



## Shameful Dilemma of Pakistan's Politics: Enough is Enough

<b>To</b>	Open Memorandum to PM, COAS and CJ of Pakistan
<b>From</b>	Dr Wazir Ali Khan: A Senior Citizen of Pakistan
<b>Subject</b>	Shameful Dilemma of Pakistan's Politics : Enough is Enough
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**Dear Gentlemen**

السلام عليكم ورحمة الله وبركاته

Further to my earlier Memorandum on the subject matter dated 21 May 2009 and in the wake of continued crises in Pakistan including news headlines on NRO, I was prompted to write this Memorandum on 2<sup>nd</sup> November 2009. However due to a positive development against NRO by the Supreme Court of Pakistan, I delayed the issuance of this Memorandum. Now the SC has issued its short order on NRO, therefore I am attempting to issue this Memorandum. I seek Allah's forgiveness for any error, omission or commission in my writing this Memorandum. I am starting from prayer followed by some important relevant text, in the form of preambles to this memorandum, which I will refer to, whilst stating the problems and concerns, and proposing solutions.

### **1. PRAYER**

*"O Allah there is none worthy of worship but You the Mighty, the Forbearing. There is none worthy of worship but You, Lord of the Magnificent Throne. There is none worthy of worship but You, Lord of heavens and Lord of the earth, and Lord of the Noble Throne. O Allah glory is to You, and praise is to You, and there is none worthy of worship but You, and You are the Most Great. O Allah You are dearer to me than all that the sun rises upon [i.e. the whole world]. May the peace and blessing of Allah [SWT] be upon our Prophet, Muhammad (SAW), and upon his family and Companions and whoever follows them in piety until Day of Judgment."*

### **2. PREAMBLE**

#### **Article 1:**

**Reality of Allah [SWT]:** In most Muslim country including Pakistan, by and large, Muslims do not understand the true meaning of Allah [SWT] as most of the resources

and available knowledge mislead them to understand Allah [SWT] as a concept and this is the prime reason that people are having no fear of Allah [SWT] and are involved in their daily life towards worldly gains through hook or crook. We must understand that Allah is real, unique and has no plural or gender. Allah is the Almighty, Creator and Sustainer of the universe, Self Sufficient or Self Subsistent. All Praise is due to Allah. His being Eternal is compounded by His being Divine. He is Proud in His Greatness. There is no term for His Divinity nor is there extinction to His domain. He is the first to create; the One Who is eternal even beyond eternity itself. Allah describes Himself as One and Eternal in the Qur'an. Allah is physically alone in His kingship and Lordship and He has always existed and will always exist. He existed before creation and will still exist even if all of creation was to end. He is not subjected to time as He created time and movement Himself. He resides outside of time and outside of all His creation and is physically high above His creation, residing in a manner befitting His Majesty. Allah [SWT] states in the Quran that He has many attributes, which are befitting to Him alone which are beyond human comprehension, such as: His hearing, sight, hands, face, encompassing, His knowledge, His ability, His might and power, His ever-living inheritor of creation, His will and intent, His anger, His mercy, His sovereignty and dominion, and His unity and exclusiveness, and His being above the Arsh. Correct theistic belief requires faith in the existence of these attributes as, Allah [SWT] has described them without applying to them any allegorical meanings or attempting to explain how a certain quality could be - while this is known only to Allah [SWT] - and without comparing them to creation or denying that Allah [SWT] would have such qualities. Accordingly, Allah's Arsh is unimaginable to human comprehension and it is only known to Allah [SWT] as it is above Allah's creation. His Kursi [i.e. chair] extends over the heavens and the earth, which is not to be confused with the al-Arsh, which is much higher and greater than al-Kursi.

## **Article 2:**

**Objective of Pakistan:** Pakistan would be a state "wherein the principles of democracy, freedom, equality, tolerance and social justice, as enunciated by Islam, shall be fully observed; wherein the Muslims shall be enabled to order their lives in the individual and collective spheres in accordance with the teachings and requirements of Islam as set out in the Holy Quran and Sunnah; [and] wherein adequate provision shall be made for the minorities freely to progress and practice their religions and develop their cultures".

## **Article 3:**

**Quaid-e-Azam's Vision and Guidelines for Governance:** Some excerpts of the speeches of Quaid-e-Azam are as follows:-

- a) Pakistan would be the embodiment of the concepts of Islamic social justice and equality of man.
- b) The first duty of a government is to maintain law and order, so that the life, property and religious beliefs of its subjects are fully protected by the State.
- c) Constituent Assembly would deal with social evils with iron hand by taking adequate measures as soon as it is possible for this Assembly to do so and we shall make this Constituent Assembly of Pakistan an example to the world. Bribery and corruption, which really is a poison, would be put down; black-marketing which today is a colossal crime against society would be dealt with severely punishment.
- d) I shall never tolerate any kind of jobbery, nepotism or any influence directly or indirectly brought to bear upon me.
- e) We should wholly and solely concentrate on the well-being of the people, and especially of the masses and the poor and work in co-operation, forgetting the past, burying the hatchet to assure success.

- f) My guiding principle would be justice and complete impartiality, and I am sure that with your support and co-operation, I can look forward to Pakistan becoming one of the greatest nations of the world.
- g) Our object should be peace within, and peace without. We want to live peacefully and maintain cordial friendly relations with our immediate neighbours and with the world at large.
- h) This is not the time to think in terms of personal advancement and jockeying for positions but it is the time for constructive effort, selfless work and steadfast devotion to duty.
- i) We follow the teachings of the Prophet Mohammed (SAW). We are members of the brotherhood of Islam in which all are equal in rights, dignity and self-respect and therefore, we have a special and a very deep sense of unity.
- j) We have won the battle of Pakistan's freedom but the grimmer battle for the preservation of that freedom and building it on a firmer and sounder basis is still in progress and that battle has to be fought to a successful conclusion if we are to survive as a great nation.
- k) Pakistan is now brought under a rule, which is Islamic, Muslim rule, as a sovereign independent State. Now, we have much more difficult task ahead--how to reconstruct, how to build it up and how to revolutionise and re-model the past legacies from which we are suffering, namely, the mentality, the character and the evil customs of which we have been the victims for a century or more as slave people.
- l) Praise your government when it deserves, criticise your government fearlessly when it deserves, but, do not go on all the time attacking, including in destructive criticism, taking delight in running down the Ministry or the Officials.
- m) We must work our destiny in our own way and present to the world an economic system based on true Islamic concept of equality of manhood and social justice. We will thereby be fulfilling our mission as Muslims and giving to humanity the message of peace which alone can save it and secure the welfare, happiness and prosperity of mankind.

#### **Article 4**

**Preamble of the Constitution of the Islamic Republic of Pakistan:** The text is reproduced below:

*"Whereas sovereignty over the entire universe belongs to Almighty Allah alone, and the authority to be exercised by the people of Pakistan within the limits prescribed by Him is sacred trust;*

*And whereas it is the will of the people of Pakistan to establish an order;*

*Wherein the State shall exercise its powers and authority through the chosen representatives of the people;*

*Wherein the principles of democracy, freedom, equality, tolerance and social justice, as enunciated by Islam, shall be fully observed;*

*Wherein the Muslim shall be enabled to order their lives in the individual and collective spheres in accordance with the teachings and requirements of Islam as set out in the Holy Quran and Sunnah;*

*Wherein adequate provision shall be made for the minorities freely to profess and practise their religions and develop their cultures;*

*Wherein the territories now included in or in accession with Pakistan and such other territories as may hereafter be included in or accede to Pakistan shall form a Federation wherein the units will be autonomous with such boundaries and limitations on their powers and authority as may be prescribed;*

*Wherein shall be guaranteed fundamental rights, including equality of status, of opportunity and before law, social, economic and political justice, and freedom of thought, expression, belief, faith, worship and association, subject to law and public morality;*

*Wherein adequate provision shall be made to safeguard the legitimate interests of minorities and backward and depressed classes;*

*Wherein the independent of judiciary shall be fully secured;*

*Wherein the integrity of the territories of the Federation, its independence and all its rights, including its sovereign rights on land, sea and air, shall be safeguarded;*

*So that the people of Pakistan may prosper and attain their rightful and honoured place amongst the nations of the World and make their full contribution towards international peace and progress and happiness of humanity;*

*Now, therefore, we, the people of Pakistan;*

*Conscious of our responsibility before Almighty Allah and men;*

*Cognisant of the sacrifices made by the people in the cause of Pakistan;*

*Faithful to the declaration made by the Founder of Pakistan, Quaid-i-Azam Muhammad Ali Jinnah, that Pakistan would be a democratic State based Islamic principles and social justice;*

*Dedicated to the preservation of democracy achieved by the unremitting struggle of the people against oppression and tyranny;*

*Inspired by the resolve to protect our national and political unity and solidarity by creating an egalitarian society through a new order;*

*Do hereby, through our representatives in the National Assembly, adapt, enact and give to ourselves, this constitution.*

### **3. INTRODUCTION**

The wording of high office of Pakistan reads: "I, \_\_\_\_\_ do solemnly swear that I am a Muslim and believe in the Unity and Oneness of Almighty Allah, the Books of Allah, the Holy Quran being the last of them, the Prophethood of Muhammad as the last of the Prophets and that there can be no Prophet after him, the Day of Judgment, and all the requirements and teachings of the Holy Quran and Sunnah:

That I will bear true faith and allegiance to Pakistan: That, as \_\_\_\_\_ of Pakistan, I will discharge my duties, and perform my functions, honestly, to the best of my ability, faithfully in accordance with the Constitution of the Islamic Republic of Pakistan and the law, and always in the interest of the sovereignty, integrity, solidarity, well- being and prosperity of Pakistan: That I will strive to preserve the Islamic Ideology which is the basis for the creation of Pakistan: That I will not allow my personal interest to influence

my official conduct or my official decisions: That I will preserve, protect and defend the Constitution of the Islamic Republic of Pakistan: That, in all circumstances, I will do right to all manner of people, according to law, without fear or favour, affection or ill-will:

And that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me as \_\_\_\_ of Pakistan, except as may be required for the due discharge of my duties as \_\_\_\_\_ of Pakistan.

May Allah Almighty help and guide me, (A'meen!)”

Over its history, 11 presidents and 22 prime ministers took above oath to serve Pakistan before Allah [SWT] as the Witness. Questions may be asked that: did they live to their oath? Did they in fact believe and follow all the requirements and teachings of the Holy Quran and Sunnah? Did they preserve the Islamic Ideology which is the basis of the creation of Pakistan? Did they discharge their duties for the integrity, well-being and prosperity of Pakistan? Did they do right to all manner of people without fear or favour, affection or ill-will? Did they work towards the vision of Quaid-e-Azam for Pakistan? Did they follow the guidelines of Quaid-e-Azam for the governance of Pakistan as set out in Article 4 of the Preamble? In this report I will endeavour to find the answers to these and such other questions, in the lights of facts and national & international perception of Pakistan politics.

#### **4. PROBLEMS AND CONCERNS**

##### **4.1 Teaching of Holy Quran and Sunnah**

In spite of the important element of the above mentioned oath, in this respect Pakistan politics has always been hypocritical. Pakistan governance has always been contrary to the principle of governance set out in the Quran and Sunnah. According to Quran and Sunnah, in an Islamic State, Sovereignty belongs to Allah [SWT] but the responsibility for the administration of the government, in an Islamic State is entrusted to the head of the state as a trustee from Allah [SWT], who is vested with the mission to carry out and establish the command of the Sovereign. Head of the state may be equated with the Prime Minister or President in the conventional democratic states. He is not free to act as he wishes, but bound to act in accordance with the directives of his Lord as prescribed in the Quran and Sunnah, i.e. he is bound to function within the limits of the Divine Law. He is not above criticism and he is answerable not only to Allah [SWT] but also to fellow-men for his acts of commission as well as omission. It is important to note, that the scope of government activities in Islam is not confined to administrative matters but it encompasses all the spheres of human life, such as: the social, economic, moral, legal, and political.

It is one of the major obligations of an Islamic government to assure that public affairs are granted to those who are deserving of them from the point of view of piety and righteousness<sup>1</sup> and not for any rank or other reasons<sup>2</sup>. As far as administration is concerned, the Divine Law lays down the rules for the conduct of state and good governance. The Divine law enunciates the basic principles and major elements of Islamic administrative law, rules for judiciary, for the police, administrative bodies, and even in broad terms the conduct of the ruler. One of the most important sources of principles of administration is the letter of the Khalifah Hazrat Ali written to Malik Al-Ashtar the

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<sup>1</sup> Abu Huraira (PBUH) reported that the Messenger of Allah said: 'He, who obeyed me, obeyed Allah and who disobeyed me, disobeyed Allah. And he, who obeyed the ruler, obeyed me and he who disobeyed the ruler disobeyed me. Verily, the ruler is a shield. One fights behind him and is safeguarded through him. If the ruler orders with God-consciousness and acts justly, he is entitled to a reward for that and if he speaks otherwise, he will have to bear a burden of his misdeeds'. (Agreed upon)

<sup>2</sup> Umm al-Hussain reported that the Messenger of Allah said: 'if a disfigured slave is appointed as your ruler who leads you according to the Book of Allah you must listen to him and obey him'. (Muslim)

governor of Egypt<sup>3</sup>, as narrated in Inamul Haq Article entitled: 'The concept of Justice and Administrative Accountability in Islam' published in J.R.S.P., Vol. XXXII, No. 2, 1995: "The letter deals with the duties and obligations of the ruler and administrator; the distribution of work among various branches of administration; and coordination and cooperation. The letter advises against corruption, calls for administrative probity, urges effectiveness and efficiency, asks the governor to fight oppression to curb the evils of profiteering, hoarding and black marketing. It discusses the principles of equitable distribution of wealth and opportunity, justice and mercy without class, creed or colour. The governor must be a good ideal for his staff and citizens. He must be impartial. He must supervise the activities of his subordinates. He must consult his staff and keep regular communication. He must not develop traits of self-administration. He must require nothing for himself and his relatives". In an Islamic government, the atmosphere of trust and credibility should prevail, the governor should lead a simple life, law should be enforced equally, and there must be true faith, unity of purpose and ideological motivation among the people.

However, in practice in Pakistan, bulk of political leaders and bureaucrats, unfortunately have been secular minded: without sincere belief in Islamic ethical and moral values, and therefore, have not been interested in an Islamic model of administration and have been behaving hypocritically with respect to believing and following Quran and Sunnah.

#### **4.2 Islamic Social Justice and Equality of Man**

According to Quaid-e-Azam vision for Pakistan, Pakistan governance should have been in accordance with Islamic social justice with the right to equality before law, even rulers not above the law. This is very important and valuable right, which Islam has given to man. So much emphasis has been laid on the concept of justice in Islam that around sixty Quranic verses command (those in powers) to do justice<sup>4</sup>. Islam has legislated that nobody to be imprisoned unless his guilt has been proved after fair trial as somebody's action can under no circumstances be transferred to someone else. Islam gives its citizens the right to absolute and complete equality in their rights and obligations<sup>5</sup>. The Prophet (SAW) has stresses this right, far and again<sup>6</sup>. The Prophet (SAW) has demonstrated this principle throughout his life<sup>7</sup>. In order to maintain this sort of justice, both Khalifa Umar and Khalifa Ali made sure that judiciary was free from influences and thereby gave to the world the concept of 'independence of judiciary'.

Unfortunately in Pakistan politics, there has never been independence of judiciary. It is claimed that now judiciary is independent after the reinstatement of CJ and the judges, but judiciary cannot be considered independent unless it is free from corruption and it is capable of delivering justice on the basis of equality of Man. Pakistan judiciary is not only corrupt but highly inefficient and inhibiting the delivery of justice to the masses of Pakistan. In this respect I would like to cite a case when an old man appeared before the court to seek justice. When magistrate asked the man about the case, the old man went to the magistrate and showed him a photograph. The judge asked the old man that why you are showing the photograph of a young man by posing a question is he your son or

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<sup>3</sup> Nahajul Balagha, Sermon, Letters and saying of Imam Ali (European Islamic Cultural Center) Fourth Edition, Room, Italy 1984, pp. 531-547.

<sup>4</sup> Some verses are cited here. Quran says: 'O you who believe! Stand out firmly for justice, as witness to Allah, even as against yourselves, or your parents, or your kin, and whether it be (against) rich or poor. Follow not the lusts (of your hearts), lest you swerve, and if you distort (justice) or decline to do justice, verily Allah is well acquainted with all that you do'. (Q:4:135). Quran further says: "O you who believe! Stand out firmly for Allah, as witness to fair dealing, and let not the hatred of others make you swerve to wrong and depart from justice. Be just that is next to Piety: and fear Allah. For Allah is well acquainted with all that you do'. (Q: 5:8)

<sup>5</sup> The Quran says: 'The Believers are but a single brotherhood, so make peace and reconciliation between your two (contending) brothers; and fear Allah, that you may receive mercy' (Q:49:10).

<sup>6</sup> The Prophet said: 'The life and blood of Muslims are equally precious' (Abu Dawud & Ibn Maja). The Prophet also said: 'The protection given by all Muslims are equal, even an ordinary man of them can grant protection to any man' (Bakhari, Muslim, Abu Dawud).

<sup>7</sup> A case is cited here when the Prophet was requested not to order the cutting of hand of a woman. The Prophet made the remarks: 'I swear to Allah, Who has the life of Muhammad in His hands, if my daughter Fatimah had committed theft I would have cut her hands'.

grandson? The old man replied that "this is my photograph of the day I filed this case and for so many years I have been appearing in the court to seek justice." This is the performance of the judiciary of Pakistan with respect to equality of Man. Unfortunately people in Pakistan are not afraid of Allah [SWT] as to them Allah [SWT] is only a concept and there is no system of 'check and balance' as most of the departments of law enforcement and anti-corruption are themselves are buried in corruption. In this respect I would like to cite another example. During a train travel it was observed that two railway checkers were openly counting money they took out of bribes from those people who were travelling in the train without tickets and discussing with each other that they have made so much so. It so happened that among the passengers who were watching the scene there was a police inspector in civil clothes. The police inspector stood up from his seat open his suitcase and removed his uniform and went to lavatory and changed into uniform and came out and caught the railway checkers by saying so you take bribe, I will take you to police station. The checkers offered the money they collected to him but he shouted at them that you are offering me bribes. He asked them to empty their pockets to take their own money out. He then took all the money from them, put in his own pocket and sat down in his seat by saying this is how we enforce law. In contrast to this I wish to cite an example in the UK. Once it so happened that a London transport bus conductor took 20p from a passenger but did not issue the ticket, another passenger noticed and he made complaint to the authority. The case went to the court and the bus conductor lost his job and was sentence to imprisonment for a year.

Islamic social justice and equality of Man in Pakistan remained only the vision of Quaid-e-Azam due to vested interest of the subsequent rulers of Pakistan, who instead of establishing social justice and equality of Man, created further class distinction which resulted in poor and middle classes becoming poorer and poorer whereas rich and elite classes becoming richer and billionaires.

It is unfortunate for Pakistan that its judiciary and law enforcement agencies have been hypocritical whilst delivering justice by ignoring Allah's Command and relying on mundane laws, when Allah [SWT] says as confirmed in the Quran:

﴿ثُمَّ جَعَلْنَاكَ عَلَىٰ شَرِيعَةٍ مِّنَ الْأَمْرِ فَاتَّبِعْهَا وَلَا تَتَّبِعْ أَهْوَاءَ الَّذِينَ لَا يَعْلَمُونَ﴾

(Then We have put you on a (legal) way of commandment. So follow you that, and follow not the desires of those who know not.) (Quran 45:18)

﴿إِنَّا أَنْزَلْنَا إِلَيْكَ الْكِتَابَ بِالْحَقِّ لِتَحْكُمَ بَيْنَ النَّاسِ بِمَا أَرَاكَ اللَّهُ وَلَا تَكُن لِّلْخَائِنِينَ خَصِيمًا﴾

(Surely, We have sent down to you (O Muhammad ) the Book in truth that you might judge between men by that which Allah has shown you, so be not a pleader for the treacherous.) (Quran 4:105)

﴿وَلِيَحْكُمَ أَهْلُ الْإِنجِيلِ بِمَا أَنْزَلَ اللَّهُ فِيهِ وَمَن لَّمْ يَحْكَمْ بِمَا أَنْزَلَ اللَّهُ فَأُولَٰئِكَ هُمُ الْفَاسِقُونَ﴾

(Let the people of the Injil judge by what Allah has revealed therein. And whosoever does not judge by what Allah has revealed, such are the rebellious.) (Quran 5:47)

﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا كُونُوا قَوَّامِينَ بِالْقِسْطِ شُهَدَاءَ لِلّٰهِ وَلَوْ عَلَىٰ أَنفُسِكُمْ أَوِ الْوَالِدِينَ وَالْأَقْرَبِينَ  
 إِن يَكُنْ غَنِيًّا أَوْ فَقِيرًا فَاللّٰهُ أَوْلَىٰ بِهِمَا فَلَا تَتَّبِعُوا الْهَوَىٰ أَن تَعْدِلُوا وَإِن تَلَوُّوا أَوْ تَعْرِضُوا فَإِنَّ اللّٰهَ  
 كَانَ بِمَا تَعْمَلُونَ خَبِيرًا﴾

(O you who believe! Stand out firmly for justice, as witnesses to Allah, even though it be against yourselves, or your parents, or your kin, be he rich or poor, Allah is a better Protector to both. So follow not the lusts, lest you may avoid justice; and if you Talwu (distort your testimony) or Tu`ridu (refuse to give) it, verily, Allah is Ever Well-Acquainted with what you do.) (Quran 4:135)

### 4.3 Preservation of Islamic Ideology

Pakistan ideology was emerged from the 'Two Nation Theory', which meant that Muslims and Hindus of united India were two separate nations and both nations were quite different from each other, thereby Muslims of India demanded that they should have an opportunity to live and develop according to their own ideology on principles of Islam in their separate homeland. The demand was conceded and Pakistan was founded on the Islamic ideology. This ideology was translated into the 'Objectives Resolution', a prelude to future constitution, which was passed by the 'Legislative Assembly' on 12 March 1949. The Objectives Resolution proclaimed that the future constitution of Pakistan would not be modelled on European pattern, but on the ideology and democratic faith of Islam. It proclaimed the following principles:

1. Sovereignty belongs to Allah alone but He has delegated it to the State of Pakistan through its people for being exercised within the limits prescribed by Him as a sacred trust.
2. The State shall exercise its powers and authority through the chosen representatives of the people.
3. The principles of democracy, freedom, equality, tolerance and social justice, as enunciated by Islam, shall be fully observed.
4. Muslims shall be enabled to order their lives in the individual and collective spheres in accordance with the teachings of Islam as set out in the Holy Quran and Sunnah.
5. Adequate provision shall be made for the minorities to freely profess and practice their religions and develop their cultures.
6. Pakistan shall be a federation.
7. Fundamental rights shall be guaranteed.
8. Judiciary shall be independent.

The Objectives Resolution<sup>8</sup> is considered to be the "Magna Carta" and is one of the most important and illuminating documents in the constitutional history of Pakistan. At the time it was passed, Mr. Liaquat Ali Khan called it "the most important occasion in the life of this country, next in importance only to the achievement of independence".

A question may be asked that did we preserve it? The answer is emphatic 'no', as it was totally ignored and years rolled on, one after another, without formulation of a constitution of Pakistan until a stage reached when the then Governor General, Ghulam Mohammad, dismissed the Constituent Assembly in 1954, which was ratified by the Supreme Court of Pakistan, arguing that the Governor general had the power to disband the Constituent Assembly and veto legislation it passed. This prominence of the governor general over the legislature has been referred to as the vice-regal tradition in Pakistan's

<sup>8</sup> Article 3 of the Preamble: The Objectives Resolution became a part of the constitution of Pakistan in 1985 under the Eighth Amendment

politics. In the sixty-two years history of Pakistan, we have failed to preserve the Islamic Ideology of Pakistan. In spite of the Objectives Resolution became a part of the constitution of Pakistan in 1985 under the Eighth Amendment, post 1985 period has been the worst period in the history of Pakistan in the violation of the principles of the 'Objective Resolution' when bribery and corruption went sky high; judiciary was ridiculed; the name of Islam has been tarnished; fundamental rights have been grossly violated; and above all the principles of democracy, freedom, equality, tolerance and social justice, as enunciated by Quran and Sunnah, have been ridiculed.

#### **4.4 The Pros and Cons of Corruption in Pakistan**

##### **4.4.1 Definition of corruption**

There is no universally accepted definition of corruption. The dictionary of social sciences compiled under the auspices of UNESCO (1963) defines corruption in public life as the use of public power for private profit, preferment, or prestige, or for the benefit of a group or class, in a way that constitutes a breach of law or of standards of high moral conduct. There is also what the World Bank calls "State Capture" defined thus: "The actions of individuals, groups, or firms, both in the public and private sectors, to influence the formation of laws, regulations, decrees, and other government policies to their own advantage as a result of the illicit and non-transparent provision of private benefits to public officials." Cumulative definition of corruption may include but not limited to the following:

- The withholding of a service, information, or goods that, by law, and by right, should have been provided or disclosed.
- The provision of a service, information, or goods that, by law, and by right, should not have been provided or disclosed.
- That the service, information, or goods that are provided or disclosed are provided or disclosed against a benefit or the promise of a benefit from the recipient and as a result of the receipt of this specific benefit or the promise to receive such benefit.
- That the service, information, or goods that are withheld are withheld because no benefit was provided or promised by the recipient.
- Income Supplement - Corrupt actions whose sole outcome is the supplementing of the income of the provider without affecting the "real world" in any manner.
- Acceleration or Facilitation Fees - Corrupt practices whose sole outcome is to accelerate or facilitate decision making, the provision of goods and services or the divulging of information.
- Decision Altering (State Capture) Fees - Bribes and promises of bribes which alter decisions or affect them, or which affect the formation of policies, laws, regulations, or decrees beneficial to the bribing entity or person.
- Information Altering Fees - Backhanders and bribes that subvert the flow of true and complete information within a society or an economic unit (for instance, by selling professional diplomas, certificates, or permits).
- Reallocation Fees - Benefits paid (mainly to politicians and political decision makers) in order to affect the allocation of economic resources and material wealth or the rights thereto. Concessions, licenses, permits, assets privatized, tenders awarded are all subject to reallocation fees.

##### **4.4.2 The Psychology of Corruption**

Most politicians and administrators bend the laws of the land and steal money or solicit bribes because they need the funds to support networks of patronage and vote bank. Others do it in order to reward their nearest and dearest or to maintain a lavish lifestyle when their political lives are over or they are retired from their privileged positions in the administrative structure of the country. Yet there are others who in order to fulfil their

psychological needs become compulsive collector of wealth. Such people rarely feel remorse or fear the consequences of their misdeeds regardless their inconceivable dollops of hard cash, gold reserves and valuables often remain stashed and untouched, crumbling in bank accounts and safes in Western banks in billions of US\$ worth, serving no purpose either economically or politically, but merely catering for their psychopathology and consequently this only makes them more culpable and dangerous. This class of people could no more stop thieving as greed becomes an integral part of their psychological makeup.

Such people however are not free from enormous stress and unceasing conflict and often suffer with mental health disorders and react by de-compensation. They rob the state and compel businessmen to build their bank balances because it makes them feel better and also it helps them to repress their mounting fears and frustrations, thereby maintaining their psychodynamic equilibrium. These politicians and bureaucrats 'let off steam' by looting and corruption.

#### **4.4.3 Prospectus of corruption**

Both the givers and the recipients believe that corruption helps facilitate the flow and exchange of goods and services in hopelessly blocked and dysfunctional systems and markets (corruption and the informal economy "get things done" and "keep people employed"); that it serves as an organizing principle where disorder reigns and institutions are in their early formative stages with incumbents with empty stomach; that it supplements income, termed as 'allah da falzal he'; and that it preserves peace and harmony by financing networks of nepotism and patronage. In Pakistan corruption, since its birth, has been growing steadily with smooth curve until 1985, but since 1985, the curve has become very steep and it is now a booming industry, with no effective countermeasures to reverse it, as the anti-corruption establishments are themselves heavily buried under corruption and nepotism.

#### **4.4.4 Consequences of corruption**

There are many serious consequences of corruption for a nation, some of these are noted below:

- It breeds greedy people who become compulsive collector of wealth to fulfil their psychological needs.
- It adds to foreign loans, e.g.
- It encourages plea for foreign aid.
- It is widely accepted that corruption retards growth by deterring foreign investment.
- It encourages brain drain.
- It leads to the misallocation of economic resources and distorts competition.
- It depletes the affected country's endowments - both natural and acquired.
- It demolishes the tenuous trust between citizen and state.
- It adds to the casts of civil and government institutions.
- It tarnishes the entire image of the nation at home and abroad.
- It creates class distinction.
- It adds to poverty and misery.
- It adds to social evils and social corruption.
- It creates elite class.
- It turns good people into bad people.
- It causes bankruptcy to national enterprises, e.g. Railways, Airlines and other Public-rum corporations.
- It subverts the proper functioning of institutions.
- In general, it is a cancer to the economy.

#### **4.5 High Level Corruption and Social Evils Tarnishing the Image of Pakistan**

This is the area where Pakistan has progressed very well indeed over the years and during recent years has been leading the world. Before 1971, this was socially unacceptable and was only rising with slow pace and was operated under the table, but during ZAB period it was put on the top of the table and almost all the people in authority had stated to burry themselves in corruption and nepotism fearlessly as it spread throughout the political and administrative hierarchy with no 'checks and balances'. This practice gave rise to emergence of a strong corrupt political and administrative community turning into industrialists and vice versa, thereby controlling the internal economy of the country and basic needs of the masses. Instead of acting on the slogan "Roti Kupra aur Mukan" they started to control these needs by pushing the masses below the poverty line and exploiting them to increase their respective vote-bank and strengthen their administrative and political positions. Foreign aids and loans instead of utilising on the socio-economic development projects and welfare of the masses, transferred to their person foreign bank accounts and to acquire their other foreign assets. Our political and administrative lords turned 180 degree and acted exactly opposite the guidelines given by our Quaid-e-Azam, viz.: "*Bribery and corruption, which really is a poison, would be put down; black-marketing which today is a colossal crime against society would be dealt with severely punishment. I shall never tolerate any kind of jobbery, nepotism or any influence directly or indirectly brought to bear upon me. We should wholly and solely concentrate on the well-being of the people, and especially of the masses and the poor and work in co-operation, forgetting the past, burying the hatchet to assure success.*"

Although in 1985, the Objectives Resolution became a part of the constitution of Pakistan under the Eighth Amendment, but the post 1985 period has been the worst in violation of the principles of the 'Objective Resolution' particular with respect to bribery and corruption, which not only reached to un-precedential level within Pakistan but also internationally, thereby tarnishing the image of Pakistan as the most corrupt country of the World. In this study I will concentrate on post 1985 period of political and administrative history of Pakistan.

##### **4.5.1 Corruption and Social Evils Between the years 1986-1999**

Alleged corruption charges against BB and Mr Zardari as published in the Press:

National and international press is full of news and headlines on this subject. Some of the excerpts are as follows:

- The corruption charges against Mr. Zardari stem from his actions during Ms. Bhutto's two terms as prime minister, a time when he was known as "Mr. 10 Percent" because of allegations that he demanded a cut of contracts after his wife assumed office in 1988.
- October 1995, Mr. Zardari was in an expansive mood. Lawyers working for him had just arranged the \$4 million purchase of Rockwood, with its 355 acres of rolling Surrey countryside. He had ordered a complete renovation of the 1930's mansion, with a budget of \$1.5 million. And he had engaged an English couple with experience as horse-breeders to turn Rockwood into a "stud farm," to raise thoroughbreds and indulge his passion for polo.
- When a British newspaper, The Sunday Express, published an article saying the couple had bought the estate in June 1996, Ms. Bhutto and Mr. Zardari issued statements saying they knew nothing about Rockwood, and, in Ms. Bhutto's case, that she had never been to Surrey. Mr. Zardari added a touch of outraged social conscience. "How can anyone think of buying a mansion in England when people in Pakistan don't even have a roof over their heads?" he asked rhetorically. (There is

nothing wrong to buy a state from personal means, but in this instance denial and untruthful statements have no justification and provides a clear evidence on international corruption and money laundering).

- On Feb. 27, 1995, a Swiss lawyer filled out an application to open a Citibank account in Geneva for an obscure company from the British Virgin Islands known as Capricorn Trading. The handwritten document identified the company's owner as Asif Ali Zardari and listed his address as Bilawal House, Karachi, Pakistan. Opening the account was the sort of discreet service performed daily by Citibank's private banking department, which prides itself on "white gloved" treatment of well-placed clients, many of them from poor, politically unstable countries in the third world. But Mr. Zardari was no ordinary client and this was no ordinary account. Although his application did not say so, he was the husband of Pakistan's Prime Minister, Benazir Bhutto. The address on the form was her personal residence.
- In the largest single payment investigators have discovered, a gold bullion dealer in the Middle East was shown to have deposited at least \$10 million into an account controlled by Mr. Zardari after the Bhutto Government gave him a monopoly on gold imports that sustained Pakistan's jewelry industry. The money was deposited into a Citibank account in the United Arab Emirate of Dubai, one of several Citibank accounts for companies owned by Mr. Zardari.
- In 1995, a leading French military contractor, Dassault Aviation, agreed to pay Mr. Zardari and a Pakistani partner \$200 million for a \$4 billion jet fighter deal that fell apart only when Ms. Bhutto's Government was dismissed. In another deal, a leading Swiss company hired to curb customs fraud in Pakistan paid millions of dollars between 1994 and 1996 to offshore companies controlled by Mr. Zardari and Ms. Bhutto's widowed mother, Nusrat.
- A 1998 *New York Times* investigative report claims that a Dubai company received an exclusive license to import gold into Pakistan for which Asif Zardari received payments of more than \$10 million into his Dubai-based Citibank accounts.
- Mr. Zardari was amassing a fortune of more than \$100 million in bank deposits and luxury properties abroad, much of it bought with payoffs from foreign companies doing business in Pakistan. The largest single portion -- more than \$40 million -- coursed through Citibank account No. 342034, according to the investigators.
- Ms. Bhutto and her husband, Asif Ali Zardari, were sentenced last month to five years in jail, fined \$8.6 million and disqualified from politics. Their property also was ordered confiscated. They were found guilty of accepting kickbacks from a Swiss company and its subsidiary; the amount was not clear
- Former Prime Minister Benazir Bhutto and her husband, Asif Zardari, have been formally charged with taking kickbacks from a company that was supposed to monitor imports.
- The Geneva magistrate has been conducting a wide-ranging inquiry seeking to account for more than \$13.7 million frozen by Swiss authorities last fall. The money was allegedly stashed in Swiss banks by Ms. Bhutto and her husband, Asif Ali Zardari.
- 'Pakistani investigators to accuse her and Mr. Zardari of embezzling as much \$1.5 billion from government accounts. British and American private investigators working for the government of her political rival Nawaz Sharif, produced a thick volume of documents tracing what they said were multimillion-dollar kickbacks paid to the couple in return for the award of government contracts, and a web of bank accounts across the world that were used to hide the money.
- On 6 August 2003, Swiss magistrates found Bhutto and her husband guilty of money laundering. They were given six-month suspended jail terms, fined \$50,000 each and were ordered to pay \$11 million to the Pakistani government. The six-year trial concluded that Bhutto and Zardari deposited in Swiss accounts \$10 million given to them by a Swiss company in exchange for a contract in Pakistan.
- The Polish Government has given Pakistan 500 pages of documentation relating to corruption allegations against Benazir Bhutto and her husband. These charges are in regard to the purchase of 8,000 tractors in a 1997 deal. "The documentary evidence

received from Poland confirms the scheme of kickbacks laid out by Asif Zardari and Benazir Bhutto in the name of (the) launching of Awami tractor scheme", APP said. Bhutto and Asif Ali Zardari allegedly received a 7.15% commission on the purchase through their front men.

- On March 2, 2006, a Karachi based English paper reported that Benazir's assets in Spain unearthed. The National Accountability Bureau claimed to have unearthed two more offshore companies and a villa in Spain owned by former Prime Minister Benazir Bhutto. A spokesman of the bureau said that judicial authorities of Spain had frozen assets of two Sharjah-based companies, Petroline and Tempo Global Gains, as well as their six bank accounts.
- The villa worth half million euros, allegedly owned by Ms Bhutto and her three children, Bilawal Zardari, Bakhtawar Zardari and Aseefa Zardari in Playas Del Arenal, Marbella, had also been seized by the High Court of the Valencia province, the NAB claimed. The NAB official said the Petroline company was owned by Ms Bhutto, former FIA director-general Rehman Malik and Hassan Ali Jafferri and was established in 2000.
- Zardari, who was running cinema entertainment business become billionaires with a fortune estimated to be close to US\$2 billion.
- Mr Zardari also has huge stakes in sugar mills all over Pakistan, which include: Sakrand Sugar Mills, Nawabshah, Ansari Sugar Mills, Hyderabad , Mirza Sugar Mills, Badin, Pangrio Sugar Mills, Thatta and Bachani Sugar Mills, Sanghar.
- Nothing yet in print media; but two articles from Pakistani online news back in 2007 were published: Shaukat Aziz and Citibank's Laundering of Asif Zardari's Money. How Citibank Laundered Asif Zardari's Money, provides a case history excerpted from a US Congress Subcommittee's investigation of money laundering by private banking groups within US banks during the 1990s (refer to Article 4 of the Preamble).
- Despite numerous cases and charges of corruption registered against Bhutto by Nawaz Sharif between 1996 – 1999 and Pervez Musharraf from 1999 till 2008, she was yet to be convicted in any case after a lapse of twelve years since their commencement. The cases were withdrawn by the government of Pakistan after the return to power of Pakistan People Party in 2008.

#### Alleged corruption charges against Nawaz Sharif Family as published in the Press:

National and international press is full of news and headlines on this subject. Some of the excerpts are as follows:

- During the premiership of Nawaz Sharif, a British newspaper accused him of evading taxes and siphoning millions of public dollars into personal bank accounts. The Observer newspaper quoted a report by the Pakistani Federal Investigation Agency that said the Sharif family was involved in tax evasion, loan defaults and had "phantom" bank accounts. It did not say what these accounts were. Sharif's assets include four apartments in London's exclusive Mayfair district, worth more than \$5 million, and accounts and companies controlled by the prime ministers' family are worth more than \$70 million, The Observer reported.
- The Sharif family's wealth is built around steel, paper, sugar and textile mills and his business empire rose astronomically during 1980s and 1990s when he was in power.
- General Zia made Nawaz Sharif the Finance Minister of Punjab, thereby the street thugs of Mohni Road had stepped on to becoming the national thugs of Pakistan. The day Nawaz Sharif had become Finance Minister; the entire family's earnings were few million rupees and had only one refinery. From there they went on to: Ittefaq Sugar Mills was set up in 1982, Brothers steel in 1983, Brother;s Textile Mills in 1986, Brothers Sugar Mills Ltd in 1986, Ittefaq Textile units in 2-3 in 1987, Khalid Siraj Textile Mills in 1988, Ramzan Buksh Textiles in 1987, Farooq Barkat (pvt) Ltd in 1985. By the time of Zia ul Haq's fateful plane crash, Mian Muhammad Sharif's family was earning a net profit of US\$ 3 million, up from a few million rupees.

- When Nawaz Sharif became prime minister, the group took a decision to secure project loans from the foreign banks and only working capital was taken from the nationalized commercial banks. The project financing from foreign banks was ostensibly secured against the foreign currency deposits, a number of which were held in benamee accounts, as repeatedly claimed by Interior Minister Naseer Ullah Babar at his press conferences.
- In 1992 Salman Taseer released an account of Nawaz Sharif's corruption stating that the family had taken loans of up to 12 billion rupees, which were never paid back.
- On March 2, 1994, Khalid Siraj, a cousin of Nawaz Sharif claimed that the assets of the seven brothers were valued at Rs 21 billion. These were the accounts of profits and companies which were openly known to public.
- By 1995 family's declared annual profits from industrial units had increased 1500% from US\$ 30 million to staggering US\$ 400 million.
- Nawaz Sharif's family business group Ittefaq's turn over in 1981 was Rs 337 million, but by 1987 it had soared to at least Rs 2,500 million, that is according to the group's own accounts. Within four years Ittefaq had become one of the wealthiest private industrial groups in Pakistan. These were the accounts of profits and companies which were openly known to public. Sharif family's declared annual profits from industrial units had increased 1500% from US\$ 30 million to staggering US\$ 400 million until 1995.

#### **4.5.2 Corruption and Social Evils Between the years 1999 -2009**

##### Unconstitutional Steps

- Musharraf to unconstitutional steps and promulgated 37 ordinances promulgated, key among these is the National Reconciliation Ordinance (Appendix 1 refers) promulgated in October 2007 to enable the return from exile of former prime minister Benazir Bhutto and her husband Asif Ali Zardari, who were in exile facing corruption charges.
- The Supreme Court in its July 31 2009 judgment had ruled as unconstitutional the emergency Musharraf had declared Nov 3, 2007 and fixed Nov 30 2009 as the deadline for the approval or rejection of the 37 ordinances by parliament.
- 'The present PPP government tabled the ordinances at the end of the National Assembly and Senate sessions on Oct 16 apparently to gain time to drum up maximum support for their passage'.
- Quoting parliament sources, report said the ordinances could become law if they are approved by a simple majority of National Assembly and subsequently endorsed by the Senate.
- Adeel Gilani, the Pakistan chief of global anti-corruption watchdog Transparency International (TI), has said anti-corruption efforts in the country had taken a 180 degree turn since Musharraf issued the NRO.
- TI, in its 2009 Global Corruption Report, said the lack of anti-graft laws makes Pakistan one of the most corrupt nations in the world and is coming in the way of foreign investments in the country. 'How can one expect from any donor to come forward to assist Pakistan from its current financial crisis, when there exists no law against corruption?' the report, released Sep 23 2009, said.
- Ironically, Musharraf promulgated the NRO 56 days after ratifying the UN Convention against Corruption.

##### Alleged corruption charges against Musharraf and his Key Generals as reported in the Press:

- Musharraf himself, who has a combined salary of £700 a month for his jobs as president and army chief, has acquired a real-estate portfolio worth £5m, according to 'The Guardian'.
- The personal wealth of Musharraf's key generals is estimated at £3.5m a head.

- \$23.8 billion corruption from privatization under Musharraf. Some highlights are given below:
  - There has been massive corruption during the eight years of Musharraf-Shoukat power period from 1999 until 2007.
  - It is very clear that the privatization process has not been proved as a key to economic development as was claimed by the government, but instead a total disaster for the economy.
  - On 12 November 2007, the former Prime Minister Shoukat Aziz claimed that we have earned 417 billion Rupees (\$6.41 billion) through privatization, a record amount according to him. While, only 57 billion Rupees (\$.870 million) were fetched altogether from 1991 until 1999 by the civilian governments, he said the corner stone of our economic growth has been liberalization, deregulation and privatization.
  - However, in June 2008, it is clear to everyone in Pakistan that there has been massive economic decline during the period of military led civilian government of Shoukat Aziz.
  - According to conservative estimate of Anti privatization Alliance Pakistan, a massive 1550 Billion Rupees (\$23.84 billion) corruption has taken place during 8 years of Musharraf-Shoukat Aziz privatization push. This is a record during any time of 61 years of independence of Pakistan by a government in the looting and plundering of state assets.
  - A record 700 billion Rupees (\$10.76 billion) of corruption has taken place during the privatization of financial institutions. When Habib Bank Limited (HBL) 51 percent shares were sold out to Agha Khan Fund For Economic Development in December 2004 for only 22 Billion Rupees, its total assets were more than 570 billion Rupees (\$8.76 billion).
  - While another large bank, United Bank Limited (UBL) was sold out only for 13 billion Rupees. HBL had 1437 branches and another 40 branches abroad in 26 countries with ownership of the buildings that the branches are functioning. The sale of these two banks on a very throw away prices is the largest financial scandal in Pakistan history.
  - The 26 per cent shares privatization of Pakistan Tele Communication Limited (PTCL to Dubai based Aitsalat with management rights for only 157 Billion Rupees (\$2.59 billion) is another gross violation of the rules set up even by Privatization Commission Pakistan. The Aitsalat bought PTCL after a 10 days strike against privatization by workers was crushed by the military regime in June 2005. The company then refused to take over and wanted more concessions. At the demand of the private company, it was agreed by the PC that another \$370 million be reduced from the original price and the rest of the amount to be paid in instalments. Aitsalat announced at the time of privatization in 2005, that none of the 70,000 workers would loose their jobs. However, in 2007, the company has kicked out 30,000 workers on the name of so-called voluntary scheme.
  - Karachi Electrical Supply Corporation (KESC) was sold out for only 16 billion Rupees. It failed to improve any electricity supply, on the contrary, there has been regular load shedding and most of the political parties have demanded to renationalize the KESC.
  - There has been a severe crises of agriculture due to the privatization of fertilizer public companies. Pak Saudi Fertilizer in Mir Pur Mathelo wan handed to Fauji (military) Foundation in 2002 for just 8 billion Rupees. At the time, it annual profit was more than 4 billion Rupees.
  - At Multan, Pak Arab Fertilizer was handed over to Arif Habib Group for only 13 billion Rupees. The price of the land of this factory was over 40 billion Rupees at the time of sale in 2006.
  - On 15 July 2006, the largest Public sector factory Pak American Fertilizer was handed over for just 16 billion Rupees.

- After the privatization of these factories, the price of a pack of fertilizer has gone up from Rupees 1300 to 3700 Rupees. This has put a massive extra burden on the peasants and all agricultural inputs have gone up.
- Lahore historic Fallatias hotel is sold out for only 1.21 billion Rupees. It is located in the heart of Lahore with over 50 canal of precious land.
- A large-scale corruption is witnessed in almost every deal done by the PC.
- There has been a massive price hike of the product produced by these privatized companies.
- The economy is in consistence decline.
- As a result, the trends of monopolizations have increased and the multinational companies have further monopolized the economy.
- These all facts negate the very justification of privatization.
- The former government proudly declared that three main pillars of the Pakistan so called economic growth rest on liberalization, deregulation and privatization.
- The present PPP government has continued the policies of the former Musharaf Shoukat regime. The PPP government has no different options than the above three pillars.
- The new finance minister of PPP has been the chairperson of Privatization Commission and minister privatization during the previous two periods of Benazir Bhutto government (1988-90, 1994-1996). He declared on 30 April 2008 that we have learned a lot from our previous experiences and we will do a "clean" privatization. He also tried to justified privatization as "pro worker and pro-people".
- The issue is not of clean or corrupt privatization. The process itself is anti worker and anti people as has the experience shown in Pakistan and internationally. The result has been that it has promoted unemployment, price hike, monopolization, low quality, inefficiency and huge profits for the rich.
- Under Nawaz Sharif power period from 1990-1993, it was declared that proceeds of privatization will be distributed equally for defense, repayment of the foreign loans and social welfare. The Nawaz Sharif government did not practice this formula but at least that was the declared purpose.
- Under Musharaf Shoukat Aziz, this formula was changed and it was made clear that 90 percent of the income will go for the repayments of the foreign debts. The rest of 10 percent would be used for expenditures Privatization Commission and social welfare.
- The Musharaf Shaukat regime earned 2.5 billion Dollars during 2006-2007.
- The target for the next year was around 3.5 billion Dollars.
- If the chief justice of Supreme Court of Pakistan had not stopped the privatization of Pakistan Steel Mills Karachi in 2006, the former regime would have sold most of the public institutions on throwaway prices. This would have been like selling Pakistan.
- Still, the website of Privatization Commission updated in March 2008 announces the planned privatization of Pakistan Railways, Pakistan International Airlines (PIA), State Life Insurance Corporation, Oil and Gas Development Corporation, Sui Northern and Sui Southern Gas Companies, Faisalabad Electric Supply Corporation, Peshawar Electric Supply Corporation, National Fertilizer Corporation, Port Qasim Authority, Civil Aviation Authority, Karachi Port Trust, Printing Corporation of Pakistan, All Utility Stores and Corporation, Rice Export Corporation, Cotton Export Corporation and Convention Center Islamabad.
- According to the Privatisation Ordinance 2000, the purpose of privatization is Pakistan poverty alleviation and repayments of foreign debts. During 15 years of privatization in Pakistan, these two purposes have not been accomplished. When privatization started in 1991, the foreign debt was 23.323 billion Dollars. Now, in 2008, it has gone up to 45 billion Dollars. While internal debts are on ever increase. Poverty has increased according to all the surveys by government and independent organizations. It is estimated that over 45 percent of Pakistan population lives under poverty line.

- The national growth of economy during the previous decade (1981-1991) has been on average 6.7 percent. However, during the decade of privatization (1991-2001), it has been reduced to 4.4 percent.
- The direct negative impact of privatization has been seen on working class. 600,000 workers have lost their jobs during the 15 years of privatization from the institutions that have been privatized. Most of privatized factories work on contract system. There are no permanent jobs in these factories. Labour patron have been changed the privatization has pushed flood of informal sector. A severe exploitation of workers - particularly women workers - is taking place in informal sector. No labour laws have been imposed in informal sector.
- According to the report of Public Inquiry Committee of National parliament 2002, there is no clue of 80 billion Rupees earned by Privatization Commission.
- The privatization process help create cartels. 5 large cartels have been established during the last 10 years which has looted the masses on unprecedented level. They are:
  - Oil cartel based on 10 oil companies,
  - Brokerage cartel based on 4 groups,
  - Auto mobile cartel based on 3 companies,
  - Sugar cartel based on 24 companies,
  - Cement cartel based on 10 companies

The creation and effective functioning of these cartel has resulted an unprecedented price hike and an incredible profits of the companies associated with these cartel.
- Privatization is a political weapon in the hands of the capitalists. It is not just an economic attack but a political attack as well. It stop the growth of social, political and class based consciousness. It reduces the social capital and increase the private capital. Instead of social need, it creates and increase the private greed.
- The World Bank, Transparency International and other international institution talks of state corruption but never speak about the corruption involved in privatization process.

Alleged corruption charges against Chaudhry Shajat Hussain and Family as reported in the Press:

- Chaudhry Shujat Hussain and his family also come from a humble background and have become billionaires in few years while sticking with General Pervez Musharraf.

Alleged mismanagement and corruption by present PPP Government

There are many headlines in national press about the mismanagement and corruption by the present PPP government including an investigative report by Kamran Khan of GEO TV. Some highlights are as follows:

- The only thing the new government has done in its first eight months rule is congratulate themselves and loot with both hands.
- PPP government has brought a time of a hike in the prices of basic food items and constant electricity blackouts.
- The PPP government has raised the minimum wage to 6000 rupees a month (£55), but with no governmental enforcement this is an empty gesture.
- Government decisions, in total disregard to merit, fair play and transparency, based on personal monetary gains for a few individuals in the government have grossly compounded the economic miseries of Pakistan and turned several government organizations into insolvent corporate entities
- Positioning of several handpicked corrupt and incompetent officials in key appointments at the government-run companies, in many cases without an active

approval of Prime has left a trail of incredible cases of corruption never witnessed before.

- Many policy decisions with financial implications in the government-run corporations routinely carry an imprint of a few individuals, who maintained close personal and business ties with some of the most important people in the government between 1997 and 2008.
- The consequences of former President Pervez Musharraf's National Reconciliation Ordinance (NRO) and an absence of a potent anti-corruption organization in the country seem to have contributed to this fearless unbridled corruption that now plague Pakistan's economic and business edifice. Following examples (primarily researched by Kamran Khan of Geo TV) illustrate reasons that require an anti-corruption crackdown before it is too late:

#### (1) Crash of Pakistan Steel

- Pakistan Steel, a sheet anchor in Pakistan's infrastructure development, had a reserve of Rs 11 billion and an inventory of products worth at least Rs 6 billion in June 2008. By the second week of July 2009, in space of only 54 weeks, Pakistan Steel has almost turned into a bankrupt state institution with current liabilities of Rs 21 billion.
- Most shockingly, the Pakistan Steel management, which opened new annuls of corruption during this period, has already consumed the entire amount of employees' gratuity and provident funds besides swallowing the earnest money deposited with the organization by its contractors and suppliers.
- Blast furnace, the backbone of Pakistan Steel, is running at 15 percent capacity in the absence of quality iron ore while its main production units of billet mill and billet caster are standing almost idle delivering a negligible output.
- Reams of documents are available with this correspondent that prove how this national treasure was plundered through irrational spot purchases of raw material and equipment, grant of freight contracts at the price 20 times more than the running rate, the sale of Pakistan Steel products at an amazingly lower rate than the cost of production in the past one year.
- Such was the invisible control of a crony of a government high and mighty in the affairs of Pakistan Steel that his personal office in Clifton became the place where the suppliers and buyers of Pakistan Steel would queue everyday to negotiate any sale or purchase agreement related to Pakistan Steel.
- No wonder that three directors left their jobs as Director Finance of Pakistan Steel during these 54 weeks and the organization is now being run without a functioning director finance and commercial director.
- The quantum of corruption at Pakistan Steel was accidentally revealed on July 2009 when a major real estate dealer of Dubai met a senior Pakistani security official during a reception in Islamabad and informed him that a senior Pakistan Steel executive had asked him to invest Rs 60 crore in an apartment complex before Dubai property meltdown began in September last year.

#### (2): PIA Faces Bankruptcy

- Pakistan International Airlines (PIA) is another example where a prime national institution is facing financial and administrative collapse. PIA suffered a loss of Rs 13 billion in the year 2007 that rose dramatically to Rs 40 billion in the year that ended in December 2008.
- A member of the board of directors of PIA, while talking confidentially with this correspondent in July 2009, admitted: "PIA's balance sheet is a fit case to declare bankruptcy and shut the company down." He went on to predict: "With these losses and present number of employees, PIA will not be able to make any profit in the next 50 years at least."
- While the company is struggling to run its day-to-day financial affairs with half-a-dozen of its aircraft grounded just July 2009, PIA's Managing Director Captain

Ejaz Haroon, another personal friend of government high and mighty, came up with an idea of Rs 160 billion purchase of new aircraft for the airline.

- Haroon met the PIA board members in June last to break the news of this mammoth purchase and desired that his early negotiations with the Airbus industry and Boeing to buy 27 narrow body aircraft be kept "secret" from PIA shareholders and, of course, the media.
- Ignoring the fact that the airline was not able to foot its most essential bills, Captain Ejaz Haroon revealed that he had an understanding from "someone" in the government that the Government of Pakistan could provide a sovereign guarantee (another US\$2 billion in national debt) if the Ex-Imp Bank and a major European bank were ready to lend PIA US\$2 billion for this ambitious purchase.
- Both Boeing in America and Airbus in France are facing an immense financial crunch and are seeking clients like PIA to keep their operations going.
- Although, international prices had some contribution in tripling PIA's losses for the year 2008, but the situation worsened, as documents available with this correspondent revealed, following a long trail of gross irregularities in purchases such as Rs30 crore worth of Zamzam water for Hajis at the cost of Rs 450 per can, a price around five times more than the previous purchases of Zam Zam water by the PIA.
- Manipulations of ticket sales and cargo handling through travel agents in Pakistan and abroad left PIA with more losses that run into tens of crores of rupees.
- PIA's woes are aggravating as the management appointed on political reasons continues to oblige their masters by letting the PIA's payroll to swell. While facing a record financial crunch and ever rising losses last year, PIA managing director obliged the PPP government by inducting 6,000 workers in the airline, which already had the highest employees per aircraft ratio in the world.
- By adding 6,000 persons to its list of permanent employees, the PIA set a unique example in the airline industry worldwide because that was the period when even the most profit making airlines of the world were either laying off their staff or negotiating salary cut agreements with its employees. "This was the last nail in PIA's coffin," said a member of the PIA Board of Directors, who had vigorously opposed the idea of fresh induction into the airline.
- Merit has no play in either postings or transfers or even roster setting for flight crews in the airline but the worst display of flouting of transparency, rules and regulations was displayed when the PIA decided to induct fresh air hostesses a few weeks ago and inducted 12 air hostesses at the recommendation of PPP office-bearers of interior Sindh.
- In total disregard to discipline and fair play, some of the employees who were thrown out of PIA on criminal charges were graciously reemployed and offered foreign postings.

### (3): Trading Corporation of Pakistan TCP Shook Exchequer

- Unprecedented and fearless corruption plagued the Trading Corporation of Pakistan (TCP) and with it the national exchequer as the country lost billions of rupees when an influential federal minister, along with the same friend of the government high and mighty, maneuvered the appointment of an income tax officer as the TCP chairman in the second half of last year. This appointment preceded a well-hatched strategy to plunder the government's trading activity such as procurement of fertilizers, sugar and wheat from international market and a blatant attempt to re-nationalize export of rice from Pakistan by procuring rice locally at an inflated price.
- Simultaneously, the new handpicked chairman introduced non-transparent procedures, mostly through backroom deals, to import commodities and their shipping at grossly inflated rates and these imports were timed as such that the local markets could also be played for maximum profits.

- To further maximize the profits to the loss of Pakistani national exchequer, new contracts to handle cargo (stevedoring) at ports were awarded at a price that was often thrice the price paid by the TCP for the similar job in the previous year.
- Inland transportation agreements with private transporters were so lucrative that they sometime hired the government's own National Logistics Cell (NLC), which incidentally failed to win the TCP work, for transportation of commodities from ports to destinations all over the country. "These contracts were so lucrative that the favoured contractors sometimes outsourced their work and still made hefty profits notwithstanding the profit they shared with the TCP top management and their masters," a well-informed TCP source said.
- The situation took such a serious turn last year that Prime Minister Gilani had to intervene to stop the TCP, aided by a friend of high and mighty also the central figure in Pakistan Steel corruption, from an attempted informal re-nationalization of the rice export from Pakistan by procuring rice from the local market at an inflated price. "The rice operation alone cost the country about Rs 3 billion," according to a TCP insider. But several TCP sources confirmed that an estimated loss of about Rs 20 billion was caused to the national exchequer by engineering ill-conceived, non-transparent import of Urea in the country last year.
- The TCP sources pointed that the race to make quick money was so fast early this year that the TCP chairman routinely ignored objections of Transparency International Pakistan and parliamentary committees in awarding contracts to handpicked that had formed a cartel to monopolize the TCP work in blatant contravention to the government rules governed under the PPRA.
- The corrupt TCP management apparently hit a jackpot when the government instructed the TCP to energize the Gwadar Port by ordering some commodity imports at the new port. "A cursory examination of cargo handling contracts awarded for wheat imports at the Gwader Port will show that sums allowed for the work was five times more than the market price," a knowledgeable TCP source said, while giving documentary evidence of incredibly low offers that were available to the TCP for the same job.
- The stocks available with the TCP and import orders were manoeuvred with the sole idea of benefiting the vested interest with no remorse for the suffering of population. That's why people of Pakistan are these days forced to buy sugar at an all-time record high price of about Rs 50 per kg. This price situation on sugar would run well into the month of Ramazan.
- As the pie of corruption keeps expanding, so was the greed of the top TCP official and his masters until April this year when Minister for Commerce Makhdoom Amin Fahim in consultation with the prime minister decidedly removed the TCP chairman but without ordering probe into his actions.

#### (4): National Bank Jolted

- The National Bank of Pakistan (NBP) is another national institution facing doubts about its health and deals concerning government linked individuals, companies and projects. "On the face of it, the National Bank of Pakistan is seen as financing government backed projects or troubled public sector entities but at the back influential, politically-linked individuals and contracts benefit from this financing," said an informed NBP official. For example, a recent decision by the NBP-led consortium to provide an emergency financing of Rs 10 billion to corruption ridden Pakistan Steel may eventually benefit private individuals who are calling shots in Pak Steel affairs from their private office.
- The National Bank's role and interest in enhancing its exposure and affairs of some sugar mills of Sindh and their links with powerful political individuals has left many questions unanswered.

- The NBP, which also serves as the treasury for Government of Pakistan, is being curiously watched for its role and growing interest in controversial rental power plants scheme of the government.
- The bank, it seems, is ready to take a big exposure in the scheme and had already agreed to finance at least two of the projects.
- A whopping Rs 21 billion worth rental power projects have already run into controversy because of the government's mysterious inability to fully utilize the already-installed electricity generation capacity in Pakistan and arm-twisting of other Pakistani banks to finance the shady scheme.
- It remained no secret that all top bankers of the country were summoned to the State Bank of Pakistan head office in Karachi early this month. There they had taken the impression that they had no choice but to finance the rental power scheme.

#### (5): Port Qasim Sinks

- The Port Qasim Authority (PQA) is a prime example of influence peddling by politically-linked people in getting posted to lucrative positions. In June/July 2009, an intense controversy swirled around Afsar Talpur who was made PQA's acting chairman. The port authority was already in the middle of charges regarding illegal allotment of land and huge corruption in contracts on port related work.
- As it surfaced that the acting chairman, already an official at the PQA, was himself at the centre of many of the charges, the top offices of the government were told that though posted on the orders of the elderly father of an influential personality, the case may create a major embarrassment for the government.
- For several days, in the month of May this year, several directors jockeyed for lucrative assignments as the alleged corrupt acting chairman was asked to resume his previous assignment. An intense battle to win the most lucrative positions at the port authority continues. But there was no substantial inquiry to probe the charges involving the allotment of Port Qasim lands through non-transparent procedures and into questionable contracts that have the Port Qasim as one of the most "lucrative" government departments.
- Corruption Scandal PPP Minister buys £4.3m flat in London: Some of the highlights press reports Are as follows:
  - A top federal minister of the cabinet of Prime Minister Yousuf Raza Gilani, who was quite recently the target of frequent lethal attacks in the National Assembly. (NA) in its last session on account of his alleged wheeling and dealing, is said to have purchased a multi million pound six bedroom luxury flat in the heart of London. The huge house located adjacent to the Marble Arch area of London, has been purchased at a total cost of £4.3 million and the money was said to be transferred through a money exchange dealer based in F-10 Markaz. The minister, who belongs to the suburbs of Islamabad, was so infamous in taking bribe and commissions in the deals that at one stage his name was at the top of those ministers who were set to be replaced and given some other insignificant ministry. However, Prime Minister Gilani, despite several vows to change this minister, never found a chance to reshuffle his cabinet.
  - Many Pakistani politicians do own flats in the Central London, including Rehman Malik and others. Now, this PPP minister is the last, not the least, addition to the list of a privileged class of politicians who own house or flat in London. Nawaz Sharif too owns a residential building at the Park Lane, facing the Hyde Park.

#### Transparency International Pakistan (TIP) 2009 Reports on corruption in Pakistan

- According to a report by transparency international corruption has increased of 400 % in Pakistan in the past 3 years. The report also suggests that over the period the

corruption status of the Judiciary has decreased considerably. It also makes comparison among the 3 years and declares 2009 to be the most corrupt by far. The report has been authored by Syed Adil Gilani,

- Rental power contracts illegal, shady: Some highlights of press reports are as follows:
  - Syed Adil Gilani, Chairman of Transparency International Pakistan told Business Recorder that "this is an illegal contract", awarded on modified conditions which did not meet the conditions specified in the tender documents. "This is not allowed under Public Procurement Regulatory Authority (PPRA) rules". It may be mentioned that the Chief Justice of Pakistan had cancelled the Pakistan Steel Mills contract on the same grounds in 2007.
  - The TIP Chairman, in a letter to Pakistan Power Resources (PPR) on rental power, recalled that more than 12 IPPs had voluntarily reduced their tariff when corruption inquiry was conducted. He quoted the World Bank report on 19902 IPP projects, which indirectly confirmed that the IPPs were not acquired according to the prudent practices.
  - The report said as under: "several important lessons can be drawn from the Pakistan experience. Setting a bulk tariff ceiling allowed Pakistan to alleviate its power shortage through power generation in record time; however, too much power was contracted with little regard for least cost expansion. The scale of private investment in generation should be aligned with the country's state of development with respect to selector reforms and also social, economic, political and institutional governance . In addition, solicitation of IPPs should be on a competitive basis and staggered over a few years so that changes in international investors' assessment of country and contract risks could lead to declining bid prices. Staggering IPP solicitation and scaling down large IPP capacity would also allow the utility to re-assess demand/supply conditions and adjust the contracted capacity and completion timing for subsequent IPPs accordingly."
  - It is being said by many experts that these recommendations are not adhered to by the Government of Pakistan for the present procurement of RPPs, and that IPPs should first be operated fully before considering the requirement of RPPs.
  - Like KESC has contracted in December 2008, a five year RPP contract with Walters Power International with bank guarantee or LC for five year rental, at higher cost than IPPs, and not paying cost of two IPPs, Gul Ahmed and Tapal, arrears of Rs 7 billion which has forced them to close down. "It is prudent electricity generation and distribution business practice to ignore cheap electricity and buy costly electricity? SECP has issued notice to KESC for these acts," Adil said in his letter. The TIP Chairman recalled that Wapda had signed three agreements for rental power between 2006 and 2007 with Northern Power Generating Company.
  - These were for three years only, and no advance payment was made under the agreements. The fixed rental charges per kwh in those agreements were in descending order every year ie Rs 3.09 in first year, Rs 2.36 in the second year and Rs 2.35 in the third year. The net production was 88 percent, guaranteed for three years. Neither three-year LC was required nor WHT was exempted for the first year. Under force majeure it is not known whether fixed rental was to be paid to the seller or not. The time of commencement of the project was 120 days. Among the controversial tenders and contracts the TIP Chairman mentioned the following: In 2007 RPP was signed for 135 MW project at Shaikhupura with Iqbal Z. Ahmed of Pakistan Power Resources, based on gas fuel for three years. The tendering process was not known; no advance payment was made, and the time of commencement of the project was 120 days.
  - In 2008, two more RPP agreements were made, where the advance payment of 7 percent was provided in the agreement, but the duration of agreement was extended to five years with 88 percent net production for old RPP and 93

percent for new RPP. Similarly, five years LC was required and WHT was not exempted for first year. Under force majeure conditions, fixed rental was to be paid to the seller. Time of commencement of the project is not known. It is stated to be based on competitive bidding by the Private Power Infrastructure Board (PPIB). The RPP contractors are Walters Power International and Karkey of Turkey and the time of commencement was eight months.

- TIP's concern is why 7 percent advance payment, increase in contract terms from three to five years, and fixed rental to be paid even in force majeure conditions have been agreed in the contract. If these conditions were included in the tender documents then who allowed the change from previous contract agreement made in 2006 and 2007. If these were not included in the tender documents, then the contract agreement under Public Procurement Rules 2004 are to be declared as misprocurement, according to TIP.
- The PPIB had invited bids through international competitive bidding (ICB) on September 26, 2008 under two packages: (a) package-I (IPP and rental power projects to be commissioned by the end of 2009); (b) package-II (IPP projects to be commissioned by the end of 2010). Under package-I, no bid was received for IPPs, while under package-II, three bids from the following bidders were received: (a) Engro Power Generation (Pvt) Limited - 527 MW net (b) Reshma Power Generation Limited - 137.11 MW net, and Saba - 154.07 MW net. After evaluation of envelope-I (qualification and technical bids) and envelope-II (financial and tariff bids) were opened on March 11, 2009. Among the 14 RPPs, circulated to banks for financing, all proposals are subjected to compliance of tendering procedures as prescribed by PPRA.
- Only the Turkish proposal Karkay Rental Power is a foreign direct investment, and is also a new plant, whereas all the rest are very old plants, and are being financed by Pakistani banks, which are already under liquidity crunch for providing loans to other Pakistani ventures.

#### **4.5.3 General Corruption and Social Evils Between the years 1985 -2009**

It has been claimed those major objectives of privatization in Pakistan, namely: debt reduction, debt-servicing, poverty alleviation and "the principle of reducing its direct participation in commercial activities" and ensuring "equity and economic justice", have not been achieved. It is very clear that the privatization process has not been proved as a key to economic development as was claimed by the governments, but instead a total disaster for the economy. It has been alleged that Pakistan has faced 3000 billion Rupees (US\$42 billion) worth of corruption, out of which \$23.8 billion corruption from privatization under Musharraf-Shoukat power period from 1999 until 2007. The highlights of the press reports are as follows:

- On 12 November 2007, the former Prime Minister Shoukat Aziz claimed that we have earned 417 billion Rupees (\$6.41 billion) through privatization, a record amount according to him. While, only 57 billion Rupees (\$.870 billion) were fetched altogether from 1991 until 1999 by the civilian governments, he said the corner stone of our economic growth has been liberalization, deregulation and privatization. However, today, in June 2008, it is clear to everyone in Pakistan that there has been massive economic decline during the period of military led civilian government of Shoukat Aziz. According to conservative estimate of Anti privatization Alliance Pakistan, a massive 1550 Billion Rupees (\$23.84 billion) corruption has taken place during 8 years of Musharraf-Shoukat Aziz privatization push. This is a record during any time of 61 years of independence of Pakistan by a government in the looting and plundering of state assets.
- A record 700 billion Rupees (\$10.76 billion) of corruption has taken place during the privatization of financial institutions. When Habib Bank Limited (HBL) 51 percent shares were sold out to Agha Khan Fund For Economic Development in December

2004 for only 22 Billion Rupees, its total assets were more than 570 billion Rupees (\$8.76 billion). While another large bank, United Bank Limited (UBL) was sold out only for 13 billion Rupees. HBL had 1437 branches and another 40 branches abroad in 26 countries with ownership of the buildings that the branches are functioning. The sale of these two banks on a very throw away prices is the largest financial scandal in Pakistan history.

- The 26 per cent shares privatization of Pakistan Tele Communication Limited (PTCL) to Dubai based Aitsalat with management rights for only 157 Billion Rupees (\$2.59 billion) is another gross violation of the rules set up even by Privatization Commission Pakistan. The Aitsalat bought PTCL after a 10 days strike against privatization by workers was crushed by the military regime in June 2005. The company then refused to take over and wanted more concessions. At the demand of the private company, it was agreed by the PC that another \$370 million be reduced from the original price and the rest of the amount to be paid in installments. Aitsalat announced at the time of privatization in 2005, that none of the 70,000 workers would lose their jobs. However, in 2007, the company has kicked out 30,000 workers on the name of so-called voluntary scheme.
- Karachi Electrical Supply Corporation (KESC) was sold out for only 16 billion Rupees. It failed to improve any electricity supply, on the contrary, there has been regular load shedding and most of the political parties have demanded to renationalize the KESC.
- There have been severe crises of agriculture due to the privatization of fertilizer public companies. Pak Saudi Fertilizer in Mir Pur Mathelo was handed over to Fauji (military) Foundation in 2002 for just 8 billion Rupees. At the time, its annual profit was more than 4 billion Rupees. At Multan, Pak Arab Fertilizer was handed over to Arif Habib Group for only 13 billion Rupees. The price of the land of this factory was over 40 billion Rupees at the time of sale in 2006. On 15 July 2006, the largest Public sector factory Pak American Fertilizer was handed over for just 16 billion Rupees. After the privatization of these factories, the price of a pack of fertilizer has gone up from Rupees 1300 to 3700 Rupees. This has put a massive extra burden on the peasants and all agricultural inputs have gone up.
- Lahore historic Fallatias hotel is sold out for only 1.21 billion Rupees. It is located in the heart of Lahore with over 50 canal of precious land. A large-scale corruption is witnessed in almost every deal done by the PC. There has been a massive price hike of the product produced by these privatized companies.
- The economy is in consistent decline. As a result, the trends of monopolizations have increased and the multinational companies have further monopolized the economy. These all facts negate the very justification of privatization.
- The new finance minister of PPP has been the chairperson of Privatization Commission and minister privatization during the previous two periods of Benazir Bhutto government (1988-90, 1994-1996). He declared on 30 April 2008 that we have learned a lot from our previous experiences and we will do a "clean" privatization. He also tried to justify privatization as "pro worker and pro-people". The issue is not of clean or corrupt privatization. The process itself is anti worker and anti people as has the experience shown in Pakistan and internationally. The result has been that it has promoted unemployment, price hike, monopolization, low quality, inefficiency and huge profits for the rich.
- In 1988; As Chief Minister Punjab, Nawaz Sharif presided over the liquidation/ privatization of several units of Punjab Industrial and Development Board (PIDC) like Pasrur Sugar Mills, Samundri Sugar, Rahwali Sugar, Paras Textile, Harapa Textile and Ghazi Textile. How and on what prices these units were sold is still a secret but according to Company Review in the daily DAWN in May 1991, Pasrur Sugar Mills was sold to United Sugar Mills of United group for a "token price of Rs one only".
- Samundri Sugar Mills was sold to Monoos and Rahwali Sugar to a Muslim League politician Sheikh Mansoor, owner of industrial cooperative which was bankrupt in 1993 following single line advertisement in newspapers under the caption, " Bids invited for Rahwali Sugar Mills". The recklessness and favoritism shown in

privatization of the PIDB units by Chief Minister Nawaz Sharif was to become the hallmark of his privatization as Prime Minister.

- Under Nawaz Sharif power period from 1990-1993, it was declared that proceeds of privatization will be distributed equally for defense, repayment of the foreign loans and social welfare. The Nawaz Sharif government did not practice this formula but at least that was the declared purpose. Under Musharaf Shoukat Aziz, this formula was changed and it was made clear that 90 percent of the income will go for the repayments of the foreign debts. The rest of 10 percent would be used for expenditures Privatization Commission and social welfare.
- The Musharaf Shaukat regime earned 2.5 billion Dollars during 2006-2007. The target for the next year was around 3.5 billion Dollars. If the chief justice of Supreme Court of Pakistan had not stopped the privatization of Pakistan Steel Mills Karachi in 2006, the former regime would have sold most of the public institutions on throwaway prices. This would have been like selling Pakistan.
- There has been massive corruption during privatization process in Pakistan from 1985 until 2008. It is very clear that the privatization process has not been proved as a key to economic development as was claimed by the different government from 1988 to 2008, but instead a total disaster for the economy of Pakistan.
- Privatization is to encourage direct foreign investment. The direct foreign investment in profitable public units is not likely to be beneficial for the economy, as against the benefit of an initial purchase price; one has to calculate the recurring remittance of profit in foreign exchange for years and decades to come. Direct foreign investment therefore should be attracted by policy and design into new and risky ventures rather than through the purchase of profitable enterprises
- Still, the website of Privatization Commission updated in March 2008 announces the planned privatization of Pakistan Railways, Pakistan International Airlines (PIA), State Life Insurance Corporation, Oil and Gas Development Corporation, Sui Northern and Sui Southern Gas Companies, Faisalabad Electric Supply Corporation, Peshawar Electric Supply Corporation, National Fertilizer Corporation, Port Qasim Authority, Civil Aviation Authority, Karachi Port Trust, Printing Corporation of Pakistan, All Utility Stores and Corporation, Rice Export Corporation, Cotton Export Corporation and Convention Center Islamabad.
- Here are some facts:
  - When privatization started in 1991, the foreign debt was 23.323 billion Dollars. Now, in 2008, it has gone up to 45 billion Dollars. While internal debts are on ever increase.
  - Poverty has increased according to all the surveys by government and independent organizations. It is estimated that over 45 percent of Pakistan population lives under poverty line.
  - The national growth of economy during the previous decade (1981-1991) has been on average 6.7 percent. However, during the decade of privatization (1991-2001), it has been reduced to 4.4 percent.
  - The direct negative impact of privatization has been seen on working class. 600.000 workers have lost their jobs during the 15 years of privatization from the institutions that has been privatized. Most of privatized factories work on contract system. There are no permanent jobs in these factories. Labour patron have been changed the privatization has pushed flood of informal sector. A severe exploitation of workers - particularly women workers - is taking place in informal sector. No labour laws have been imposed in informal sector.
  - The reports of plundering of privatization money are also published. In July 2002, the Public Accounts Committee (PAC) had detected a massive sum of Rs. 80 billion missing, collected from privatization, when it was disclosed that this money was not used for the debt retirement purpose. In addition to it, indiscriminate use of billions of rupees collected from the privatization money on consultant salaries and legal experts also raised troubling questions that who

was actually benefiting from the whole privatization process after laying off at least one million of workers.

- The PAC also learnt that consultants and advisors generally hired by the PC are heavily paid. As much as Rs.5 billion were spent on the consultants, advisors etc.
- According to the report of Public Inquiry Committee of National parliament 2002, there is no clue of 80 billion Rupees earned by Privatization Commission.
- The privatization process help create cartels. 5 large cartels have been established during the last 10 years which has looted the masses on unprecedented level. They are:
  1. Oil cartel based on 10 oil companies,
  2. Brokerage cartel based on 4 groups,
  3. Auto mobile cartel based on 3 companies,
  4. Sugar cartel based on 24 companies,
  5. Cement cartel based on 10 companies.

The creation and effective functioning of these cartel has resulted an unprecedented price hike and an incredible profits of the companies associated with these cartel.

- Privatization is a political weapon in the hands of the capitalists and it is not just an economic attack but a political attack as well, as it stops the growth of social, political and class based consciousness. Furthermore, it reduces the social capital and increase the private capital. Instead of social need, it creates and increases the private greed.
- The World Bank, Transparency International and other international institution talks of state corruption but never speak about the corruption involved in privatization process.
- Since 1985 till December 2008, Government of Pakistan had completed or approved 184 transactions at gross sale price of Rs. 495.241 billion in the last 18 years. The sale of 26 per cent PTCL shares in 2006 alone fetched \$2.5 billion. An astounding 140 privatized enterprises out of total 184 have been collapsed.

#### **4.6 Remedies against corruption in Pakistan**

Theoretically, many steps have been taken on international level as well as on national level in Pakistan for many years to counter corruption, but the graph of corruption instead of going down kept on rising, even with steeper gradient.

The International efforts include:

- The World Bank has appointed in 2001 a Director of Institutional Integrity - a new department that combines the Anti-Corruption and Fraud Investigations Unit and the Office of Business Ethics and Integrity.
- The World Bank helps countries to fight corruption by providing them with technical assistance, educational programs, and lending.
- The World Bank has made anti-corruption projects an integral part of every Country Assistance Strategy (CAS).
- The Bank also supports international efforts to reduce corruption by sponsoring conferences and the exchange of information.
- The World Bank collaborates closely with Transparency International, for instance.
- The IMF made corruption an integral part of its country evaluation process.
- The IMF suspended arrangements with endemically corrupt recipients of IMF financing.
- Since 1997, the IMF has introduced policies regarding misreporting, abuse of IMF funds, monitoring the use of debt relief for poverty reduction, data dissemination,

legal and judicial reform, fiscal and monetary transparency, and even internal governance (e.g., financial disclosure by staff members).

National Efforts against Corruption in Pakistan include:

- Pakistan Penal Code (PCC) of 1960: This is a part of the legal framework for addressing corruption.
- Prevention of Corruption Act of 1947 (PCA): This is also a part of legal framework for addressing corruption. The PCA criminalises both active and passive bribery.
- National Accountability Ordinance of 1999 (NAO): This is also a part of legal framework for addressing corruption. The NAO outlines the authority of the NAB. The ordinance was re-promulgated in September 2002 with some modifications and it will remain in force after the election of a new parliament. The NAO has been criticised for excluding important categories of officials, including the judiciary and active personnel of the armed forces.

Note: However, the current anti-corruption framework (three parts above) of the country is perceived to be in a state of disorder following the issue of the National Reconciliation Ordinance (NRO) by President General Musharraf in October 2007, which circumscribes the NAO.

- The National Anti-Corruption Bureau (NAB): Pakistan's main anti-corruption body is the NAB, which has preventive, enforcement and public awareness functions. NAB's mandate is to investigate and prosecute corruption cases and it publishes annual reports on its progress. However, the judiciary and active military personnel are not subject to the NAB's oversight. The NAB has asserted that 200 billion rupees of financial resources are being wasted through corrupt practices at higher government levels, while 67 billion rupees have fallen prey to lower level corruption every year.
- Auditor General (AG): Rumours of collusion between auditors and civil servants have long tarnished the reputation of this Office. However, after 2002, the offices of Auditor General and Accountant General were separated to address corruption in both departments and to strengthen and concentrate financial audit functions. The Public Account Committee of the National Assembly supports the auditing of the use of government funds, but it is not free from political interference due to the fact that the appointment of the head of the agency is done by the government, as a Global Integrity report (2006) has argued.
- The Ombudsman: The office of 'Wafaqi Mohtasib' was established in 1983 by a presidential order. The ombudsman is appointed by the president for a period of four years. It is empowered to investigate and award compensation to those who have suffered loss or damage as a result of poor administration by a federal agency or official. The 'Mohtasib' has the authority to investigate the affairs of all the offices of the federal government, except the Supreme Court, the Supreme Judicial Council, the Federal Shariat Court and the High Courts. However, as asserted by a Global Integrity report (2006), the ombudsman has not been very effective and has been sometimes subject to external pressure from the executive with regard to initiating investigations and there is no known case of high level officials being investigated by the ombudsman in recent years.
- The Public Procurement Regulatory Authority (PPRA): The PPRA is responsible for regulating public procurement and has taken steps towards reforming the process by implementing the Public Procurement Rules of 2004 in all public procurement agencies. The PPRA is comprised of a secretary, finance division (chair), and the secretaries of the ministries of industries and production, defence, water and power, housing and works and communications. Three members from the private sector

who are nominated by the federal government also sit on the PPRA. The agency can exercise powers "as may be necessary" for improving the governance, transparency and accountability of the public procurement of goods, services and works for the public sector. Procurement procedures have been standardised in an attempt to promote transparency and reduce corruption. All tenders are published on the PPRA website. Transparency International Pakistan has supported these efforts by promoting the adoption of its Integrity Pact as an integral part of all major public contracts exceeding PKR 10 million. In addition, there is an independent complaint mechanism for procurement processes. Complaint mechanisms are set up at the administrative and judicial levels. However, the judicial review must be preceded by an administrative review. An administrative review, however, only covers decisions made during the tendering process and cannot be used to challenge, for instance, the choice of the procurement method or decisions made in adjudication procedures other than tendering.

- The National Anti-Corruption Strategy (NACS) in Practice: The NACS does not refer to specific programmes but is structured around the pillars of the National Integrity System (NIS), as developed by Transparency International. According to a U4 report, the NACS is especially useful for its analysis and diagnosis of the Pakistani corruption situation and the detailed programme of reforms it recommends. The NACS aims at:
  - reviewing and assessing the causes, nature, extent and impact of corruption in Pakistan;
  - developing an integrated framework for tackling corruption with focus on prevention along with enforcement; and
  - creating an action plan for containment of corruption.

According to TI Pakistan, current anti-corruption efforts are not promising and there has been significant backsliding as of late. The main problem has been the decision by President General Musharraf in 2007 to grant immunity to corrupt elements and bar legal action against ministers and parliamentarians (unless prior clearance has been given). These actions have been sanctioned under the National Reconciliation Ordinance (NRO), which amended in October 2007 the National Accountability Ordinance of 1999 that had guided the country's corruption-related work. Many immune or pardoned beneficiaries of the NRO were appointed to important ministries and included ministers or public officials. The major beneficiary of NRO is the current President of Pakistan.

Also according to the analysis presented in the National Anti-corruption Strategy (NACS), the results have been limited due to two primary reasons, viz.: (i.) political will that has not been sustained over the years and (ii.) policy recommendations that have not been supported by a concrete plan of action. The U4 case study highlights various obstacles that have hampered the effective implementation of the NACS to date:

- Lack of political leadership;
- Structural constraints as a result of NAB's contested authority;
- Weak positioning of the NACS within the NAB itself;
- Lack of demand for reform from external actors;
- Poor communication with the public; and
- Expectations are not matched with supply of reforms.

The NACS report further highlights a series of lessons that can be learned from the Pakistani example, such as the following:

- Anti-corruption policies can easily collapse in the absence of a legitimate political process leading to their elaboration;

- Broad consultations are not enough to create demand for reform;
- Supply of reforms requires commitment and capacity among implementing agencies as well as the possibility of ongoing advice and support;
- Comprehensive policies at the national level may have limited impact on key services in decentralised government contexts; and
- Without consistent communication and monitoring, momentum for implementation can fade.

#### **4.6 Causes of Corruption in Pakistan**

There are many causes of corruption in Pakistan. Some of such causes are highlighted below:

- Unethical practices are so prevalent in Pakistani society that they are generally accepted as the standard way of doing things. General public is not to blame as mostly people are innocent participants in a system that is inherently mismanaged by corrupt politicians, administrative and bureaucrats and all enduring an atmosphere where bribery has become part and parcel of daily life.
- Today, there is a general perception nationally and internationally that those at the helm of affairs in Pakistan are themselves corrupt and also have started collecting around them the ill-reputed corrupt people, thereby adding a pyramidal affect to the corrupt hierarchy, and they are patronized so long as they serve the key interests of the Government in power.
- The citizens, by and large are not deliberately immoral, on the contrary they are the biggest victims of a ridiculous state of affairs where the administrative, bureaucratic and legal system is so wrecked that people must endure bribery simply to get by. The level of demoralisation is now so high that some among the givers as well as recipients do not even acknowledge it as an evil.
- Most people are compelled to indulge in this evil due to grievous circumstances created by the government itself at the highest levels that has set the precedent and entrenched itself in immorality and polluted the national moral fibre, thereby fuelling the widespread belief that these lower moral standards are now acceptable.
- Corruption travel down the pyramid, as the corrupt elements know the weakness of their superiors and as such try their hand in undesirable and illicit activities which eventually set the trend for entering into corrupt practices for the people below them.
- The Governments convincingly talks of prescribing a merit-based system to check corruption, but in reality unfortunately, merit does not count much, it is the political opportunism which reigns supreme under the existing corrupt political system. Therefore, it is unfortunate that inefficient and unqualified people manage to attain high positions in life by trying out corrupt practices, believing in making hay while the sun shines, while forcing the well qualified people to leave the country to find better opportunities else ware free of corrupt practices, thereby causing brain drain.
- The bloodsucking corporations who conspire for money and favours in Islamabad are of the opinion that producing and selling products and services that people want is pointless when, buying influence to make a fast buck is far more lucrative than working, investing and producing for an honest living.
- Rat race is a major cause of corruption. People in power compete with each other in building up property portfolios in the country and foreign bank balances and houses and flats in London and real estates in Canada and elsewhere in the World, through misappropriation of public funds, thereby adding to the burden of national foreign loans.
- There are many other factors that primarily facilitate the corruption process, but the prime responsibility of promoting this booming business, revolves round failure of good governance. It is pertinent to point out here that the good governance can be

ensured by installing an independent judiciary, a conscious citizenry, a free Press, and following the precepts of the governance of the first Islamic State of Madinah.

- Accountability, being partial process leads to distrust and with it, the level of corruption is invariably raised. In this reference, corruption in the higher circles is more endemic, more intense and more pervasive.
- It is an irony that some leaders make empty statement that corruption at the highest level is unpardonable and as such the 'big fish' must be severely punished, when such leaders themselves are responsible for corruption during their own administration tenure.
- Above all, in Pakistan, by and large, Muslims do not understand the true meaning of Allah [SWT] (Article 1 of the preambles). If our leaders are conscious of the reality of Allah [SWT], then from fear of Allah [SWT] they would save themselves from corrupt practices.

## **5 SOLUTION TO PROBLEMS AND CONCERNS**

### **5.1 Good Governance**

The Devine Law lays down the rules for the conduct of state and good governess. The Devine law enunciates the basic principles and major elements of Islamic administrative law, rules for judiciary, for the police, administrative bodies, and even in broad terms the conduct of the ruler. One of the most important sources of principles of administration is the letter of the Caliph Hazart Ali written to Malik Al-Ashtar the governor of Egypt<sup>9</sup>, as narrated in Inamul Haq Article entitled: 'The concept of Justice and Administrative Accountability in Islam' published in J.R.S.P., Vol. XXXII, No. 2, 1995: "The letter deals with the duties and obligations of the ruler and administrator; the distribution of work among various branches of administration; and coordination and cooperation. The letter advises against corruption, calls for administrative probity, urges effectiveness and efficiency, asks the governor to fight oppression to curb the evils of profiteering, hoarding and black marketing. It discusses the principles of equitable distribution of wealth and opportunity, justice and mercy without class, creed or colour. The governor must be a good ideal for his staff and citizens. He must be impartial. He must supervise the activities of his subordinates. He must consult his staff and keep regular communication. He must not develop traits of self-administration. He must require nothing for himself and his relatives". In an Islamic government, the atmosphere of trust and credibility should prevail, the governor should lead a simple life, law should be enforced equally, and there must be true faith, unity of purpose and ideological motivation among the people.

Pakistan governance ought to be in accordance with the following principles of an Islamic State:

**Concept of Islamic State:** In Islamic concept of State, Sovereignty belongs to Allah [SWT] but the responsibility for the administration of the government, in an Islamic State is entrusted to the head of the state as a trustee from Allah [SWT], who is vested with the mission to carry out and establish the command of the Sovereign. Head of the state may be equated with the Prime Minister or President in the conventional democratic states. He is not free to act as he wishes, but bound to act in accordance with the directives of his Lord as prescribed in the Quran and Sunnah, i.e. he is bound to function within the limits of the Divine Law. He is not above criticism and he is answerable not only to Allah [SWT] but also to the people for his acts of commission as well as omission. It is important to note, that the scope of government activities in Islam is not confined to administrative matters but it encompasses all the spheres of human life, such as: the social, economic, moral, legal, and political.

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<sup>9</sup> Nahajul Balagha, Sermon, Letters and saying of Imam Ali (European Islamic Cultural Center) Fourth Edition, Room, Italy 1984, pp. 531-547.

**Administration of Islamic State:** The political and administrative structure inspired and regulated by ideals of Islam is a comprehensive system through which alone all kinds of different problems facing the mankind, can be resolved in a most effective manner. In traditional democratic system sovereignty belong to the people, by Islamic concept of sovereignty is that political and legal sovereignty belong exclusively to Allah [SWT}, since He is the Lord and the Creator and people are His subjects, therefore His Will should reign supreme as the Law. Accordingly, His commands ought to be established and obeyed in Pakistan<sup>10</sup>.

**Al-Shura and Sovereignty:** Majilis Shura (Parliament) is constituted to undertake the spirit of the Divine law and guide the government in its implementation. Majilis Shura, unlike western concept of parliament, is not a sovereign body as sovereignty belongs to Allah alone, Who is Eternal, Absolute, Indivisible, and Master of all beings. Accordingly, Parliament has no power to change or abrogate the Divine law, or to make new law contrary to Quran and Sunnah. It can only make regulations through Ijtihad in the light and spirit of Divine law in those matters not clearly stated therein.

**Appointment of an Amir of an Islamic State:** The basic qualification for the appointment of an Amir is that he should command the confidence of the 'Constitutional Body, (ahulhal wal'aqd), which in turn is recruited from among the notables, scholars (of Islam), and leaders who effectively have the duty to carry out this task of appointing the Amir. Each member of this council must meet three prerequisites, namely: (a) moral credit i.e. possessing piety and high moral standards, (b) religious scholar, i.e. well versed in religion so as to be in a position to make a decision for the selection of Amir, and (c) being able to make good and sound judgement leading to a sharp perception of the person as a suitable candidate for the position of Amir. In short, he should have both virtue and ability to run the high office.

**Obligations of the Government of an Islamic State:** It is one of the major obligations of an Islamic government to assure that public affairs are granted to those who are deserving of them from the point of view of piety and righteousness<sup>11</sup> and not for any rank or other reasons<sup>12</sup>. However, in practice in most Muslim countries as well as in Pakistan, bulk of political leaders and bureaucrats, unfortunately are and have been secular minded: without sincere belief in Islamic ethical and moral values, and therefore, have not been interested in an Islamic model of administration. Accordingly, there is no true Islamic State in the world today. However, if we Muslims have not acted upon the Divine Law, the fault lies with us and not with the Islamic legal system.

## 5.2 Establishment and strict implementation of the 'Rule of Law'

In Pakistan, this corruption is a natural consequence of the system and cannot be cured by passing more regulations and more 'anti-corruption' ordinances. This is the system that over the years has indebted our people and our future generations to the tune of jaw-dropping amounts of money through criminally irresponsible and wasteful borrowing and spending. It has been encouraged by successive administrations, abused by the avaricious banking-industrial complex and underwritten by the powerful corporatist elites who have forged themselves as the primary recipients of the largesse. Through contacts, lobbying and nepotism, they have risen and accumulated enormous wealth at the expense of those who endure a daily struggle to survive. Public expenditure is out of

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<sup>10</sup> The Quran says: To Allah belong the dominion of the heavens and the earth. (Q: 57:1)

<sup>11</sup> Abu Huraira (PBUH) reported that the Messenger of Allah said: 'He, who obeyed me, obeyed Allah and who disobeyed me, disobeyed Allah. And he, who obeyed the ruler, obeyed me and he who disobeyed the ruler disobeyed me. Verily, the ruler is a shield. One fights behind him and is safeguarded through him. If the ruler orders with God-consciousness and acts justly, he is entitled to a reward for that and if he speaks otherwise, he will have to bear a burden of his misdeeds'. (Agreed upon)

<sup>12</sup> Umm al-Hussain reported that the Messenger of Allah said: 'if a disfigured slave is appointed as your ruler who leads you according to the Book of Allah you must listen to him and obey him'. (Muslim)

control as shown by the budget being in constant deficit year after year. If we wish to cleanse our house, we must cleanse our hearts first. The only solution is to reject the status quo and instead create the conditions for the spread of speedy and certain justice at all levels via the strict application of the 'Rule of Law'. This is the only framework of social and economic life that creates a just and optimal distribution. It is a mechanism of divine law which no man-made legal code can possibly replace. It is the only road to the salvation of our nation.

The 'Rule of Law' in Pakistan ought to be based on the following principles:

**The Right to Justice:** This is very important and valuable right, which Islam has given to man. So much emphasis has been laid on the concept of justice in Islam that around sixty Quranic verses command (those in powers) to do justice<sup>13</sup>. Islam has legislated that nobody to be imprisoned unless his guilt has been proved after fair trial as somebody's action can under no circumstances be transferred to someone else.

**The Right to Equality before Law, Even Rulers Not Above the Law:** Islam gives its citizens the right to absolute and complete equality in their rights and obligations<sup>14</sup>. The Prophet (SAW) has stressed this right, far and again<sup>15</sup>. The Prophet (SAW) has demonstrated this principle throughout his life<sup>16</sup>. In order to maintain this sort of justice, both Khalifa Umar and Khalifa Ali made sure that judiciary was free from influences and thereby gave to the world the concept of 'independence of judiciary'

**Delivery of Justice in an Islamic State:** An authentic Hadith from the Prophet (SAW) goes on to say: on the eve of departure of Mua'dh Bin Jabal to assume his office as Judge of Yemen, the prophet (SAW) asked him "According to what will you judge? He replied "according to the Holy Quran". "And, if you do not find it therein?" the Prophet (SAW) asked. "According to the Sunnah of the Prophet", "and if it is not therein?", the Prophet further asked. "Then I will exert myself to form my own judgment" replied Mu'adh. Thereupon the Prophet (SAW) said, "Praise be to Allah, who has guided the messenger of His Prophet to that which pleases His Prophet".

*"If the judge exercises Ijtihad and arrives at the correct decision he is doubly rewarded, and if he arrives at the wrong decision he is still rewarded singly provided he exercised Ijtihad."* (related by Al-Bukhari, Muslim, Al-Tirmidhi, Al-Nasa'j and Abu Da'ud)."

'Both Dawu'd and Suleman (Peace be upon them) tried to decide the case in right earnest, but their opinions differed. In spite of this difference, both were entitled to reward from Allah, since both of them put their best endeavours in administering justice. However, it should be remembered that Ijtihad is not a task, which everyone can rightly perform. It is a heavy task, which entails heavy responsibilities.

**Guidance for the working of the office of a judge in an Islamic State:** Upon appointing Abu Musa Al-Ashari as judge of Al-Kufa, Khalifa Umar wrote the famous letter detailing the laws and their basis that governs the office of judge. The letter contained the text, the English translation of which is as follows:-

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<sup>13</sup> Some verses are cited here. Quran says: 'O you who believe! Stand out firmly for justice, as witness to Allah, even as against yourselves, or your parents, or your kin, and whether it be (against) rich or poor. Follow not the lusts (of your hearts), lest you swerve, and if you distort (justice) or decline to do justice, verily Allah is well acquainted with all that you do'. (Q:4:135). Quran further says: "O you who believe! Stand out firmly for Allah, as witness to fair dealing, and let not the hatred of others make you swerve to wrong and depart from justice. Be just that is next to Piety: and fear Allah. For Allah is well acquainted with all that you do'. (Q: 5:8)

<sup>14</sup> The Quran says: 'The Believers are but a single brotherhood, so make peace and reconciliation between your two (contending) brothers; and fear Allah, that you may receive mercy' (Q:49:10).

<sup>15</sup> The Prophet said: 'The life and blood of Muslims are equally precious' (Abu Dawud & Ibn Maja). The Prophet also said: 'The protection given by all Muslims are equal, even an ordinary man of them can grant protection to any man' (Bakhari, Muslim, Abu Dawud).

<sup>16</sup> A case is cited here when the Prophet was requested not to order the cutting of hand of a woman. The Prophet made the remarks: 'I swear to Allah, Who has the life of Muhammad in His hands, if my daughter Fatimah had committed theft I would have cut her hands'.

*"The office of judge is a definite religious duty and a generally followed practice. Understand the depositions that are made before you, for it is useless to consider a plea that is not valid. Consider all people equal before you in your court and in your attention, so that the noble will not expect you to be partial and the humble will not despair of justice from you. (The equivalent Common Law idea is the rule of natural justice that justice must not only be done but also be seen to be done). The claimant must produce evidence; from the defendant, an oath may be exacted. Compromise is permissible among Muslim, but not any agreement through which something forbidden (haram) would be rendered permissible (halal), or vice versa. (This is comparable with the Common Law idea of compoundable offenses or settlement out of court). If you gave judgment yesterday, and today upon reconsideration come to the correct opinion, you should not feel prevented by your first judgment from retracting; for justice is primeval, and it is better to retract than to persist in error. (This may be contrasted with the Common Law strict adherence to the rule of stare decisions or binding precedents). But this was not an invitation to keep changing decisions, especially when a Qadi is asked to review his own judgment. Indeed, 'Umar said on one occasion: "That is what we judged and that is what we now judge (i.e., in this new case)". Use your brain about matters that perplex you and to which neither the Qur'an nor the Sunnah seem to apply (i.e. apply Ijtihad). Know the similitude and weigh the issues accordingly (i.e. apply qiyas). If a person brings a claim, which he may or may not be able to prove, set a time limit for him. If he adduces evidence within the time limit set, you should allow his claim, otherwise you are permitted to give judgment against him. This is the better way to forestall or clear up any possible doubt. {This is comparable with the idea of limitation (or taqadum) and with the taking out of a summons for directions by a plaintiff}. All Muslims are acceptable as witnesses against each other, except such as have received a punishment provided for by the religious law, such as are proved to have given false witness, and such as are suspected of partiality on the ground of client status or relationship, for Allah, praised be He, forgives because of oaths and postpones punishment in face of the evidence. Avoid fatigue and weariness and annoyance at the litigants. For establishing justice in the courts of justice, Allah will grant you a rich reward and give you a good reputation. Farewell."<sup>17</sup>*

In spite of many disappointments and failure of 'Rule of Law' in the past, Pakistan seems to be on a right road in establishing the 'Rule of Law' in Pakistan by today's ruling of the Supreme Court in declaring 'NRO' unconstitutional. For text of the Supreme Court Short Order refer to Appendix 2.

### **5.3 Fair Distribution Systems of Wealth**

In Pakistan everyone at all levels and all sectors must be mindful that Prophet Muhammad (SAW) has warned the Ummah not to acquire property or money through unfair means as it is positively unclean and unlawful, and anyone who makes use or spends it his or her prayers will not find acceptance with Allah, his supplications will not be answered, his petition will not be granted and in the life hereafter he will have no share in the special favour of Allah. It is, therefore incumbent on all Pakistani in rank and file to refrain from acquiring ill-gotten wealth and try to earn their livelihood through lawful means. The Prophet has also issued warning to selfish and dishonest traders.<sup>18</sup>

### **5.4 Amendment to the Constitution**

Although, preamble of the Constitution of Pakistan is primarily consistent with the vision and objectives of Pakistan, but its opening statement, viz. "*Whereas sovereignty over the entire universe belongs to Almighty Allah alone, and the authority to be exercised by the people of Pakistan within the limits prescribed by Him is sacred trust*" is misleading as

<sup>17</sup> (Quoted from 'Outline of Islamic Jurisprudence' by Isaq Ghanem published by Saudi Publishing & Distributing House, 1983, pp. 28-29)

<sup>18</sup> See Bukhari and Muslim

Sovereignty and Authority of Allah [SWT] cannot be delegated to his creation. We must try to understand the reality of Allah [SWT] (refer to Article 1 of the preamble) as Allah [SWT] is not a concept as widely believed by us, the people of Pakistan. It is not the Authority which is delegated to the people of Pakistan, but the responsibilities of implementing the Authority of Allah [SWT] within the limits prescribed by Him as sacred trust. Also the Constitution itself is not consistent with its preamble, particular in reference to Majlis-e-Shoora; and administrative, distribution of legislative powers and judicial system of Pakistan as all these aspects are contravening to the Quran and Sunnah of our Prophet Muhammad (SAW). Under, Article 1(3) and Article 7 of the Constitution of Pakistan, the term [Majlis-e-Shoora (Parliament)] is applied, which is repeatedly used throughout the document. It implies that the selection and functions of the Parliament must be viz-a-viz selection and functions of Majlis-e-Shoora of an Islamic State in its true spirit. If Pakistan Parliament is the same as Majlis-e-Shoora in concept and spirit then it must follow the requisites and characteristics of Majlis-e-Shoora. Furthermore, all the administrative structure and distribution of legislative powers in the Constitution of Pakistan is against the administrative structure and distribution of legislative powers of an Islamic State. The political and administrative structure inspired and regulated by ideals of Islam is a comprehensive system through which alone all kinds of different problems facing the mankind, can be resolved in a most effective manner. In traditional democratic system sovereignty belong to the people, by Islamic concept of sovereignty is that political and legal sovereignty belong exclusively to Allah [SWT], since He is the Lord and the Creator and people are His subjects, therefore His Will should reign supreme as the Law. Accordingly, His commands ought to be established and obeyed in Pakistan<sup>19</sup>.

The Judicature system under the Constitution of Pakistan is against the Judicature system of an Islamic State. Legislation in an Islamic State is ought to be restricted within the limit prescribed by Quran and Sunnah. It is mandatory to accept and obey the injunctions of Allah [SWT] and His Prophet (SAW) and no legislative body can make any alterations or modifications in them or make any law repugnant to them. However, for questions not covered by any specific injunctions of Quran and Sunnah, the regulations could be enacted in regards to those matters. In an Islamic State, the judiciary is not placed under the control of the executive as it is answerable to Allah [SAW] and it derives its authority directly from the Divine Law.

In Pakistan' politics, there are many other issues which contravene with Quran and Sunnah, which need to be thoroughly vouched by setting up a commission to critically review the Constitution and to bring the draft consistent with the Quran and Sunnah and make recommendation for its legislation and subsequent implementation.

## **6 SUMMARY AND CONCLUSION**

If we look at the Muslim world<sup>20</sup> of today in general and Pakistan in particular, we come to a conclusion that all of its modern history is tragic as it is in a state of crisis because of the facts that it is internally weak, frustrated, relatively backward, suffering from internal tension and turmoil, conflict-ridden, and often abused or controlled by foreigner powers. Pakistan's politics, over its history in general but during the period between the years 1985 to 2009 in particular, has been extremely problematic. The people in power, by and large, have been corrupt and consequently brought the country on the forefront of corrupt League of Nations. According to Transparency International (IT) Pakistan, current anti-corruption efforts are not promising and there has been significant backsliding. The main problem has been the decision by President General Musharraf in 2007 to grant immunity to corrupt elements and bar legal action against ministers and parliamentarians

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<sup>19</sup> The Quran says: To Allah belongs the dominion of the heavens and the earth. (Q: 57:1)

<sup>20</sup> The Muslim world in this context means all people who call themselves Muslims and associate themselves with Islamic religion and heritage without and geographical borders under which they may happen to reside.

(unless prior clearance has been given). These actions have been sanctioned under the National Reconciliation Ordinance (NRO), which amended in October 2007 the National Accountability Ordinance of 1999 that had guided the country's corruption-related work. Many immune or pardoned beneficiaries of the NRO were appointed to important ministries and included ministers or public officials. The major beneficiary of NRO is the current President of Pakistan. According to a report by transparency international corruption has increased of 400 % in Pakistan in the past 3 years. The report also suggests that over this period the corruption status of the Judiciary has decreased considerably. It also makes comparison among the 3 years and declares 2009 to be the most corrupt by far. Accordingly, unlike earlier time, when Muslims were the custodians of civilization, the Muslim polity is neither master nor partner and thereby is regarded in the world politics as extremely problematic. Today's Supreme Court's Short Order on NRO is a positive step forward in reducing the corruption and improving Pakistan's image in the international political landscape.

In Pakistan, we have forgotten the fundamental obligations of the Divine Law – the road to the straight path, which have been clearly supported by the Quran and the Sunnah of Prophet Muhammad (SAW). *We have* forgotten that it is incumbent upon every Muslim and the Islamic governance to follow the Prophetic life style and live in harmony with one's self and with others in accordance with the divine Law as a system of law of the Muslim Ummah. It is unfortunate that even Muslim rulers and scholars contradicted their own belief and contended that some of the Islamic provisions should not be used and they remained inclined not to apply the Divine laws perhaps from the fear of indignation or for other similar reasons.

The Muslim world of today, including Pakistan, is facing a catalogue of everyday problems, primarily due to the reasons that, by and large, people as well as rulers are having a weak understanding of Islam generally, and specifically, due to their lack of awareness of the vital issues and their lack of comprehension of the position and the stance, which Islam has obliged on them to assume towards them. The Muslim world being influenced by the secularism and being under the domination of the West has lost its real values and consequently is suffering from political fragmentation and is patently dependent on the non-Muslim nations. She is intellectually defunct, economically weak, and militarily inept.

We must understand that the Islamic society is in no way an ordinary society, but it is unique in its structure, composition, and its characteristics as depicted from the Quran and Sunnah. Such unique characteristics relate to the foundation or basis of community, its historic mission and purpose, its status among other communities, its identity, and its continuity. The political and administrative structure of Islamic society inspired and regulated by ideals of Islam is a comprehensive system through which alone all kinds of different problems facing the mankind can be resolved in a most effective manner. In traditional democratic system sovereignty belongs to the people, by Islamic concept of sovereignty is that political and legal sovereignty belong exclusively to Allah [SWT], since He is the Lord and the Creator and people are His subjects, therefore His Will should reign supreme as the Law. Accordingly, His commands ought to be established and obeyed. We therefore ought to build the true Islamic society, which is a combination of spiritual democracy, a social democracy and a political democracy all at one and the same time. The spiritual democracy because in Islam there is no priesthood or spiritual oligarchy who might act as intermediary between man and Allah, the social democracy because Islam establishes a classless social order in which the standard of preference and superiority is neither tribe nor administrative leadership, but only character, the political democracy because Islam establishes the State in which Divine Law rules supreme, but run by the people in accordance with the prescribed political framework.

We must be mindful that Prophet Muhammad (SAW) has warned the Ummah not to acquire property or money through unfair means as it is positively unclean and unlawful,

and anyone who makes use or spends it his or her prayers will not find acceptance with Allah, his supplications will not be answered, his petition will not be granted and in the life hereafter he will have no share in the special favour of Allah [SWT]. It is, therefore incumbent upon us all to refrain from ill-gotten wealth and try to earn our livelihood through lawful means.

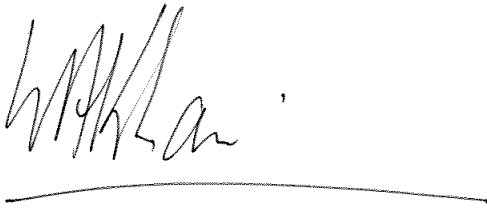
In the light of the above study we may conclude that we must learn from our past mistakes and consider the current problems Pakistan is facing, seriously and must give our lives and souls for Pakistan and must strive hard jointly to solve current problems in accordance with the command and guidelines as ordained by Allah [SWT] and Prophet Muhammad (SAW).

On 16 December, 2009, whilst highlighting the problems our beloved country is facing today and proposing solution, I have done my duty by issuing you jointly this Memorandum in good faith before Allah [SWT] as the witness for your perusal and necessary action. The Result only lies with Allah [SWT].

﴿الْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ﴾

[Al-Hamdu lillahi Rabbil-`Alamin]"  
(All Praise is for Allah, the Lord of the Worlds.)

Signed, Sealed and Delivered on 16<sup>th</sup> December 2009 before Allah [SWT] as the witness.



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