

REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE



**“CONSIDERATION OF THE MATTER RAISED BY SENATOR
FARHATULLAH BABAR REGARDING REVIEW OF SECTION 25
OF THE NAB ORDINANCE, 1999, WHICH DEALS WITH
VOLUNTARY RETURN AND PLEA BARGAIN”**

Report No. 32

PRESENTED BY

**SENATOR MUHAMMAD JAVED ABBASI
CHAIRMAN**

SENATE SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE ON “THE MATTER RAISED BY SENATOR FARHATULLAH BABAR REGARDING REVIEW OF THE SECTION 25 OF THE NAB ORDINANCE, 1999, WHICH DEALS WITH VOLUNTARY RETURN AND PLEA BARGAIN”

I, Chairman of the Standing Committee on Law and Justice, have the honour to present report on a matter raised by Senator Farhatullah Babar in the House on 22nd December, 2016 regarding review of Section 25 of the NAB Ordinance, 1999, which deals with voluntary return and plea bargain. The matter was referred by the Chairman Senate to the Standing Committee on Law and Justice for consideration and Report.

2. The composition of Standing Committee on Law and Justice is as under:-

1.	<i>Senator Muhammad Javed Abbasi</i>	<i>Chairman</i>
2.	<i>Senator Aitzaz Ahsan</i>	<i>Member</i>
3.	<i>Senator Farooq Hamid Naek</i>	<i>Member</i>
4.	<i>Senator Saleem Zia</i>	<i>Member</i>
5.	<i>Senator Dr. Muhammad Ali Khan Saif</i>	<i>Member</i>
6.	<i>Senator Syed Muzafar Hussain Shah</i>	<i>Member</i>
7.	<i>Senator Nehal Hashmi</i>	<i>Member</i>
8.	<i>Senator Ms. Ayesha Raza Farooq</i>	<i>Member</i>
9.	<i>Senator Nawabzada Saifullah Magsi</i>	<i>Member</i>
10.	<i>Senator Saeed Ghani</i>	<i>Member</i>
11.	<i>Senator Zaheer ud Din Babar Awan</i>	<i>Member</i>
12.	<i>Senator Mrs. Zahida Khan</i>	<i>Member</i>
13.	<i>Minister for Law and Justice</i>	<i>Ex-Officio Member</i>

3. The Committee considered the matter in its meeting held on 2nd January, 2017 and the following Members attended the meeting:-

i.	<i>Senator Muhammad Javed Abbasi</i>	<i>Chairman</i>
ii.	<i>Senator Aitzaz Ahsan</i>	<i>Member</i>
iii.	<i>Senator Saleem Zia</i>	<i>Member</i>
iv.	<i>Senator Muhammad Ali Khan Saif</i>	<i>Member</i>
v.	<i>Senator Mrs. Zahida Khan</i>	<i>Member</i>
vi.	<i>Senator Farooq Hamid Naek</i>	<i>Member</i>
vii.	<i>Minister for Law and Justice</i>	<i>Ex-Office Member</i>

4. At the very outset, the Chairman Committee explained the issue in detail which has been referred by the House with the direction to submit report till 9th January, 2017. The Chairman observed that certain provisions of NAB Ordinance, 1999, are against the basic principles of justice and accountability as such provisions allow the accused persons to walk away scot-free which needs to be re-visited as these provisions are being misused by the NAB authorities.

5. Thereafter, Senator Farhatullah Babar, the Mover of the issue, explained the vires of Section 25A of the National Accountability Ordinance, 1999 and stressed that it is the need of the day to revisit the NAB Ordinance, 1999, particularly the provisions relating to plea bargain and voluntary return.

6. Senators Aitzaz Ahsan, Farhatullah Babar and Farooq H. Naek were of the opinion that the provision of plea bargain and voluntary return are against the spirit of justice and accountability and these provisions have been used by NAB authorities as per their own sweet will. The members were of the view that allowing the accused persons to walk away scot-free after the plea bargain or voluntary return is highly objectionable and against the principles justice and it allows the accused persons to rejoin their duties again. The members have further objected upon the divine power of Chairman NAB to solely determine the amount of plea bargain or voluntary return.

7. Mr. Zahir Shah, Director General Operations, NAB presented a power point presentation to the Committee explaining the various stages through which Section 25A has passed through and also referred some court cases whereby, the superior Courts have observed in favour of this provision. He stated that there is a divided opinion in the NAB as well about section 25A. He informed the Committee that the matter is also under consideration of the Supreme Court of Pakistan and the NAB has already submitted before the Supreme Court of Pakistan details of each and every case disposed of by NAB through plea bargain or voluntary return. He further informed the Committee that the NAB conveys the decision of plea bargain or voluntary return of each accused to the concerned departments as well as to the State Bank of Pakistan and the Chief Secretary concerned, however, there is no binding on the departments to reinstate the accused/official or otherwise. In his presentation the year wise summary of cases dealt with through voluntary return and plea bargain from 2010 to 30th November, 2016, were also provided. He further stated that Section 25 of the NAB Ordinance, 1999 facilitates implementation of articles of the United Nation's Convention Against Corruption

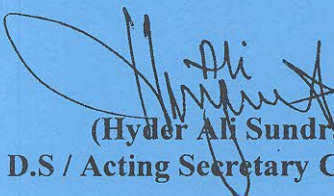
pertaining to speedy assets recovery. The NAB ~~authorities~~ denied the allegation regarding receiving millions of rupees from the accused for their release under the plea bargain. It was informed that the determination of the amount of plea bargain and voluntary return is made on the basis of concrete evidence and not merely on the basis of allegations.


8. Mr. Imtiaz Tajwar, Deputy Chairman NAB apprised the Committee about the steps taken during the investigation of the case of Mr. Mushtaq Ahmed Raisani, the then Secretary Finance, Balochistan and the exercise of plea bargain by NAB with the accused persons of this case. He stated that the case has not yet been closed and the plea bargain has only been made to the extent of three accused persons of this case.

9. Mr. Zahid Hamid, Minister for Law & Justice apprised the Committee that a lot of work has already been done to revisit the accountability laws and a Parliamentary Committee of both Houses is about to constitute to revisit the same including the NAB Ordinance, 1999. The Minister informed the Committee that the process of nominations of the Members of both Houses has been completed and the Committee will be notified at the earliest.

10. In view of the statement of the Minister for Law & Justice, Senator Aitzaz Ahsan suggested that since a Parliamentary Committee of both Houses is going to be constituted to review all the accountability laws including the NAB Ordinance, 1999, therefore, it would be appropriate to discuss the issue in detail in that Committee as that would be a bigger forum having representation of both Houses and all Political Parties. Senator Farhatullah Babar, the mover of the issue, also agreed the suggestion and raised no objection if the matter may be considered in the Parliamentary Committee.

11. After taking the consensus of the Committee, the Chairman disposed of the matter with the direction to the Government to expedite the whole process for Constitution of Parliamentary Committee, as it is the need of the day to review all the accountability laws including the NAB Ordinance, 1999.


(Hyder Ali Sundrani)
D.S / Acting Secretary Committee


(Senator Muhammad Javed Abbasi)
Chairman
Standing Committee on Law and Justice