The government has decided to repeal the National Accountability Ordinance 1999, and has drafted a bill to legislate for an alternative accountability mechanism; with the promulgation of these statutes, the National Accountability Bureau (NAB), Pakistan’s apex agency mandated in an anti-corruption role will be replaced by an alternative accountability body. The draft bill is not in the public domain and cannot be commented upon, and the shortcomings of the earlier Ordinance have not been publicly debated. Notwithstanding, an opinion is offered as this clearly can be an opportunity to address current weaknesses in the country’s anti corruption institutional mechanisms and legal system.

Within this context, the objective of this opinion is threefold: first to contextualize NAB’s niche in the broader remit of institutional arrangements that are of relevance to anti corruption reform. Secondly, to comment on the need for other statutes that need to be promulgated in tandem with an accountability law. Thirdly, it is important to develop a broad-based national agenda for anti-corruption reform encompassing all these and other relevant aspects of state reforms with the consensus of all the political actors, the civil society, judiciary, media, society, and the electorates. Notwithstanding, an opinion is offered as this clearly can be an opportunity to address current weaknesses in the country’s anti corruption institutional mechanisms and legal system.

First, with reference to institutional arrangements, NAB is primarily mandated in an investigative anti-corruption role, and will the new agency be. In any comprehensive anti-corruption framework however, this should be supplemented by institutional pathways for public redressal and mechanisms for institutional oversight. In Pakistan’s landscape, the former is the Ombudsman’s office and the latter are the Public Accounts Committee of the Parliament and the Office of the Auditor General. It is therefore important to develop a broad-based national agenda for anti-corruption reform encompassing all these and other relevant aspects of state reforms with the consensus of all the political actors, the civil society, judiciary, media, society, and the electorates. Notwithstanding, an opinion is offered as this clearly can be an opportunity to address current weaknesses in the country’s anti corruption institutional mechanisms and legal system.

Within this context, the objective of this opinion is threefold: first to contextualize NAB’s niche in the broader remit of institutional arrangements that are of relevance to anti corruption reform. Secondly, to comment on the need for other statutes that need to be promulgated in tandem with an accountability law. Thirdly, it is important to develop a broad-based national agenda for anti-corruption reform encompassing all these and other relevant aspects of state reforms with the consensus of all the political actors, the civil society, judiciary, media, society, and the electorates. Notwithstanding, an opinion is offered as this clearly can be an opportunity to address current weaknesses in the country’s anti corruption institutional mechanisms and legal system.

Within this context, the objective of this opinion is threefold: first to contextualize NAB’s niche in the broader remit of institutional arrangements that are of relevance to anti corruption reform. Secondly, to comment on the need for other statutes that need to be promulgated in tandem with an accountability law. Thirdly, it is important to develop a broad-based national agenda for anti-corruption reform encompassing all these and other relevant aspects of state reforms with the consensus of all the political actors, the civil society, judiciary, media, society, and the electorates. Notwithstanding, an opinion is offered as this clearly can be an opportunity to address current weaknesses in the country’s anti corruption institutional mechanisms and legal system.

First, with reference to institutional arrangements, NAB is primarily mandated in an investigative anti-corruption role, as will the new agency be. In any comprehensive anti corruption framework however, this should be supplemented by institutional pathways for public redressal and mechanisms for institutional oversight. In Pakistan’s landscape, the former is the Ombudsman’s office and the latter are the Public Accounts Committee of the Parliament and the Office of the Auditor General. It is logical therefore that alongwith measures to reform the investigative arm, weaknesses in other key institutions are also analyzed and addressed in tandem, if the intent is to fight corruption.

In this regard, election of the leader of opposition as Chairman of the Public Accounts Committee on September 19 is a positive step; it is hoped that it will lead to impartial outcomes; it is also hoped that other gaps in institutional arrangements such as the Ombudsman’s lack of mandate to take up corruption cases will be made up. In particular, the need to reform the Public Accounts Committee must be highlighted; it is widely felt that this body has been subject to government interference, which has undermined its role in providing oversight on government expenditure and the performance of public sector enterprises. It is therefore important to develop a broad-based national agenda for anti-corruption reform encompassing all these and other relevant aspects of state reforms with the consensus of all the political actors, the civil society, judiciary, media, society, and the electorates.

Within this context, the objective of this opinion is threefold: first to contextualize NAB’s niche in the broader remit of institutional arrangements that are of relevance to anti corruption reform. Secondly, to comment on the need for other statutes that need to be promulgated in tandem with an accountability law. Thirdly, it is important to develop a broad-based national agenda for anti-corruption reform encompassing all these and other relevant aspects of state reforms with the consensus of all the political actors, the civil society, judiciary, media, society, and the electorates. Notwithstanding, an opinion is offered as this clearly can be an opportunity to address current weaknesses in the country’s anti corruption institutional mechanisms and legal system.

First, with reference to institutional arrangements, NAB is primarily mandated in an investigative anti-corruption role, as will the new agency be. In any comprehensive anti corruption framework however, this should be supplemented by institutional pathways for public redressal and mechanisms for institutional oversight. In Pakistan’s landscape, the former is the Ombudsman’s office and the latter are the Public Accounts Committee of the Parliament and the Office of the Auditor General. It is logical therefore that alongwith measures to reform the investigative arm, weaknesses in other key institutions are also analyzed and addressed in tandem, if the intent is to fight corruption.

In this regard, election of the leader of opposition as Chairman of the Public Accounts Committee on September 19 is a positive step; it is hoped that it will lead to impartial outcomes; it is also hoped that other gaps in institutional arrangements such as the Ombudsman’s lack of mandate to take up corruption cases will be made up.

The NEWS International, Tuesday, September 30, 2008

NAB and related governance issues

Dr Sania Nishtar

The government has decided to repeal the National Accountability Ordinance 1999, and has drafted a bill to legislate for an alternative accountability mechanism; with the promulgation of these statutes, the National Accountability Bureau (NAB), Pakistan’s apex agency mandated in an anti-corruption role will be replaced by an alternative accountability body. The draft bill is not in the public domain and cannot be commented upon, and the shortcomings of the earlier Ordinance have not been publicly debated. Notwithstanding, an opinion is offered as this clearly can be an opportunity to address current weaknesses in the country’s anti corruption institutional mechanisms and legal system.

Within this context, the objective of this opinion is threefold: first to contextualize NAB’s niche in the broader remit of institutional arrangements that are of relevance to anti corruption reform. Secondly, to comment on the need for other statutes that need to be promulgated in tandem with an accountability law. Thirdly, it is important to develop a broad-based national agenda for anti-corruption reform encompassing all these and other relevant aspects of state reforms with the consensus of all the political actors, the civil society, judiciary, media, society, and the electorates. Notwithstanding, an opinion is offered as this clearly can be an opportunity to address current weaknesses in the country’s anti corruption institutional mechanisms and legal system.

Within this context, the objective of this opinion is threefold: first to contextualize NAB’s niche in the broader remit of institutional arrangements that are of relevance to anti corruption reform. Secondly, to comment on the need for other statutes that need to be promulgated in tandem with an accountability law. Thirdly, it is important to develop a broad-based national agenda for anti-corruption reform encompassing all these and other relevant aspects of state reforms with the consensus of all the political actors, the civil society, judiciary, media, society, and the electorates. Notwithstanding, an opinion is offered as this clearly can be an opportunity to address current weaknesses in the country’s anti corruption institutional mechanisms and legal system.

Within this context, the objective of this opinion is threefold: first to contextualize NAB’s niche in the broader remit of institutional arrangements that are of relevance to anti corruption reform. Secondly, to comment on the need for other statutes that need to be promulgated in tandem with an accountability law. Thirdly, it is important to develop a broad-based national agenda for anti-corruption reform encompassing all these and other relevant aspects of state reforms with the consensus of all the political actors, the civil society, judiciary, media, society, and the electorates. Notwithstanding, an opinion is offered as this clearly can be an opportunity to address current weaknesses in the country’s anti corruption institutional mechanisms and legal system.

Within this context, the objective of this opinion is threefold: first to contextualize NAB’s niche in the broader remit of institutional arrangements that are of relevance to anti corruption reform. Secondly, to comment on the need for other statutes that need to be promulgated in tandem with an accountability law. Thirdly, it is important to develop a broad-based national agenda for anti-corruption reform encompassing all these and other relevant aspects of state reforms with the consensus of all the political actors, the civil society, judiciary, media, society, and the electorates. Notwithstanding, an opinion is offered as this clearly can be an opportunity to address current weaknesses in the country’s anti corruption institutional mechanisms and legal system.

Within this context, the objective of this opinion is threefold: first to contextualize NAB’s niche in the broader remit of institutional arrangements that are of relevance to anti corruption reform. Secondly, to comment on the need for other statutes that need to be promulgated in tandem with an accountability law. Thirdly, it is important to develop a broad-based national agenda for anti-corruption reform encompassing all these and other relevant aspects of state reforms with the consensus of all the political actors, the civil society, judiciary, media, society, and the electorates. Notwithstanding, an opinion is offered as this clearly can be an opportunity to address current weaknesses in the country’s anti corruption institutional mechanisms and legal system.

Within this context, the objective of this opinion is threefold: first to contextualize NAB’s niche in the broader remit of institutional arrangements that are of relevance to anti corruption reform. Secondly, to comment on the need for other statutes that need to be promulgated in tandem with an accountability law. Thirdly, it is important to develop a broad-based national agenda for anti-corruption reform encompassing all these and other relevant aspects of state reforms with the consensus of all the political actors, the civil society, judiciary, media, society, and the electorates. Notwithstanding, an opinion is offered as this clearly can be an opportunity to address current weaknesses in the country’s anti corruption institutional mechanisms and legal system.
be ensured for any anti corruption authority so that the agency can carry out its functions effectively and be free from undue pressure. In this regard, the statutory status of the institution, appointments and dismissal procedures for directors and other senior posts, independence of investigation and possibility of direct communication with the mass media assume importance. Without enabling an autonomous and independent status, any change is not going to be effective and it is hoped that as the new bill evolves, it will be sensitive to these considerations. In addition, it is also hoped that the new law also pays due attention to setting norms and standards from ethical, moral, procedural and intellectual aspects within the ambit of anti-corruption reform.

Secondly, whereas the focus on the National Accountability Ordinance (NAO) as a legal basis to reform the apex anti corruption body in the country is justified, there is also the need to review the broader legislative agenda for transparency promoting reform. Attention is needed to improve criminal codes and review laws relevant to the judiciary itself. Pakistan does not have laws relevant to white collar economic sabotage and explicit whistle blower protection laws; the latter are needed to enable and encourage citizens to come forward to law enforcing agencies to report on corruption incidences. In the same vein, freedom of information (FOI) statutes are critical; here it must be clarified that FOI statutes are not about media freedom, but have to do with access to information and disclosure which can enable public discourse in larger national interest on issues of governance. The present government intents to repeal/amend the FOI statutes, 2002; it is hoped that the new law will bring greater value to disclosure and access to information.

Thirdly, it is important to view anti corruption reform in its broader scope. Historically speaking, Pakistan adopted the punitive, investigative and sanctions-oriented approach to corruption since the inception of anti-corruption work many decades ago. However, earlier police like investigative agencies fell prey to corruption themselves and NAB created later was, perhaps inadvertently, but inherently directed against political opponents in some cases; additionally, despite its successes in asset recovery, it was perceived by some as pursuing a controversial agenda with reference to plea bargains. The objective of new statutes, in addition to the previously mentioned attributes, should therefore be to remedy these weaknesses and place greater emphasis on prevention, awareness creation, technical coordination and implicit transparency promoting measures.

Alongside these measures it is important to view anti corruption reform in a holistic context of state/public sector reform. Such a systemic reform can have many sectoral characteristics involving many actors within the public and private sectors; it can include public financial management, civil service reform, reform of the judiciary and the legal system, decentralization of government, reform of public procurement and contracting, strengthening audit systems and revenue collection, and other related areas. Reform of the judiciary is particularly relevant in this case, given that under the new statutes, NAB courts will be placed under high courts.

In most areas, some work is already in the pipeline in Pakistan, supported by several international official development agencies. Projects to Improve Financial Reporting and Auditing (PIFRA), work of the National Commission of Government Reform (NCGR), the Access to Justice project of Asian Development Bank, the Devolution of Government initiative of 2001, the e-Governance initiative, automation of CBR, electronic procurement reforms and establishment of the Public Procurement Regulatory Authority, reform initiatives of Public Service Commissions, strengthening of regulatory agencies, examples of market harnessing means of regulation in the social sector, etc., are some of the examples of systemic reform of governance in various stages of implementation and in some cases, they have stalled.

It is therefore important to develop a broad-based national agenda for systemic reform incorporating all these and other relevant aspects of state reform with the consensus of all the political actors, the civil society, development partners and of course the government. Every political party should sign up to owning the agenda during their envisaged term in office so that reform is sustained overtime regardless of who assumes office. This should be one of our medium to long term priorities.

However in the short term, the immediate item on the agenda is modification of existing statutes; here as a first step, shortcomings of the existing NAO 1999 should be identified; as a next step it should be ensured that the new
law is fully compliant with the covenants of UNCAC, which Pakistan is a signatory to and has ratified on August 31, 2007.

It is in the interest of any government to tackle the menace of corruption not only because it retards economic and social development but also because it is one of the leading causes of government instability and can attack the foundation of democratic institutions by distorting electoral processes and perverting the rule of law. Without a strategic approach to transparency building reforms, the social and economic costs of corruption will keep escalating and will continue to take an irreparable toll in an environment that is crippled with the weight of the many existing international and domestic crises.

The author is the Founder President of the NGO thinktank, Heartfile. E: mail sania@heartfile.org