

The Business

Chief Editor

Irfan Athar Qazi

E-mail: editorthebusiness@yahoo.com
thebusinesslhr@gmail.com

Tijarat House, 14-Davis Road, Lahore
0423-6312280, 6312480, 6312429, 6312462
Cell # 0321-4598258

1270-B, Peoples Colony No I, Off: Chenone
Road, Faisalabad, Ph: 041-8555582

ISLAMABAD / RAWALPINDI
N-125 Circular Road, Ph: 051-5551654,
5532761, Cell # 0300-8567331
KARACHI
3rd Floor Kehkashan Mall 172-I Block II PECHS
Opp Rehmania Masjid Main Tariq Road
Ph: 021-34524550, Cell # 0300-8251534

A mid-night bombshell

The government late Thursday night jacked up the price of petrol by Rs 8.03 per litre, taking the price to Rs 145.82 per litre against the current rate of Rs 137.79 per litre. The price of high-speed diesel (HSD) has also been enhanced by Rs 8.14 per litre and will now cost Rs142.62 per litre. The price of kerosene oil was also increased by Rs 6.27 per litre to Rs 116.53 per litre. In addition, the price of light diesel oil has been enhanced by Rs 5.72 per litre. The new price of light diesel oil will thus be Rs114.07 per litre. Earlier, Prime Minister Imran Khan had rejected a summary of Oil and Gas Regulatory Authority (OGRA) proposing an increase of Rs 11.53 in prices of petroleum products. Just three weeks ago, the government jacked up the price of petrol by Rs10.49 per litre, following fluctuation in the global oil prices. The opposition has demanded the resignation of the Prime Minister Imran Khan over rising sugar and petrol prices in the country. PPP Vice President Sherry Rehman also noted that the increase in petrol prices came two days after the announcement of the relief package. "Days after announcing a 'relief package', PTI govt drops another petrol bomb by hiking petrol prices by a whopping Rs8.14/L. Petrol prices now stand at a record Rs145.8/L. First time in Pakistan's history that prices of all the petroleum products are above Rs110/L. #NayaPakistan," she tweeted. PPP leader Sherry Rehman said that Prime Minister (PM) Imran Khan is deceiving the people by jacking up the prices in the name of relief. PPP information secretary Shazia Marri also warned that if the government did not decrease prices, there would be such a reaction that the "government will not be able to survive".

The latest price increase will definitely push up the rate of rise in overall inflation and higher cost of industrial production that has already been under pressure because of higher electricity rates. The mechanism of petroleum pricing seems totally farcical when we closely look at the statistics of the profit ratio the government earns through the petroleum sale. It has been generating considerable revenue by taxes on oil products and savings on imports. The percentage of price reduction has never been in line with the huge percentage of the increase which the government implements time and again. Our economic managers should persuade the government to minimise its profit ratio and stabilise the POL prices for a considerable length of time. The ever increasing fuel prices which result in higher inflation have created social instability and subjected the general public to psychological torture.

Learning from the NCOC

FAHD HUSAIN

In times that are grim, there are things that are less so. With the Covid-19 infection hitting new lows, it may be useful to look back and see what we did right, and whether we can learn the right lessons from the experience of these last two years.

The National Command and Operation Centre has been the nerve centre for the country's anti-Covid measures. Constituted by the PTI government in April 2020, it has over these 19 months evolved into a forum that is recognised for its success in combating the pandemic. Here are 10 lessons that we can learn from NCOC in order to get better results in our national endeavours:

1- De-emphasise political partisanship. In a landscape sullied by bitter political rivalries, NCOC managed to create an environment in which political rivals sat together and worked together like normal people. No shouting, no bickering and no leg-pulling. As head of NCOC, Planning Minister Asad Umar ran the proceedings like a corporate CEO, not a partisan cabinet member. The presence of senior military officials also helped detoxify the ambience. Lesson: when rivals agree to work for a common cause, they can grow beyond their partisanship and produce impressive results.

2- Smooth coordination between the centre and provinces works. The role of the federal government was key in ensuring that the provinces remained connected to the national policy direction despite the fact that health is a provincial subject. The NCOC was successful in bringing aboard the provincial leadership to work in tandem. In the public

sphere the PTI and PPP governments were throwing punches at each other, but behind closed doors, the leadership of the two parties worked fairly effectively. Lesson: If common goals can be set, actions coordinated and resources pooled, the inefficient Pakistani system can also deliver results.

3- Civil-military done right can work well. In a regime dubbed as 'hybrid' NCOC was an outlier in terms of how hybrid does not have to be a failed experiment. Whatever the original intent behind the 'civil-mil' mix in NCOC, it evolved into a forum that was led by Asad Umar, co-chaired by the now retired Lt-Gen Hamood-uz-Zaman and assisted by a team of senior and mid-level military and civil officials. While the likes of Asad Umar and Dr Faisal Sultan provided a mix of corporate and medical management expertise, military officials ensured effective coordination and swift implementation of decisions. Lesson: Civ-mil teamwork under the right circumstances does deliver.

4- Respect the power of data. NCOC was brutally honest with data and depended primarily on it to make decisions. In contrast to the bureaucratic lethargy that scars the working of government ministries and departments, NCOC worked like a Wall Street firm, preferring exactitude to anecdotal evidence, perceptual observations or politically drenched gut feelings. The video wall in the main NCOC hall would stay illuminated and flicker graphs, charts and video links as in-

formation poured in from across the country. Data analysts were at hand to make sense of the numbers and decipher the message they relayed. Lesson: scientific approach, even in a non-scientific government culture, delivers results.

5- Continuity of command. From the day it was first constituted till today NCOC has not had a change in leadership. Asad Umar has led it ably from the first day and now packs within him the institutional memory and experience that continues to fuel and drive the workings of the forum. Lt-Gen Hamood co-piloted NCOC till the day he retired from the army and was given a send-off at the NCOC. Dr Faisal Sultan, now health minister, has steered NCOC with his medical expertise from the beginning and continues to play a central role. The two- and one-star generals assigned to the NCOC also remain the same except for a few changes. Lesson: don't reshuffle officials on whims. Continuity of command delivers.

6- Break down red tape. Speed and time was of the essence in combating the pandemic. It was measured in lives lost and saved. Whether the problem at hand pertained to ordering medical equipment and supplies, or allocation of resources to various hospitals, or getting reports compiled from field locations, or even sending teams to track and trace suspected patients, NCOC managed to speed up processes and procedures that would in normal times take an eternity. This illustrated that official red tape and inertia can be broken or

bypassed if there is will at the top and an authority delegated for such a purpose. Lesson: Cutting red tape to a significant degree is doable within the official system if the leadership is determined to get it done.

7- Effective public messaging can influence behaviour. Pakistan got off to a slow start on the Covid front and citizens remained in denial of the danger. However by June 2020 NCOC had managed to influence the thinking and behaviour of people through aggressive messaging. Of course the spike in infections and deaths also had a sobering effect on those who were taking the pandemic lightly. Through all media platforms and other ways like phone ringtone messages, NCOC messaging had a major impact on how society began to follow social distancing and mask-wearing. Lesson: official communication delivers when it is focused on a clear outcome and is powered by multi-platform distribution and relaying.

8- Centre is critical even in a devolved system. Many countries, including India, floundered in their efforts against the pandemic because they lacked a central hub for all activities. NCOC showed that a strong central platform can knit the federating units together without disturbing the devolution of powers. Lesson: Don't be afraid of the centre.

9- Bring in the specialists. The age of generalists should draw to a close. NCOC brought in the specialists to advise the leadership and they made good decisions. It is a model worth replicating in various departments for specific challenges. Lesson: Reforming the bureaucracy is now essential.

10- Governance matters. Lesson:

NAB's foggy amendments

SHAHUKH MEHBOOB

A country is known for the quality of its public institutions. Developing sound and strong public institutions is a constitutional obligation with its foundations pillared in democracy, equality, tolerance, social, economic, and political justice. Institutional design and the configuration of its governance must be sensitive to the fundamental rights of the people and its vision aligned with the principles of policy. In Pakistan, the institution of accountability has been wrangling throughout the years. Ostensibly, there exists a political consensus to overhaul the country's accountability laws and mechanisms. Successive parliaments and federal governments have pledged to reform NAB or replace the premier accountability institution with an empowered, autonomous and transparently functioning organisation, but no one seems interested in demanding stronger, more independent institutions.

National Accountability Bureau (NAB) is an autonomous apex body to root out corruption from the body polity of Pakistan. For its intent and purpose, the NAB ordinance was a remarkable piece of legislation in the law-making history of Pakistan. The failures have come at a cost. Untethered from the constraints of the judiciary and unaccountable in any real sense to any other institution in the dispensation of its brand of accountability. Today, NAB is riding roughshod over politicians, bureaucrats, and people from many walks of life. The law in its present form allows NAB discretion that automatically translates into selectivity in the application of these powers. Indeed, it is not surprising that opposition leaders have faced the brunt of this accountability while various people associated with the ruling alliance facing similar accusations enjoy the fruits of unfettered freedom. The hounding and arrests of many bureaucrats on such charges lead to near-paralysis in decision-making is a case in point. The second amendment made in the National Accountability

Bureau (NAB) law through a presidential ordinance is a mix of good, harsh and controversial provisions, prone to much confusion. The proposed legislation tweaks several other aspects of the National Accountability Ordinance 1999 as well. According to the ordinance, "All matters about Federal, Provincial or Local taxation, other levies or imposts, including refunds, or loss of exchequer of taxation," will be dealt with following the revenue or banking laws and will be transferred from the accountability courts to the courts of competent jurisdiction.

The feature of the ordinance is the exclusion of the federal and provincial cabinets, the business community, and collective decisions of the committees or sub-committees, Council of Common

sons and classes, which is against the spirit of Article 25 of the Constitution.

The government also proposed to omit the word "non-extendable" from clause (i) of sub-section (b) of Section 6 National Accountability Ordinance 1999 that pertains to the extension of tenure of the NAB chairman, currently four years. It is a settled principle of interpretation that the words in a provision cannot be read and interpreted in isolation. The meaning and scope of a provision are determined by looking not at the isolated words used therein but by reading its text in context. The relevant provision of the Constitution is, therefore, to be read in its immediate context as well as in the overall scheme of the constitutional appointments. An amendment can be made by the legislature, not

postulates that the ordinance-making power is legislative power and an ordinance shall have the same force as an act. An ordinance should be clothed with all the attributes of an act of legislature carrying with it all its incidents, immunities, and limitations under the Constitution. In a constitutional democracy founded on the supremacy of the Constitution, it is an accepted principle of jurisprudence that the judiciary has the authority to test the validity of legislation. Legislation can be invalidated where the enacting legislature lacks legislative competence or where there is a violation of fundamental rights. A law that is constitutionally ultra vires can be declared to be so in the exercise of the power of judicial review. Judicial review is indeed also a part of the basic features of the Constitution.

The jurisprudence regarding appointment and extension of public office holders has been elucidated by the apex courts in past through judgments. Despite that, proposing an amendment regarding the extension of tenure is unfathomable and a mystery to be solved in Pakistan. It seems that the government no longer intends to seek opposition consensus over the NAB law. It is railroading of the electoral law amendments, despite claims that it would seek opposition consent; raises the fear that it might try to bulldoze these measures, which would also have the effect of reducing NAB to a mere government department, subordinate to the whims of the government. The government's tendency to extend tenures of high officials rather than making a fresh appointment, as in the case of the COAS at the beginning of the year, should be kept in check. The purpose of tenures is not just to provide convenience, but to provide the basis of independence to those who serve the state. They must not be converted into servants of the government. It was declared by Chief Justice Sir Edward Coke of England in the Commendam case in the year 1616 regarding the powers of King James I, "Howsoever high you may be; the law is above you."

The law in its present form allows NAB discretion that automatically translates into selectivity in the application of these powers

Interests, National Economic Council, National Finance Commission, Executive Committee of National Economic Council, Central Development Working Party, Provincial Development Working Party, Departmental Development Working Party and State Bank of Pakistan from the ambit of NAB. By the new ordinance, NAB cannot proceed against "any person or entity who, or transaction in relation thereto, which are not directly or indirectly connected with the holder of a public office. Procedural lapses in any public or governmental work, project, or scheme unless it is shown that a holder of public office or any other person has been conferred or has received any monetary or other material benefits from that particular public or governmental work."

The exclusion of certain classes determined the jurisdiction of NAB, which is now limited to peon only. The law is discriminatory as it protects certain per-

only to change the law but also to clarify the position. On any aspect as regards which the law is vague or silent the amending provision removing such vagueness or silence can certainly be taken as guidance for the construction of the unamended provision. Further, the rules of interpretation of amendments of a statutory rule. If the language of the statute on a literal construction is clear, unambiguous and not absurd, it is not permissible for the court to take into account any subsequent amendment in interpreting the provision. Subsequent legislation may be looked into to fix the proper interpretation to be put on the statutory provision as they stood earlier. A declaratory or explanatory amendment is generally passed to supply an obvious omission or to clear up doubts as to the meaning of the previous law; if a statute is merely declaratory or curative, the retrospective operation is generally intended. The Constitution

Plight of the Afghans

BY MONA NASEER



After the change of regime in Afghanistan several debates have started regarding the legitimacy of the Taliban and the looming humanitarian crisis in Afghanistan. Tragically, amid these debates and the confusion of legitimacy of the Taliban by the international community, the ordinary Afghans living in Afghanistan are adversely affected.

Life for the common Afghans has changed drastically – it doesn't look anything like 'freedom from the shackles of Western slavery'. According to a recent UNDP survey, 97 percent of Afghanistan's population could sink below the poverty line if the international community does not take any concrete steps to help Afghanistan in these hard times.

Being from the borderlands myself, I had the opportunity to interact with some ordinary Afghans living in Afghanistan. All of them acknowledged that despite being a West-reliant government, with severe limitations of corruption and dysfunctional violence, it was still a functioning state. A businessman

ferent public universities. They have been notified that they are not allowed to teach in private universities, and the logic behind this restriction from the Taliban is that professors can learn from our 20 years of experiences of how to make sacrifices for the state. The Taliban have a country to run, and this does not look like the blueprint of running the state or fixing the previous corrupt government. While the world community looks on closely, the Taliban are not following the Doha deal and are instead affecting the machinery and service delivery of the state by their exclusivist policies. The new Tal-

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from Jalalabad disclosed that unemployment has tripled, saying that one of the major Pul Charkhi industrial parks of Kabul, which had three thousand factories with one million workers along with engineers, office staff, can now only retain 30,000 workers. The numbers keep dropping every day. According to this gentleman, people are just waiting for either the government to change, or the US or Western powers to find some ways to facilitate the Taliban, which they had promised under the Doha deal.

Here the important question is whether the Taliban will be ready to abide by their side of the Doha deal to ease their nation's pain. An Afghan from senior management who was a part of the previous government's administration tells me the present regime has not allowed anyone from the previous government; even the technical staff working with them are facing several difficulties. An ex-employee of the Afghanistan National Standard Authority (ANSA) criticised the Taliban for their rogue behaviour towards skilled and educated workers, and says that many are being punished for working with the previous government. There have been verbal reports that many government employees are waiting for their salaries for the past three months including teachers in dif-

ferent public universities. They have been notified that they are not allowed to teach in private universities, and the logic behind this restriction from the Taliban is that professors can learn from our 20 years of experiences of how to make sacrifices for the state. The Taliban have a country to run, and this does not look like the blueprint of running the state or fixing the previous corrupt government. While the world community looks on closely, the Taliban are not following the Doha deal and are instead affecting the machinery and service delivery of the state by their exclusivist policies. The new Tal-

ban are just like the old Taliban when it comes to art and culture. The nephew of Ustad Rahim Baksh, the best classical singer of all times, Naseem Baksh, had to abandon his tabla playing, and has a small kiosk in the famous street of Kochay Kharabat Kabul.

So, while some people are fleeing Afghanistan because of economic hardships, some are fleeing because the state has harsh penalties for them if they pursue what they want to be doing. Naseem Baksh says the Taliban should tell the people what they can do or maybe help them escape from their own homes and lands.

Unemployment, economic hardships, and the prices of basic commodities have skyrocketed. Kanni Wignaraja of the UNDP says: "We have not seen this level of near-universal poverty in any country in recent history". It is ironic that the West gave legitimacy to the Taliban under the Doha accord and let them become the de-facto government of Afghanistan but have turned away from the people. The fact remains that it is only the people of Afghanistan who will suffer, and the Taliban will continue to find a way to survive as they did in the past.

The writer is from Fata and has a degree in human rights from the University of London.