National Accountability Bureau (NAB)

Brief on Human Rights Violations and Misconduct

Table of Contents

| Introduction | 2 |
|--|----|
| Constitutional Protection of Rights | 3 |
| Deaths as a Consequence of NAB Harassment and/or During Custody | 4 |
| Political Victimization Over The Past Two Years | 8 |
| Abuses/Violation Of Rights And Human Dignity Laws | 12 |
| Observations by Human Rights Watch (HRW) Report and the Supreme Court of Pakistan | 12 |
| Conclusion | 15 |
| References | 17 |

INTRODUCTION

Brief

The following document contains a brief overview of some of the more egregious transgressions and rights-related misconduct by the National Accountability Bureau (NAB) over the past few years. It will identify the infractions that led to the death of at least 12 individuals (identified herein), in addition to the cases of political engineering and victimization, which has induced criticisms of its conduct both at home and abroad.

National Accountability Bureau

The National Accountability Bureau (NAB) is an executive agency of the Government of Pakistan, formulated under the National Accountability Ordinance (NAO) on 16 November 1999. The NAO itself was introduced in 1999 by the military dictator, General Pervez Musharraf, under the Proclamation of Emergency and Provisional Constitutional Order no 1 of October 14, 1999.

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NAB was established with the mandate to tackle the prevention of corruption, raising public awareness, and enforcement of anti-corruption measures. It is headquartered in the federal capital, and has five regional offices in the four provinces. The headquarters exclusively perform policy and monitoring-related functions, while investigative work is carried out in

the regional offices. The bureau has two principal officers: the Chairman, and the Prosecutor General of accountability in Pakistan. The Chairman is the head of investigation, and serves a four-year term. Absolute power is vested in the Chairman of NAB regrading detainees, which is a questionable legal loophole that is often exploited and used by undemocratic forces.

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ARTICLES OF CONSTITUTION PROTECTING RIGHTS AND HUMAN DIGNITY

For the prevention of exploitation and protection of individual human rights, the following Fundamental Rights are enshrined in the **Chapter 1** of the Constitution of Islamic Republic of Pakistan:

| Const. Article | Content |
|----------------|--|
| 8 | Laws inconsistent with or in derogation of fundamental rights to be void. |
| 9 | Security of person. No person shall be deprived of life or liberty save in accordance with law. |
| 10 | Safeguards as to arrest and detention. |
| 10A | Right to fair trial: For the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process. |
| 11 | Slavery, forced labor, etc. prohibited. |
| 12 | Protection against retrospective punishment. |
| 13 | Protection against double punishment and self-incrimination. |
| 14 | Inviolability of dignity of man, etc. |
| 15 | Freedom of movement, etc. |
| 16 | Freedom of assembly. |
| 17 | Freedom of association. |
| 18 | Freedom of trade, business or profession. |

DEATHS AS A CONSEQUENCE OF NAB HARASSMENT AND/OR DURING CUSTODY

*It is an astonishingly revealing circumstance that a total of nine (9) prisoners died in the infamous United States prison at Guantanamo Bay, whereas twelve (12) persons have already died thus far in the custody of, or due to harassment by the National Accountability Bureau (NAB).

| # | Name | Details |
|---|--------------------------------|---|
| 1 | Aslam Masood | Date of Death: 17 th August 2020 Cause of Death: Cardiac Arrest Aslam Masood, the Chief Financial Officer (CFO) of Omni Group, was arrested through Interpol when he was boarding a flight from London to Jeddah in October 2018. He was subsequently extradited to Pakistan from Saudi Arabia in February 2019. He faced harassment by NAB in Money laundering case that led to the Cardiac Arrest and he died in Nab Custody. |
| 2 | Engineer Aijaz Memon | Date of Death: 31st May 2020 Cause of Death: Heart Stroke Mr. Aijaz Memon, Executive Engineer serving in Sindh Government's Works and Services Department, was accused for misappropriation of PKR 90 million development funds for Jacobabad. He was kept in the Sukkur Central Prison, where he suffered a 'heart stroke', and passed away during treatment at the local Civil hospital, less than three months after being placed in NAB custody. |
| 3 | Advocate Zafar Iqbal Mughal | Date of Death: 6 th January 2020 Cause of Death: Stress from arrest and harassment Advocate Zafar Iqbal Mughal was a leader of Pakistan Tehreek-e-Insaf (PTI) and District Bar member from Layyah. He was detained by NAB authorities on 11 th October 2019 in the bogus housing scheme case (a non-registered housing colony on 254 acres in Layyah). He remained in NAB custody for 86 days, after severe deterioration of health, he was transferred to the hospital only 4 days before death. He died in NAB custody few days before his hearing scheduled for 17 th Jan 2020. |

| 4 | Raja Asim | Date of Death: 17 th March, 2019 Cause of Death: Stress from arrest and harassment. Raja Asim was arrested in Stock Exchange corruption case on 26 th March 2014. After 5 years in custody without sentencing, his case remained inconclusive, while other accused individuals in the same cases were not pursued. Due to delayed provision of healthcare/ medication for pneumonia, Raja Asim passed away in NAB custody at age of 42; death was declared after a delay of 5 days. |
|---|-----------------------------|--|
| 5 | Brigadier (R) Asad Munir | Cause of Death: Suicide by hanging himself with a rope tied to the ceiling fan. Former Military Intelligence Officer and prominent Defense Analyst Brigadier (retd) Asad Munir committed suicide after the emergence of media reports that the National Accountability Bureau (NAB) has decided to file a reference of abuse of office against him. His body was found hanging from a ceiling fan in his apartment in the Diplomatic Enclave. He left a suicide note, addressed to the Chief Justice of the Supreme Court, stating:— 'NAB has initiated three investigations and two inquiries against me in the last one year. In three, as Board Member two as Member Estate. I would humbly request you to kindly read my attached statements in each case, if you think that I have been involved in corrupt practices then the case is closed and if NAB has been wrong then I would like you to clear my name. I am committing suicide to avoid humiliation, being handcuffed and paraded in front of the media. I request you, the honorable Chief Justice, to take notice of NAB's officials conduct so that other government officials are not convicted for the crimes they had not committed. I am giving my life in the hope that you, the honorable Chief Justice will bring positive changes in the system where incompetent people are playing with the life and honor of citizens in the name of accountability'. |

| | | Date of Death: 6th April 2019 |
|---|-----------------------|--|
| | | Cause of Death: Lung disease; he was a cardiac patient at |
| | | time of arrest, and died in NAB custody. |
| | Muhammad Nasir | Muhammad Nasir Shaikh, Additional Director (Land), KDA |
| 6 | Sheikh | was arrested by NAB on 27th November 2015, he was |
| | | accused for 'China-cutting' and 'land grabbing'. |
| | | He was the second KDA official held without prosecution to |
| | | pass away in custody. |
| | | Date of Death: 5 th April, 2019. |
| | | Cause of Death: Heart Attack |
| | | Professor Dr. Tahir Amin, a renowned educationist, |
| | | International Relations Expert and the Vice Chancellor of |
| | | Bahauddin Zakariya University (BZU) Multan was accused |
| | Professor Dr. Tahir | of Nepotism and Financial Malpractice. Chairman NAB |
| 7 | Amin | initiated a probe against Dr. Amin on a complaint by the |
| | | former director, Directorate of Distance Learning Education |
| | | Dr. Ishaque Fani. Dr. Tahir Amin faced mental torture, |
| | | humiliation by NAB, under tremendous stress he also made |
| | | an abortive attempt to commit suicide and later died of |
| | | Heart Attack. |
| | | Date of Death: 1st October 2019 |
| | | Cause of Death: Cardiac arrest and death in NAB custody. |
| 8 | Qaisar Abbas | Qaisar Abbas was arrested in Nandipur Power Project Case |
| | - | on August 30, 2018, he was shifted to the Punjab Institute of |
| | | Cardiology (PIC) after appearing heart pain, but he succumbed to his injuries in hospital on 1st October 2019. |
| | | Date of Death: 7 th August 2018 |
| | | Cause of Death: Cardiac arrest in custody. Sources state |
| | | cause of arrest as 'torture' by NAB officials. |
| | | Chaudhry Arshad Chairman, Members Welfare Committee |
| | | of Ministry of Commerce Employees Cooperative Housing |
| 9 | Chaudhry Arshad | Society (MOCECHS) was arrested by anti-graft watchdog for |
| | , v | unjustified reference over fabricated charges of corruption |
| | | levelled by corrupt officials with nexus of land mafia. |
| | | According to the sources in Rawalpindi-based NAB |
| | | detention center, Chaudhry Arshad was being severely pressurized and tortured to sign documents, a bid to occupy |
| | | the Housing Society, when he suffered heart attack. |

| | | Date of Death: 24th December 2018 |
|----|--------------------------|--|
| | | Cause of Death: Prolonged Liver Disease |
| | | Muhammad Saleem, Deputy Director, Revenue, Lahore |
| | | Development Authority (LDA) was apprehended by NAB |
| | | since September 2017, in connection with LDA |
| 10 | Muhammad Saleem | Commercialization Fees corruption case on the basis of an |
| | | anonymous complaint. |
| | | Despite his liver disease and chronic illness he was sent to |
| | | the Camp Jail on judicial remand by the accountability court. |
| | | When his health deteriorated, he was shifted to the Services |
| | | Hospital, where he died in NAB custody. |
| | | Date of Death: 22 nd December 2018 |
| | | Cause of Death: He died handcuffed due to Cardiac arrest |
| | | and delay in provision of medical attention. |
| | | Professor Javed Ahmad, the former Director of the |
| | Prof Mian Javed Ahmed | University of Sargodha (Lahore campus), was arrested by |
| | | the National Accountability Bureau in mid-October 2018, he was accused of opening illegal campuses misusing the name |
| 11 | | of University of Sargodha and minting money from the |
| | | students. |
| | | Professor Javed was grilled by NAB investigators for weeks |
| | | before he was sent to the Camp Jail on judicial remand. |
| | | Pictures of dead body in handcuffs circulated on media post- mortem. NAB tried to exonerate itself from responsibility by |
| | | stating that he died after an accountability court sent him on |
| | | judicial remand. |
| | | Date of Death: 3rd December 2017 |
| | | Cause of Death: Unclear-One source identifies a heart |
| | | attack, but unverified. |
| | Abdul Qavi Khan | Abdul Qavi Khan, KDA Officer was arrested on 27 th |
| 12 | | November 2015, he was accused of illegal construction and |
| | | sale/purchase of plots in a housing scheme named |
| | | "University Hill Villas" as a KDA official. He died under |
| | | mysterious circumstances in the Central Jail Karachi, in NAB |
| | | custody. |

POLITICAL VICTIMIZATION OVER THE LAST 2 YEARS

| # | Name | Details |
|---|---|---|
| | | The Former President of Pakistan Mr. Asif Ali Zardari was arrested on June $10^{\rm th}$, 2019 in a politically motivated and controversial Fake accounts case. |
| | | The former President, who is currently the sitting member of the National Assembly and the President of one of the largest political parties of Pakistan, has been one of the key victims of the accountability body created by the former dictator General Musharraf. |
| 1 | Mr. Asif Ali Zardari The Former President of Islamic Republic of Pakistan & | During the custody Asif Ali Zardari was denied basic facilities and fundamental rights, he was barred to meet his children on the occasion of Eid, despite the Court's Order, he was not even allowed to offer Eid prayers. He was refused to keep a refrigerator for his insulin and medicines, and was denied timely medical treatment till his health deteriorated and he was then shifted to the hospital. |
| | the President of PPP-P, the Pakistan Peoples Party- Parliamentarians | Sixty Four years old former President is facing multiple heath issues including diabetes and cardiac ailment, but there is no end to victimization and targeted harassment via politically motivated cases. |
| | | An HRW report observed that NAB summoned the former President to appear in person to record a statement, and denied his request to record said statement via video link because of his ill health and the COVID-19 pandemic. HRW report also distinctly mentions that Mr. Zardari spent 11 years in prison, more than half of that time in NAB custody, all without ever having being convicted of a crime. It is also common knowledge that Mr Zardari has been subject to 'inhumane conditions' and 'torture' during his unlawful incarceration, in direct violation of his basic human rights. |

| 2 | Ms. Faryal Talpur PPP Women Wing President and Member of the Sindh Assembly. | Arrested on June 14th, 2019, along with her brother, former President Zardari, by NAB under the accusation of using fake accounts. Ms Talpur was shifted to Polyclinic Hospital in Islamabad due to health issues. However, NAB, in keeping with past examples of medical mistreatment and in violation of all rules, procedures and Jail manual shifted her from the hospital to Adiala Jail forcibly at midnight on the occasion of Eid. |
|---|--|--|
| 3 | Mian Nawaz Sharif Former Prime Minister Chairman PML-N | Arrested on October 11 th , 2019. The Sharif family is accused of money laundering via Chaudhry sugar mills. Mian Nawaz Sharif, thrice elected Prime Minister of Pakistan, was arrested from the Kot Lakhpat jail by NAB and presented before the accountability court of Lahore. He is a cardiac patient and has been facing multiple ailments. His health deteriorated in the NAB detention, he suffered platelets disorder and developed a clouting problem in body after which he was granted bail and was allowed for treatment abroad. |
| 4 | Mian Shahbaz Sharif Leader Opposition PML-N Leader | Arrested on October 5 th , 2018, under accusations of corruption in the Ashiana housing scheme, worth approx. PKR 14 billion. Mian Shahbaz Sharif has been accused of cancelling the award of construction won by Chaudhry Latif and Sons, and giving it to Lahore Casa Developers, a proxy group of Paragon City Private Limited. NAB has since briefed media that they have obtained a reference against Shahbaz Sharif as well as his two sons, Salman and Hamza, for assets displayed beyond means. Without evidence presented to courts, and without any real developments in the case, NAB continues to use the opportunity to harass the current Leader of Opposition in the House, and exert political pressure. |
| 5 | Shahid Khaqan Abbasi Former Prime Minister and PML-N Leader | Arrested on July 18th, 2020 under accusations of corruption in LNG contracts. On July 28th, 2020 a file was referenced against him, and approved by NAB. The case led to detailed imprisonment of former prime minister. He has been granted interim pre-arrest bail by SHC. |

| 6 | Maryam Nawaz VP PML-N | Arrested on August 8 th , 2019, from Kot Lakhpat Jail while visiting her father. Later on, NAB gave a statement that Maryam Nawaz and her cousin, Yousaf Abbas Sharif, were arrested in the case of Chaudhry Mills. The current government has accused the Sharif Family of money laundering and using millions of rupees in name of subsidies without exporting sugar. Maryam Nawaz is facing continued harassment and cases by NAB, and has been denied traveling abroad to attend her ailing father. She lost her mother Kulsoom Nawaz, who was battling with cancer, when both Maryam and her father Nawaz Sharif were jailed in Pakistan on corruption charges. |
|----|--|--|
| 7 | Hamza Shahbaz PML-N Leader | Arrested on June 11th, 2019 under allegations of money laundering and having assets exceeding sources. Hamza Shahbaz Sharif was arrested by NAB, and taken to Thokar Niaz Baig offices, outside court when his lawyers withdrew the application of bail extension. |
| 8 | Ahsan Iqbal PML-N Leader | Arrested on August 23 rd , 2019, while recording his statement regarding corruption allegations at NAB. The PML-N leader is accused of corruption in the amount dispatched by the government and Pakistan Sports Board to set up a sports city in Narowal. Mr Iqbal has stated that he has turned in all documents demonstrating his income and expenditures. |
| 9 | Syed Khursheed Ahmed Shah PPP Leader | Arrested on September 18th, 2019, following a joint operation by NAB Sukkur and Rawalpindi. NAB has stated that Mr. Shah was arrested to account for assets displayed beyond means. He remains under arrest, about a year on, without any development or exoneration on the charges laid against him. Despite his deteriorating health condition his bail has been opposed by NAB. |
| 10 | Khawaja Saad Rafique & Salman Rafique PML-N Leaders | Arrested on December 11 th , 2018, under allegations of involvement in the Paragon Housing scam case. Officials involved in the investigation have stated that the investigation is being held on 'legal grounds', and that they were 'sure' that the brothers were involved in the scam. The Supreme Court while granting them bail on 17 th March 2020 declared NAB incompetent and ill-intentioned. |

| | | Arrested on October 11 th , 2018 and paraded in handcuffs. |
|----|-------------------------|--|
| | Mujahid Kamran | Vice Chancellor of Punjab University from January 2008 to |
| 11 | Former VC, | December 2016, and accused of corruption. |
| | | The circulation of footage of the former VC on media sparked |
| | | criticism against the undignified humiliation tactics of NAB. |
| | | Arrested on 12 th March 2020 in a 34-year-old property purchase |
| | | case. The National Accountability Bureau (NAB) alleges that Mir |
| | | Shakil ur Rehman illegally leased government land in 1986 and |
| | Mir Shakil ur Rehman | managed to have ownership rights transferred to him by scoring |
| | | illegal concessions from the former Prime Minister Nawaz Sharif, |
| | | who was then the Chief Minister of Punjab. The arrest of GEO and |
| | | Jang Group Chief is being treated by most people as a Press |
| 12 | Owner & Editor in | freedom issue rather than legitimate accountability case. |
| 12 | Chief of Geo and | A deliberate leak of Mir Shakil-ur-Rahman's picture in the lockup |
| | Jang Media Group | and provision of this picture to a TV channel for its airing amply |
| | | reflects the vengeance of the anti-graft watchdog against the |
| | | detainee and his media house. The picture went viral on media |
| | | and social media, this was not a first sole incident of publically |
| | | leaking photographs of detainees, such tactics had been |
| | | employed earlier too, as an attempt to degrade and humiliate the |
| | | incarcerated persons in the public eye. |

ABUSES/VIOLATION OF RIGHTS AND HUMAN DIGNITY LAWS

As highlighted by the previous two sections, as NAB activity increases, so do the flagrant violations of some of the most basic rights enshrined in the country's constitution. Among these, the most egregious breaches concern abuse of power, torture, political engineering and victimization, prevention of access to timely and appropriate healthcare, extended incarceration without lawful trial, and subversion of human dignity, amongst others.

The presentation of academics in handcuffs, of dead bodies in handcuffs, media-based humiliation in cases without sufficient evidence for indictment, placement of the burden of proof for innocence on the accused party, continual deaths in NAB custody, violation of right to fair trial and due process, harassment – all these actions demonstrate how far the National Accountability Bureau operates outside the realm of the Rule of Law in Pakistan, without being subject to accountability for the blood on the agency's hands.

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OBSERVATIONS BY HUMAN RIGHTS WATCH (HRW) REPORT AND THE SUPREME COURT OF PAKISTAN

National Commission for Human Rights, Pakistan

The National Commission for Human Rights, Pakistan (NCHR) has raised concerns on the anti-corruption drive by NAB, which, it observes, is riddled with allegations of mistreatment and humiliation of the accused, in clear violation of basic human rights as

guaranteed by the constitution. It has also shown concern on the agency's overstepping of boundaries, particularly in the context of the absence of anti-torture laws. NCHR Chairman, Retd. Justice Ali Nawaz stated that it was unfortunate that in Pakistan there was no separate law on torture. He also stated that NAB has been silent on NCHR's request for a visit to its detention center after a custodial death in December (2018), which is tantamount to a denial of the rule of law. He asked for support from civil society to raise voices against this phenomenon.

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Human Rights Watch

One media statement by the Human Rights Watch (HRW) states that the authorities should investigate and prosecute the NAB officials responsible for unlawful arrests and other abuses. Another statement issued by HRW's Director for Asia, Brad Adams, states: "Pakistani authorities should stop using a dictatorship-era body, possessing draconian and arbitrary powers, to intimidate and harass opponents." In a third statement, the HRW urges the PTI government to take corrective measures; "Pakistani authorities should uphold the government's human rights obligations. Pakistan's parliament should amend or repeal the NAB ordinance to ensure that the principles of fair trial, due process, and transparency are not compromised on the pretext of accountability."

Pakistani Courts

An apex court has cited a February report by the European Commission that criticizes NAB for bias, noting that "very few cases of the ruling party ministers and politicians have been pursued since the 2018 elections, which is considered to be a reflection of NAB's partiality". In February, the Supreme Court as well as the HRW condemned the summons issued to Bilawal Bhutto Zardari, calling them an "act of political victimization".

"Very few cases of the ruling party ministers and politicians have been pursued since the 2018 elections, which is considered to be a reflection of NAB's partiality"

In March, Islamabad High Court ruled that NAB had made arbitrary use of its arrest powers. Moreover, the Pakistani Supreme Court's judgement on a NAB case is the indictment of the NAB's unlawful behavior, whereby the court criticized NAB for showing "utter disregard to the law, fair play, equity and propriety", ruling that the behavior "was a classic example of trampling of fundamental rights [and] unlawful deprivation of freedom".

One statement by Chief Justice of Pakistan Asif Saeed Khosa, stated: "We ... feel that the growing perception that the process of accountability being pursued in the country at present is lopsided and is a part of political engineering, is a dangerous perception and some remedial steps need to be taken urgently so that the process does not lose credibility ...". He slammed NAB on manufacturing cases despite lack of evidence, saying that its purpose is to thoroughly probe corruption allegations and collect evidence against the accused. CJP Khosa said this during the hearing of the accountability bureau's appeal against the acquittal of a suspect named Attaullah. "NAB should think about how its only purpose is not to make cases, the only purpose is not to 'pakar dhakkar' [catch and push] around [suspects]."

In another verdict, Justice Baqar regretted NAB's discriminatory approach and political engineering. He said that while law mandates expediting investigation and trial conclusion within 30 days, NAB's imprisonment and arrest cases linger for months and years. This, he commented, was a demonstration of the lack of professionalism, sincerity and expertise of the agency's officials, and that it was causing harm to the society and nation. He

Fundamental principles of criminal jurisprudence should be respected, and unless proven guilty, a person should be assumed innocent, and that a wrongful conviction is worse than wrongful acquittal.

Justice Bagar

further observed that the mechanism of accountability should be within the parameters of law, and abusive powers should not be employed to harass and oppress opposition. Commenting on the liberty of a person, he said, fundamental principles of criminal jurisprudence should be respected, and unless proven guilty, a person should be assumed innocent, and that a wrongful conviction is worse than wrongful acquittal. This principal is imperative to securing confidence in the fairness of trial, integrity, impartiality and security of law and the criminal justice system. Moreover, the purpose behind an investigation and the arrest of the accused, their imprisonment for a long period of fifteen months, prima facie, aren't in conformity with the NAO.

Furthermore, notice of illegal appointments in NAB has also been taken by the SC, which is another question mark on the transparency of officials running the institution. Taking notice of the illegal appointments in the anti-graft body, a notice was issued to the attorney general by Justice Qazi Faez Isa, asking the deputy prosecutor general NAB as to how the NAB chairman bypassed the Constitution and law while making those appointments.

CONCLUSION

All strong democracies in the world today possess strong systems of accountability. Without democracy there cannot be any accountability; similarly, accountability is cornerstone of democracy itself. This codependence can only remain functional so long as it operates within the bounds of legal legitimacy, transparency and credibility.

Despite 72 years since Pakistan's independence, and 47 years since the adoption of a Constitution, we, as a country, have failed to attain the ideals of transparency, liberty, civility and democratic values. Intolerance, bias and prejudices, nepotism, incompetence, regression, self-projection, deception, false pretenses, misplaced sense of superiority, and corruption have trickled into almost every institution and constitutional rights of the people continue to be denied.

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As one of the principal institutions of accountability within the nation, the National Accountability Bureau must be held to the highest standards of excellence in these domains. It is nothing short of a national tragedy that the agency has, over recent years, become little more than a tool for undermining democracy through political victimization and flagrant human rights abuses.

According to international human rights observer and apex court, the accountability bureau has become a tool for arm-twisting of political opponents. European commission report also criticized the partiality of NAB in favor of ruling party. However, despite becoming the target of much criticism by various political and public officials, courts as well as international organizations, NAB has failed to amend its policies and practices. In ruthless power games, individuals continue to be used as pawns. This is no longer acceptable.

Furthermore, surfacing of scandalous controversies regarding NAB judges and officers—video scandals, moral and ethical compromises, lack of relevant qualifications and experience has raised serious questions on the anti-graft body and its accountability mechanism.

The NAO 1999, or 'NAB law' as it is more commonly known, must be reformed to reflect transparency in the process of accountability by upholding and conforming to the rule of law in Pakistan.

Surfacing scandalous controversies regarding NAB judges and officers—video scandals, moral and ethical compromises, lack of relevant qualifications and experience has raised serious questions on the anti-graft body and its accountability mechanism.

NAB must inspire across-the-board respect and credibility in order to remain effective, or risk becoming a redundant relic of a dictatorship that must be discarded at the earliest. Political parties have failed to bring about these much needed reforms and amend the processes of NAB. As long as political expediency and the temptation to harm political opponents remains the priority, the accountability process will continue to be perceived as a tool of political engineering.

The conditions prevailing today in Pakistan's law and security affect every individual life. If we are to improve conditions then the law must be upheld to bring peace and security to the land and to build lives of dignity and respect.

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