**SHAM ACCOUNTABILITY**

BY SH AK AIB QURESH I | 1/3/2020

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| WHERE corruption and the NAB are concerned, Imran Khan is realising that he was trying to fight a cancer without building a cancer hospital. He is not the only one. Asif Saeed Khosa, easily Pakistan`s finest ever chief justice, allowed an unwritten judicial policy that permitted the scales of justice to tip in favour of accountability over fundamental rights. Given the perceived rampant corruption in the country, at the time, history may be gentle with Justice Khosa. Imran`s recanting, however, may not be enough to save him from history`s indictment of allowing NAB to be used as an instrument of political engineering. He has amends to make.  If NAB was truly a body dedicated to eradicating white-collar crime its structure would have reflected as much. It would have had around 50 top investigators duly vetted and drawn from an experienced pool of investigative bodies by a private head hunting firm and finalised by a commission comprising a serving judge, a respected parliamentarian, senior retired police officers and civil servants. The current recruitment process is a sham.  All personnel would have proven track records and would be assisted by teams of excellent lawyers, forensic accountants and banking experts. Each team would in any year take only about two or three most important cases relating to alleged corruption against leaders in business, politics and civil service. Capacity and not demand or headlines would determine whether a case could be taken up or not. Ten or 12 respectable judges sitting day-to-day would leave the process cost-effective and manageable.  Fifty high-profile cases with transparent convictions is all NAB needed to establish credibility and deterrence.  Corruption at the highest level needs to be proven through sting operations, forensic money trails or evidence of benefit and subsequent money laundering that is fundamental to such crimes. Arrests in such white-collar cases are currently like kidnapping for ransom and not required. Such arrests and media trials have left everyone looking like monkeys and several potential witnesses shunning NAB.  This is a picture of the type of accountability that probably Justice Khosa would have wanted, but none of our civil or military leaders want such a transparent system. Actually, it would have been to Imran`s benefit if transparent accountability were to happen. He has, as yet, little to fear from accountability.  For all the talk of corruption in KP, the truth is that Imran`s choice of officers in the province was par exscellence. Both Chief Secretary Azam Khan and Inspector generals Nasir Durrani and Salahuddin Khan were upright people who checked corruption byindependently posting good officers where they could. Imran`s political will provided them the confidence to run an improved administration which was instrumental in PTI`s re-election in an electorally demanding region. Much more needs to be done to create a responsive state, but this was a good start.  NAB on the other hand adopted an approach of riding roughshod over the law and Constitution. Dr Asim Hussain`s case is instructive. He was in prison for 19 months.  He was convicted by a NAB-led media trial which even aired a `confession` extracted in custody that on scrutiny proved not even an admission. It is no laughing matter, but as a federal minister, one of the charges against him relates to sending summaries that eventually the cabinet approved. Nawaz Sharif who in an unprincipled manner turned a blind eye to Dr Asim`s plight was the next victim. Perhaps Imran has learnt.  Unbelievable as it may seem, and I write from personal experience, notices have been sent by NAB questioning people`s role in constitutional processes that eventuallyculminated in legislation approved by parliament or provincial assemblies.  The Constitution prohibits looking into legislation other than by a superior court in relation to its constitutional vires. Shahid Khagan Abbasi and MiftahIsmail`s cases are also notable in this regard.  In Miftah`s case, the court was constrained to comment that he had been arrested without evidence. The person issuing such a warrant should have resigned in such an important matter, but shamelessness and arrogance ruled.  One suspects this mockery of constitutional law was triggered by interaction with agencies who do not believe in the Constitution. The government has, however, accepted that NAB is no more a credible organisation and therefore untenable.  Will the dawn of Imran`s understanding herald a better approach to accountability, or is it a classic case of too little too late? The coercive powers of arbitrary arrest that are the main tools of political engineering and forced bureaucratic compliance are still with NAB. This lends to the thinking that the ordinance is merely a political ploy to bring the opposition back into parliament, but fundamental rights will again be at the mercy of NAB`s interpretation.  The writer is a former caretaker finance minister of Sindh. |  |