various forms and functions in different contexts. The phenomenon of corruption ranges from the single act of a payment contradicted by law to an endemic malfunction of a political and economic system. The problem of corruption has been seen either as a structural problem of politics or economics, or as a cultural and individual moral problem. This problem has its roots in every system of the state organizations. Ranging from the public administration to educational and governance institutions. The causes of corruption are numerous and countless. Whereas, its consequences are also multiple. It affects the working and proper functioning of the institutions. Judicial institutions are the backbone of every state and are forming the third pillar of the state. Judicial institution serves the public at the grass root level and addresses the problems of the people with care and prudent way. Corruption in these institutions is like a denial of the justice. This hampers the proper disposal of the justice in the societies. When every organization becomes corrupt in the results anarchy gets its generation in the societies. Various studies have been carried out to identify the corruption and its different manners in the Pakistani society. In order to address the issue of corruption, this study is also a little bit effort to know the causes and consequence of corruption in country.

Most of the studies referred in the relation of this study have discussed the need for further study about the process of corruption having occurrence in the Pakistani society. Asgar & Rafiq (2014) has discussed essentiality of the more researches to be conducted on the topic of corruption. Especially, these may be related to the problem of corruption in the government institutions. Because this presence of corruption in government institutions have adverse effects on the society. Besides to this study also has given stress on the conducting the research seminars and workshops for the eradication of the corruption in the government institutions. Owais (2011) has discovered numerous probabilities for the further study on the topic of corruption. Further studies are needed to understand the phenomenon of corruption in the governance system and these studies must have focus on the root causes of the corruption in the governance system of Pakistan. Last but not least if we want to overcome the problem of corruption in the governance system we must have to put our efforts in the academic way. This is the responsibility of the academia and the stakeholders to come forward and put a plan for the eradication of the problem of corruption in the governance system of Pakistan. Here the role of judiciary is also important and these bodies are also responsible to put their efforts in order to purge our system from the evil of corruption

This study is also aims to identify the means and ways of solution of the problem of Corruption through legal way and it is totally oriented to know the remedial measures of the corruption in the legal way. This research study will be helpful to the Policy makers, the administrators of judicial institutions, legislatures, managers of legal firm and legal aid programs. These stakeholders will be able to know the reasons behind the corruption in the government institutions. They will be able to empower the judicial structure to provide free and fair justice in the society. The study will also contribute to decreasing the corruption in the government institutions. The study also highlights the challenges and problems faced by judicial institutions and government at large in reducing the corruption in the different institutions of the Pakistan. This will in the consequences will be assistance for the policy makers to frame such policies which may alleviate the problem of corruption. Gao & Ahmed (2015) in their study which have laid great importance on the resolution of corruption in Pakistan and they are of view that "the problem of corruption in Pakistan needs to be addressed on urgent bases. Different researchers and policy makers have proposed different solutions to mitigate the gap between the academia and the policy makers in order to resolve the issue of the corruption. Whereas, the current efforts which has been taken to eliminate the problem of corruption has limitations in terms of time, structural establishment and cost effectiveness. In this perspectives for any short-term solution; least financial resources and time is an essential requirement". Therefore, keeping in view the above-mentioned resolve of the researchers it could be hoped that this research study will also contribute little bit to the resolution of the problem of corruption in Pakistan and especially in the institutions of country. The following objectives were addressed during the study; To, explore the steps taken by the different governments of Pakistan to eradicate the corruption through the judicial system of Pakistan, To, evaluate the outcomes of different judicial policies for the eradication of corruption.

2. Research Methodology

The research process involves defining the problem, reviving previous research, on the topic, developing one or more hypothesis, determining the research design, defining the sample and collecting data, analyzing and interpreting the data and finally preparing the research report. (Tischler. 1996) Webster's Collegiate Dictionary (1996) defines Research as "studious inquiry or examination;

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esp: investigation or experimentation aimed at the discovery and interpretation of facts, revision of accepted theories or laws in the light of new facts, or practical application of such new or revised theories or laws.” Methodology refers to “A system of principles and method of organizing and constructing theoretical and practical activity”. (Sharma, 1992: 516) has defined methodology as “the techniques and strategies employed within a discipline to manipulate data and acquire knowledge”. It is compulsory for researcher to define a research design before starting work on any research topic that is the backbone of research and provides guidelines for the collection of relevant evidence by researcher for his study. Research design consists of type of study, universe of study, sampling procedure, units of study, method of data collection, pre-testing coding tabulation, presentation of data, and statistical analysis of data and so on.

2.1. Type of study

Since the focus of this research is to unearth the addressing the corruption and its solution in Pakistan, through a qualitative way and observation and skill of study, therefore the present study is exploratory research that has been initiated with secondary data being collected through books, journals, magazines and mostly internet. Hence, the methodological approach will be both Qualitative and Descriptive. This study will be a social and in-depth, because it is an attempt to understand the perceptions and perspectives of the corruption in the legal system as well as stakeholders in the legal system. Qualitative enquiry focuses on describing, understanding, exploring, and interpreting various manners of corruption, in the end to find out solution methods. Thematic method will be used to collect data about the corruption in the legal system. Suitable questionnaire will be developed to interview the judicial officers, police and other administrative officials and stakeholders. Efforts will be made to reach the appropriate persons to find the causes of the presence of corruption in the judicial system of Pakistan. This study is descriptive and exploratory type of study that serves a typical type of social research. (Earl Babbie 2004). In his book “The Practice of Social Research”, he describes that “Social research can serve many purposes. Three of the most common and useful purposes are exploration, description, and explanation. Although a given study can have more than one of these purposes and most do examining them separately it is useful because each has different implications for other aspects of research design.” Exploration: Much of social research is conducted to explore a topic, that is, to start to familiarize a researcher with that topic. This approach typically occurs when a researcher examines a new interest or when the subject of study itself is relatively new (Ullah & Ali, 2024) Description as a major purpose of many social scientific studies describes situations and events. The researcher first observes and then describes what was observed. Because scientific observation is careful and deliberate, scientific descriptions are typically more accurate and precise than are casual ones. (Earl Babbie 2004). Explanation is third general purpose of social scientific research. It explains things. Descriptive studies answer questions of what, where, when, and how; explanatory questions, why. (Earl Babbie 2004) In view of above basic purposes of research this study serves all required demands of research.

2.2. Universe of study

Since the topic of the present study is “Name of the topic” so it is very much clear that the Universe will be the books, magazines, journals, articles and internet material related with the topic of discussion

2.3. Sample

Purposive sampling procedure was used for selection of the of journals, magazines, books and internet resources. Whatever the material felt appropriate by the researcher. He inserted it as the material of this write up and after this it was perceived within own language of the researcher. So, there is no room for the plagiarism of the material.

2.4. Sampling Size

The sampling technique of this qualitative study is purposive. Whereas, the sampling size is 40. Whereby different journals, books were selected for the information purpose of the study.

2.5. Method of data collection

In the present study, a schedule of the topics was developed with the enough probes and explanations of the problem under study and the same was used for data collection. It was considered as priority method for data collection in view of following reasons.

- Matter was rare in the literature review.
- By this method it was easier to explain the meaning and remove misunderstandings which might have developed.
- The topics were discussed with the colleagues and senior advocates.
- It gives opportunity to observe various behaviors related with the corruption in the society.
- When the order of the questions is significant, the secondary data becomes influential in this regard.

2.6. Pretesting

It is better for the reliable study that we must before under taking the study should check the topics schedule was checked. So in this regard researcher also conducted the reliability test of the sub headings and main headings by discussing the same with the seniors and researchers in Quetta as well as in Karachi. After this it was used for the final study.

2.7. Data Collection Process

Researcher selected the research journals, books and other related material located on the internet. Than he sorted out these things individually. He marked the important notes. Prepared the footnotes of the references. Besides to this for the collection of the data researchers also visited the libraries located in Quetta and Karachi. Such as Liquate National Library situated in Karachi.

2.8. Coding

After the data collection each interview and Questionnaire was allotted a symbol which is known as code number. B. Bushan has defined it as “the process of translating raw research data in to a form which can be used in calculation by classifying data into categories and assigning each category a numerical value” (Bushan 1991: 31). Johnson says “Coding is the process of assigning numbers or categories to data or information” (Johnson 1995: 41) According to Earl Babbie “Coding is the process of transforming raw data – either manifest or latent content in to standardized, Quantitative form”. (Babbie.E 1992:342) - 95 - In the present study the collected data were properly coded, edited and verified with the help of code design which was prepared exclusively for this

purpose. Coded data were entered on separate code sheets and finally transcribed to the magnetic tape in order to analyze the data using computer technology.

2.9. Ethical Considerations

As this study utilized human participants and investigated on company practices, certain issues were addressed. The consideration of these issues is necessary for ensuring the privacy as well as the security of the data providers. These issues were identified in advance so as to prevent future problems that could have arisen during the research process. Among the significant issues that were considered included consent, confidentiality and data protection.

2.10. Gaining Consent Securing

Permission and gaining the consent of the data providers for this study is an important ethical consideration. In order to do so, the researcher relayed the aims of the research clearly among all selected participants. Each participant was asked to accomplish a consent form, stating in detail all the activities involved as well as the purpose of the study. The reasons why they were selected as participants were also stated so as to enable the selected participants to connect the aims of the research with that of the participant qualifications. In the consent form, the researcher also discussed in detail all the treatments or procedures that will be done during the research process. Building rapport and gaining the trust of the participants has been considered essential throughout the research process. These helped in ensuring the cooperation and willingness of the participants to give dependable and sufficient data that were relevant to the study. Although the participants may initially give their consent for the research process, the researcher also gave the assurance that they are allowed to withdraw from the study even without providing any reason. By giving this freedom, the participants did not feel forced to participate in the process. The possible risks that may be included in the research were also discussed to the participants to gain their consent. More importantly, the methods or mechanisms that are to be used to prevent these risks were also included. The researcher practiced openness and honesty all throughout the study to assure the research respondents that their security and safety is of utmost priority. All of these factors to gain the consent of the research participants were discussed in the most comprehensive manner based on their level of understanding.

3. Results and Discussion

3.1. Practical way to stop corruption in Pakistan

These are some useful methods which can be deployed by the government to help improve transparency and accountability while fighting the threat of corruption. Establish the rule of law and make it equal for everyone. No matter how much money or resources an individual has, he or she cannot get away with breaking the law. Improve the salary given to the government employees so that they do not have to indulge in corruption to run their kitchens.

Increase the number of staff members in departments where few people are doing the work of more. This way, instead of getting overworked, everyone would be able to focus on their own work and do not come with excuses of corruption. Please do not JUST SUSPEND someone who is found corrupt. This is something which needs to be taken seriously. Most of the foreign countries dismiss a person from service, found involved in corruption. Unfortunately, in Pakistan, what they do is come with excuses to establish an inquiry commission to look into the matter. This needs to change or else we would never be able to get rid of corruption in Pakistan. Make sure all the transactions taking place in government departments, regardless of their amount are transparent. If you cannot ensure transparency, everyone would keep getting away with whatever they are doing. Also, make transactions of all government departments are accessible to everyone so that if there is a problem, it can be pointed out right away. Do not run corrupt accountability institutions and do not give anyone PLEA BARGAIN. The plea bargain culture in Pakistan is only solidifying the belief that no matter what you do, just give a certain amount out of your corruptly earned income and you would be able to get away with it.

Add cameras to government departments. Every ATM in the country has camera in there but why do government departments fail to install CCTV cameras? Also, make sure that no one is allowed to take money against any bill or service outside the office. For starters, it will help curb the practice of taking bribes in front of everyone else. Unless, the confidence of corrupt government employees is shaken, they will never mend their ways. Improve the amount of work that is done on a daily basis. Bring them at par with how things are done in private organizations. Try to bring the culture of keeping a check on how things are done in government offices. This also means introducing technology wherever applicable. For example, the introduction of biometric attendance systems has considerably reduced the absenteeism rate of public school teachers in Punjab.

Bring merit to the selection process of the government employees. Ensure that no SIFARISH or BRIBE culture is followed in hiring for government departments. Usually, these kinds of tactics are only used when a person is otherwise unable to qualify for a job. Keep inflation in check by creating a masses-friendly fiscal and monetary policy. These policies, if created for the public, help reduce living costs and take out one motivational factor out of the equation. If government department employees cannot have salaries matching with the ever increasing prices, they will not be able to enjoy a quality life, and would come up with an excuse for corruption.

Make sure justice is dispensed to the public in a speedily manner. Although judges of High Court and Supreme Court are already getting higher than average market salaries, new mechanisms still need to be devised to curb corruption, and undue political pressure. Public facing institutions like Police must come out of their mold. They have to be trained to deal with public in a friendly manner. If people are able to confidently deal with public servants, they would not have to find illegal ways of getting things done. Bribe must be dealt with severe punishment. And all actions must be taken by the government to strictly discourage government employees from taking bribes. If the government fails to make an example of those who openly take bribes and cement the concept of “you can get away with anything in Pakistan”, things would unfortunately remain the same.

3.2. Steps to curtail corruption in Pakistan

“What kind of Pakistan do we want for our children?”, a civil society activist asked recently. “It has to be an inclusive state which is fair, honest and open to everyone.” The promise of this future lies in an entire generation standing-up for accountability and

holding those in power responsible for their actions. This is not easy, of course, but it is essential- and it can be done in Pakistan as it can in other countries in South Asia and beyond.

At the Accountability Lab we're learning a lot about how to do it - here are some ideas.

First Step

Young people must lead change. The median age in Pakistan is now 22 years old, with 63% of the population under the age of 25. Young Pakistanis are globalized, energized and full of ideas. They are less entrenched in patronage networks, more willing to question existing realities and better connected than ever before. But this doesn't mean that suddenly everything is going to be different. They need support over time to sustain the change they want to see. Their creativity tends to exist in pockets and despite some recent mobilization politically, is largely delinked from policymaking. We need to build an ecosystem to support these young change-makers - mentorship, opportunities, collaborative spaces and communities - and to jointly maximize their efforts. Organizations like Seed Ventures and incubators like Plan 9 are doing it for entrepreneurs; we are doing the same for "accountpreneurs".

Second Step

This is about more than creating organizations and enforcing rules. At the national level, Pakistan now has around half a dozen anti-corruption bodies, 10 different ombudsmen and a plethora of other agencies tasked in one way or another with accountability. But organizations set up to fight graft will not work if they are not aligned with the relationships, cultural norms and incentives that shape behaviours. If a dynamic of corruption is entrenched, it is too difficult - and arguably illogical - for brave individuals to stand-up alone and try and change the system. They need peers everywhere who will support them. This means Pakistan must think now about a long-term process to shift mindsets through investing heavily in civic education, leadership programs and values-based networks. Organizations like the Atlantic Council and the British Council are doing a great job, but there is much more to do.

Third Step

Creativity is essential to fighting corruption because many stakeholders in the existing system are resistant to change. For too long - driven by an aid system that measures successes based on numbers of outputs and dollars spent - the response to corruption and patronage has been training and seminars. But all-day workshops with free lunches are not a substitute for real change. If we want to bring young people into this process effectively, we have to meet them where they are, not where we want them to be. This means using tools and platforms they enjoy - like the arts, media, film and technology - and deploying them in interactive ways. From creative visual arts with organizations like Morango Films, to ICT collaboratives like the Technology for the People Initiative, the potential intersections of innovation and integrity in Pakistan are easy to find.

Fourth Step

Bring in the private sector as a key driver of change. Despite significant challenges, Pakistan's business community is world class, with some incredible, values-based leaders who operate at the highest levels of global commerce. They lead companies that are thinking well beyond the bottom-line and draw on Pakistan's rich culture of generous philanthropy. They know that integrity is good for business - ethical companies have higher valuations, lower costs and less risk. This energy can be harnessed to create a level playing field for economic development and collaborative efforts to shift accountability dynamics. Businesses came together to play a key role in the passage of the important Drug Regulatory Authority of Pakistan (DRAP) Bill of 2012 for example - which cleaned up the pharmaceutical industry. Businesses are driving the Open Government Partnership efforts in Pakistan and collaboratives like Open Lahore and CIPE are working to improve standards of transparency. We must support them further.

Finally

Accountability requires a positive narrative that Pakistanis can buy in to and mobilize behind. Pointing fingers and shouting loudly at law-breakers is an easy way to vent some frustration - and there is no doubt that these people should be penalized. But when justice is not served the perception of helplessness is reinforced and momentum in the process of accountability building is lost. Instead, let's make sure we celebrate the heroes, build on areas where success is clear and work to support those who are doing the right things - "naming and faming" is a useful substitute for "naming and shaming". Last year, for example, we at the Accountability Lab organized a television and social media campaign around the world called Integrity Idol - which rewarded honesty in government and galvanized national conversations about what it means to be an accountable civil servant. This year we'll run the competition in Pakistan too.

Building accountability is not about overcoming weaknesses - it is about a strengths-based approach that draws upon human, institutional, cultural and economic assets. Short-term fixes and anti-corruption tools might prove effective in battling graft in isolated ways. But if Pakistan - and other countries - are to truly create fair and open societies for everyone, it is going to take a much larger, generational process to build accountability. The time to start is now.

4. Brief of related judgments of corruption cases

2010 MLD 676

(Quetta)

Before Jamal Khan Manodkhel and Ghulam Mustafa Mengal, JJ

THE STATE through Deputy Prosecutor General---Appellant

Versus

Muhammad Kaleem Bhatti---Respondent

Criminal Ehtisab Appeal No. 7 of 2009, Decided on 2nd March, 2010.

Briefly stated facts of the cases are that, the private respondent has filed an application before trial Court with a request that, since he has already completed his conviction period and also served additional sentence in default of payment of fine, therefore, his properties, which were subject matter of the main reference, be released.

Ground on the basis of which the application was filed, was that, at the time of passing of judgment, the trial Court has mentioned, “accordingly” accused Muhammad Kaleem Bhatti is convicted under section 10 read with sections 11 and 12 of National Accountability Ordinance to five years’ R.I. and fine of Rs. 1,50,000,00, the assets/ properties of accused are forfeited as set off against the amount of fine, however, in case of non-recovery/non-payment of the amount/fine accused shall undergo for further terms of two years’ R.I.”.

The trial Court has accepted the application vide order, dated 21-04-2009 and directed the Executive District Officer, Revenue, authorities, as well as the Cantonment Executive Officer, Quetta Cantt: to release the properties of respondents/ application as mentioned in the judgment and in the order.

Feeling aggrieved from the order, dated 21-4-2009 passed by Accountability Court-II, Balochistan, Quetta, the NAB authorities have filed instant appeal.

We have heard learned counsel of the parties and have perused the record. It is a fact that in view of the judgment, dated 17-7-2002, the private respondent was convicted and his properties were confiscated to recover fine of Rs. 1, 50, 00, 000. In the said judgment, it has further been held that, in case of non-payment of amount of fine, he shall further undergo for two (2) years’ R.I. Said judgment was assailed up to Honorable Supreme Court of Pakistan, but same was upheld with certain modification and reduction in the quantum of sentence vide order, dated 8-5-2006 passed in Criminal Petition No. 482 of 2003. It is important to mention here that in the said order of Honorable Supreme Court of Pakistan, the following sentence was missing:--

“The assets/properties of the accused are forfeited as set off against the amount of fine”.

The private respondent, feeling aggrieved, has preferred a Review petition No.39 of 2006, before Honorable Supreme Court of Pakistan who has accepted the review petition vide order, dated 20-05-2008, resultantly, the above mentioned sentenced was added to its original order.

It is important to mention here that before review order, dated 20-9-2008 passed by Honorable Supreme Court of Pakistan, the appellant has preferred an application under section 33-E of the NAB Ordinance, with a request to allow the authority to auction the property subject-matter of the reference/judgment so as to recover the amount of fine. The trial Court, vide order, dated 24-3-2008, accepted said application and had directed the authorities to auction the properties in question. It is noteworthy that when the trial Court passed the order of auction, till then, review petition was not decided. It is a matter of record that in spite of getting clear directions from trial Court the NAB authorities did not succeed in auctioning the properties, in the mean time, Honorable Supreme Court of Pakistan has reviewed its order and the private respondent has completed his extra sentence instead of payment of amount of fine.

Without prejudice to above, even otherwise, the bar contained on review in criminal cases, is on judgment as has been mentioned in section 369, Cr. P. C., but there is no provision of law that debar the Court to review or alter its order. Since the appeal is against an order, therefore, the objection raised by appellant has no substance at all.

In view of what has been stated hereinabove, we are not inclined to accept the appeal; as such the same is dismissed.

2010 P Cr. L J 402.

(Lahore)

Before Khawja Muhammad Sharif, C.J.

And Manzoor Ahmed Malik, J

Azhar Zia Mian----Petitioner

Versus

National Accountability Bureau,

Lahore and another----Respondents

Writ Petition No. 3546 of 2007 decided on 18th November, 2009.

Brief facts of the case, as mentioned in Reference No.8 of 2007 filed against the petitioned (Azhar Zia Mian) and his real brother Manzar Zia Mian, which is now pending before the learned Accountability Court No. V, Lahore, are thassrs Indus Valley Rice Mills in Al-Falah Building and used it to carry out the illegal banking. In all, 385 persons delivered total amount of Rs. 267, 844,000 (Rupees twenty-six crore seventy-eight lac and forty-four thousand only) till April, 2006 and they stopped business when the state Bank of Paksitan intervened. It is further mentioned in the reference that the petitioner/accused induced and cheated the public at large and misappropriated the huge amount.

We have heard learned counsel for the parties, have gone through the reference filed against the petitioner and the precedent case law relied upon by the learned counsel for the respective parties.

Firstly, we would like to take up the question of maintainability of Reference No. 8/2007, submitted against the petitioner and his co-accused, which is pending trial before the learned Accountability Court No. V Punjab Lahore. The precise allegations contained in said reference are that the accused / petitioner established an office with the name and style of Messrs Indus Valley Rice Mills in Al-Falah Building and used the said office to carry out the business of illegal banking. In response to the said offer, 385 innocent persons delivered an amount of Rs. 267,844,000 (Rupees twenty-six crores seventy-eight lac and forty-four thousand only). They stopped business when the State Bank of Pakistan intervened. Record reveals that even 12 post-dated cheques were given to some of the affectees for monthly profits and return of part A of principal amount but, as per record, almost all the cheques, so issued, were dishonored by the Banks on their presentations. Record further shows that about 385 families have been ruined at the hands of the petitioner and his co-accused, 680 claims were submitted and all the said persons have fully implicated the petitioner and his co-accused in their statements with the alleged commission of the offence. We are of the prima facie, view that offence allegedly committed by the petitioner and his co-accused falls within the definition of “Corruption and Corrupt Practices”, is fully covered by clauses (ix) (x) to subsection (a) of section 9 of the National Accountability Ordinance, 1999 which is punishable under section 10 of the said Ordinance, therefore, we are of the view that the reference has properly been filed before the learned Accountability Court and we find no illegality in it.

We have gone through the judgment cited by the learned Special Prosecutor NAB in Faisal Hussain Butt v. The state and another (2009 SCMR 133) to contend that merely on the basis of delay in conclusion of trial bail cannot be allowed to an accused. In the said case, allegation against the accused was that he, along with his co-accused, misappropriated huge amount (Rs.298,000 million) from Allied Bank Limited where he was serving as incharge in C.D. Department and the case was fixed for evidence. However, while dismissing the said bail petition, a direction was issued by the Honorable Supreme Court of Pakistan to the learned trial Court to conclude the trial within five months.

In view of what has been discussed above Writ petition No. 4364 of 2008 (Azhar Zia Mian v. The State and others) and Writ petition No. 3546 of 2007 (Azhar Zia Mian v. NAB and others) are dismissed having no merits. It is made clear that the above findings are only tentative in nature and shall not influence the learned trial Court during the trial.

However, before parting with the order and in the paramount interest of justice we are inclined to direct the learned trial Court to expedite the trial and conclude the same within a period of six months positively.

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