



**WAFAQI MOHTASIB (OMBUDSMAN)
OF
PAKISTAN**

**ANNUAL REPORT
2004**

**Wafaqi Mohtasib (Ombudsman)'s Secretariat
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Islamabad, March , 2005

Dear Mr. President,

In terms of Article 28(1) of the Establishment of the Office of the Wafaqi Mohtasib (Ombudsman) Order, No 1 of 1983 (P. O. 1 of 1983), I have great pleasure in forwarding herewith the Ombudsman's 22nd Annual Report for the calendar year 2004.

The report is a resumé of the performance of this Office during the year 2004. It also gives an account of certain studies and exercises, which were proposed to be undertaken during the year and mentioned as such in the Annual Report 2003.

In the year 2004, a total number of 25,327 complaints were received, of which 10,581 i.e. 42% were disposed of *in limine*, and 14,746 were registered for detailed investigation. With 15,617 cases being the carry-over from the year 2003, the total workload during the year 2004 was thus 30,363 complaints. Of this the total disposal, after detailed investigation, was 22,030 or 73% as compared to 59% last year. Relief was provided in 18,433 complaints i.e. 84% as compared to 77% during the year 2003. The rejected complaints were 3,597, which is 16% of the disposal as compared to 23% in the year 2003. Thus, relief was provided in a greater percentage of complaints during the year under report.

Decisions received from the President on representations against the 'Recommendations' of the Wafaqi Mohtasib during the year 2004 were 806. Of this the President accepted 207 representations, which is 26% of the representations decided. In 545 representations i.e. 68% 'recommendations' of the Wafaqi Mohtasib were upheld. This is an indication of the improved quality of 'Findings', brought about by the measures taken during the two preceding years and recounted in the Annual Report 2003. Only 24 cases were remanded for fresh 'Findings' in the light of the guidelines given in the President's decisions, while the Agency or the complainant withdrew 30 representations.

Mr. President, it is not enough to issue quality 'Findings and Recommendations'. It is equally important to ensure their implementation. Certain measures were taken in the year 2004 which have helped to further improve the implementation process. These are discussed in the relevant chapter of this report.

Updating of the Manuals containing departmental instructions for the guidance of the investigating officers, initiated in 2002, is an ongoing process and so are the compilations of new Manuals pertaining to some other Agencies. This has gone a long way in improving the quality of the investigation process besides bringing about uniformity in the 'Findings', based on similar facts and circumstances and obviation of contradictory conclusions in different complaints on identical issues.

The tasks that we set for ourselves during the calendar year 2004 and mentioned as such in the report for the year 2003 have been accomplished. These included: (i) the compilation of a Handbook and Training Modules for the use of investigating officers; (ii) the undertaking of studies on: (a) adjustment lending in the Zarai Taraqati Bank Limited; (b) administration of WAPDA Workers Welfare Fund; (c) establishment of public call offices (PCOs) through fraudulent means; and (d) the Housing and Works Division.

The Wafaqi Mohtasib's Secretariat is grateful to the President and his staff for the consistent support that has always been extended to it. But for this, the achievements reflected in the report would not have been possible. We look forward to this support and guidance in the future also and on our part assure the President of our resolve to protect the rights of the citizens and improve the efficiency of the working of the Government and its functionaries.

With best wishes,

Yours sincerely,

(Imtiaz Ahmed Sahibzada)

General Pervez Musharraf
The President Islamic Republic of Pakistan
Aiwan-e-Sadr
Islamabad

CONTENTS

| | | |
|------------|---|-----|
| Chapter 1 | Introduction..... | 1 |
| Chapter 2 | Over-all Institution and Disposal of Complaints | 3 |
| Chapter 3 | Institution and Disposal of Cases under the Freedom of Information Ordinance, 2002..... | 13 |
| Chapter 4 | Carry over of Complaints to Calendar Year 2005 | 15 |
| Chapter 5 | Major Categories of Complaints dealt with during the Year 2004 | 17 |
| Chapter 6 | Implementation Status of ‘Findings/Recommendations’ Pending Implementation during the Year 2002, 2003 and 2004 | 47 |
| Chapter 7 | Issue of Complaints relating to Departments of the Provincial Government (NWFP)..... | 49 |
| Chapter 8 | Issue of Complaints relating to Ministry of Defence..... | 51 |
| Chapter 9 | Issue of Complaints Relating to Cantonment Boards | 53 |
| Chapter 10 | Issue of Complaints of Consumers against Gas Distribution Companies | 55 |
| Chapter 11 | Issue of Complaints of Consumers against Electricity Distribution Companies | 59 |
| Chapter 12 | Issue of Complaints relating to ‘Service Matters’ | 63 |
| Chapter 13 | Need for Appointment of the Insurance Ombudsman | 67 |
| Chapter 14 | Issue of Inclusion of P.I.A. within the Jurisdiction of the Wafaqi Mohtasib..... | 71 |
| Chapter 15 | Follow-up of Tasks set for the Office for the Calendar Year 2004 in the Annual Report 2003..... | 75 |
| Chapter 16 | Select ‘Findings’ of Calendar Year 2004 Providing Relief to Complainants..... | 99 |
| Chapter 17 | Some Important Policy Decisions of the President on Representations | 161 |
| Chapter 18 | Activities of the Asian Ombudsman Association (AOA) and the International Ombudsman Institute (IOI)..... | 185 |
| Annex-I | Roll of Investigating Officers | 191 |
| Annex-II | Welcome Speech of Mr. Imtiaz Ahmad Sahibzada, President, Asian Ombudsman Association at the 8 th Asian Ombudsman Association Conference at Seoul, Republic of Korea..... | 193 |
| Annex-III | The Role of the Ombudsman in Safeguarding Civil Rights | 199 |
| Annex-A | Indicative List of Specific Directions to Agencies for Change of Laws, Amendments in Rules and Regulations | 217 |
| Annex-B | Indicative List of Research Studies Carried Out..... | 219 |
| Annex-IV | Addresses of Ombudsman Institutions/Offices in Pakistan..... | 221 |

CHAPTER 1

Introduction

During the out going calendar year efforts were made to consolidate and sustain the efficiency gains of the past two years i.e. 2002 and 2003. These efforts were directed at: (i) further improving the quality of the investigation process and the recording of findings and recommendations; (ii) increasing disposal of complaints over institutions; (iii) reducing the backlog of pendency; (iv) ensuring that pendency relates only to complaints instituted during the preceding and ongoing calendar years; (v) reducing the average time taken for disposal of complaints; and (vi) follow up of the implementation status of recommendations in findings of decided complaints.

The completion of tasks set for the calendar year 2004 in the Annual Report of 2003 has been another area, which has received priority attention. This includes: (i) the compilation of a Handbook and Training Modules for the use of investigating officers; (ii) the undertaking of studies on; (a) adjustment loaning in the Zarai Taraqati Bank Limited; (b) administration of WAPDA Workers Welfare Fund; (c) establishment of public call offices (PCOs) through fraudulent means; and (d) the Housing and Works Division in respect of: illegal occupation of government accommodation, inter alia, including houses trespassed by the Islamabad Police; illegal pool of houses in respect of Bureau of Immigration and Overseas Employment; and Maladministration in Federal Lodges/Hostels because of misuse of the updated rules for allotment, (iii) the updation of Manuals containing the policy circulars and directives of the Agencies of the Federal Government most complained against which were compiled in the years 2002 and 2003; (iv) compilation of Training Modules for investigating officers in a few select areas; (v) streamlining the administrative system of the Office through the establishment of a Management Information System (MIS) under the Asian Development Bank-assisted Access to Justice Programme; (vi) finalization of the Wafaqi Mohtasib (Ombudsman) Employees Appointment, Promotion and Transfer Rules; and (vii) completing the preparatory work for the construction of the Ombudsman's Office building.

While, by and large, the targets and tasks set for the calendar 2004 in the Annual Report 2003, have been met and considerable progress made, in some areas of the

designated tasks the achievement has been less than optimal for a number of reasons. These areas, however, are few and the default is not very significant. Every effort will be made in the calendar year 2005 to not only cover this up but also to further improve the functioning of the Office through the further consolidation of the measures and reforms initiated during the outgoing three years i.e. 2002, 2003 and 2004.

CHAPTER 2

Over-all Institution and Disposal of Complaints

The efficiency or otherwise of an institution like that of the Wafaqi Mohtasib can be gauged from an analysis of the institution and disposal of complaints by it within a specified time frame and its comparison with like statistics of the previous years. The following tables provide an indication of the functioning of this office for the calendar year 2004.

Table 1: Institution and Disposal of Complaints, 2000-2004

| Year | Received | Disposal in limine | Admitted | Carry Over | Total Workload (d+e) | Disposal after Detailed Investigation | | | |
|----------|----------|--------------------|----------|------------|----------------------|---------------------------------------|----------|-------------|----------|
| | | | | | | Relief | Rejected | Total (g+h) | % i ÷ f |
| <i>a</i> | <i>b</i> | <i>c</i> | <i>d</i> | <i>e</i> | <i>f</i> | <i>g</i> | <i>h</i> | <i>i</i> | <i>j</i> |
| 2000 | 41,080 | 14,138 | 26,942 | 11,793 | 38,735 | 18,749 | 3,994 | 22,743 | 59 |
| 2001 | 33,385 | 10,534 | 22,851 | 15,992 | 38,843 | 15,641 | 3,916 | 19,557 | 50 |
| 2002 | 31,613 | 10,636 | 20,977 | 19,286 | 40,263 | 13,567 | 4,477 | 18,044 | 45 |
| 2003 | 25,761 | 10,346 | 15,415 | 22,219 | 37,634 | 16,921 | 5,096 | 22,017 | 59 |
| 2004 | 25,327 | 10,581 | 14,746 | 15,617 | 30,363 | 18,433 | 3,597 | 22,030 | 73 |

2. The year 2004 has been significant in the sense that as against 25,327 complaints instituted 32,611 were disposed of, including those *in limine*, resulting in 47% percent decrease in the volume of pending complaints. Thus only 8,333 complaints have been carried over to the calendar year 2005 compared to 15,617 cases in 2004. Furthermore, it is a matter of satisfaction that of the complaints disposed of after detailed investigation relief was provided in 84% cases.

Table 2: Total Number of Complaints Received Against the Federal and the Provincial Agencies During the Year 2004

| S. No. | Description | Complaints | Percentage |
|--------------|--|------------|------------|
| 1. | Federal Agencies | 22,773 | 90% |
| 2. | Provincial / Private Agencies and others | 2,554 | 10% |
| Grand Total: | | 25,327 | 100% |

3. During the year under report, the high percentage of complaints i.e. 90% instituted against the Federal Government Agencies indicated that there was a better awareness and understanding of the Wafaqi Mohtasib's jurisdiction among the public. Only in 2,554 cases, the citizens having a grievance against the Provincial Agencies approached this office instead of lodging their complaints before the concerned Provincial Mohtasibs. However, such cases instead of being rejected *in limine* and creating further frustration in the complainants, were referred to the concerned offices of the Provincial Mohtasibs under intimation to the complainants to correspond further with them.

Complaints dealt at Regional Offices

4. Article 9(4) of P. O. No. 1 of 1983, authorises the Mohtasib to set-up its regional offices when and where required. Consequently, in order to provide relief to the common citizens at their doorstep, seven Regional Offices are functioning all over the country besides the Headquarters Office at Islamabad. Registration and investigation of complaints at these Regional Offices not only provides easy access to the citizens but also saves them the inconvenience of travelling to the headquarters at Islamabad and the consequential financial liability involved therein. The table below indicates the pattern of the complaints instituted and disposed of at the different Regional Offices.

Table 3: Institution and Disposal (after detailed investigation) of Complaints during the year 2004

| S. No. | Name of the Office | Admitted | Disposed of* | Disposal in terms of Admittance (Percentage) |
|--------|-----------------------------|----------|--------------|--|
| 1. | Head Office, Islamabad | 2,389 | 3,304 | 138% |
| 2. | Regional Office, Lahore | 3,920 | 4,846 | 124% |
| 3. | Regional Office, Karachi | 1,410 | 2,041 | 145% |
| 4. | Regional Office, Peshawar | 4,718 | 6,608 | 140% |
| 5. | Regional Office, Quetta | 165 | 163 | 99% |
| 6. | Regional Office, Sukkur | 546 | 2,468 | 452% |
| 7. | Regional Office, Multan | 845 | 1,639 | 194% |
| 8. | Regional Office, Faisalabad | 605 | 926 | 153% |
| 9. | Regional Office, D. I. Khan | 148 | 35 | 24% |
| Total: | | 14,746 | 2,2030 | 149% |

The overall picture shows that during the year 2004 the cumulative disposal was 149% of the admitted complaints. The Regional Office, Sukkur, achieved distinction by being able to clear the backlog of pendency by registering a disposal of 452% over the admitted complaints during the year under report. The head office at Islamabad and the Regional Offices of Lahore, Karachi, Peshawar, Multan and Faisalabad, also did very well by posting disposal percentages of 138%, 124%, 145%, 140%, 194% and 153% respectively.

5. Though very few complaints were registered and investigated at Regional Offices Quetta and D. I. Khan, but these offices were set-up and kept in operation with a view to providing easily accessible centres for grievance redressal in remote areas.

Time Profile of Disposal of Complaints

6. On receipt and registration of complaints at any of the Offices, efforts are made to finalise the investigation and disposal as expeditiously as possible. In this context the main factor contributing towards quick disposal is the response of the Agency complained against. The complaints in those cases admitted for detailed investigation are

* This includes the cases brought forward from previous years.

forwarded to the Agency for their reports within a period of six weeks. Despite continuous prodding from this office, however, these reports are invariably delayed from anywhere between three to six months and, in some cases, even more. This delay is, therefore, the major contributory factor of the over-all time taken for disposal. About six weeks to three months is taken in obtaining the rejoinder of the complainant on the report of the Agency, whereafter the case is fixed for hearing(s) of the parties and the conclusion of the investigation process through the finalisation of the draft findings for submission to the Wafaqi Mohtasib. Besides being a requirement of natural justice, the hearings are necessitated by the generally very sketchy nature of the reports submitted by the Agencies from which conclusions cannot be easily and safely drawn. This further adds to the time taken in the finalisation and disposal of complaints.

The following table indicates the time profile of disposal of complaints.

Table 4: Time Profile of Disposal of Complaints During the Year 2004

| S. No | Name of the Office | Within 3 months | Within 6 months | Within 1 year | More than year | Total Disposal |
|--------|-----------------------------|-----------------|-----------------|---------------|----------------|----------------|
| 1. | Head Office, Islamabad | 98 | 823 | 1,266 | 1117 | 3,304 |
| 2. | Regional Office, Lahore | 54 | 1,455 | 2,539 | 798 | 4,846 |
| 3. | Regional Office, Karachi | 55 | 279 | 410 | 1297 | 2041 |
| 4. | Regional Office, Peshawar | 91 | 1450 | 2,775 | 2292 | 6,608 |
| 5. | Regional Office, Quetta | 9 | 93 | 53 | 8 | 163 |
| 6. | Regional Office, Sukkur | 16 | 95 | 291 | 2066 | 2468 |
| 7. | Regional Office, Multan | 3 | 154 | 423 | 1059 | 1639 |
| 8. | Regional Office, Faisalabad | 9 | 121 | 281 | 515 | 926 |
| 9. | Regional Office, D. I. Khan | 1 | 23 | 11 | 0 | 35 |
| Total: | | 336 | 4,493 | 8,049 | 9,152 | 22,030 |
| | | 2% | 20% | 37% | 41% | |

7. As is evident from the table, during the year under report, 336 (2%) of complaints were decided within three months; 4,493 (20%) within six months; 8,049 (37%) within one year and 9,152 (41%) within periods exceeding one year. Thus on an average 12,858 complaints (59%) were disposed of within one year of their institution. Though not an ideal position, but considering the constraints, mentioned above, within which the investigating officers are operating, it can only be improved upon with the cooperation of the Agencies of the Federal Government in submitting comprehensive, intelligible and timely reports on the complaints forwarded to them. Efforts will be made in the ensuing year to somehow reduce the time lag between the intimation of complaints to and the receipt of reports thereon from the complained-against Agencies of the Federal Government.

Cost Effectiveness of Disposal of Complaints

8. The over-all expense incurred on the functioning of the office during a calendar year, as worked out from its budgetary allocations, when divided by the number of complaints received and disposed of after detailed investigation, provides an indication of the average cost in financial terms of the disposal of an instituted complaint.

The table below indicates the cost incurred during different periods on disposal of a complaint. As compared to previous years, the cost incurred to dispose of one complaint has increased from Rs.2,959 in 2003 to Rs.3,845 in 2004 i.e. 30 %. This increase is on account of increase in salaries of employees announced by the Federal Government in July 2004, increase in POL prices, 5% inflation and, more importantly, the provision for capital investment in the management information system for quick access and retrieval of information/data. This involves expenditure on account of both computer hardware and software. It is expected that when in place it will greatly improve the efficiency in the management of the office and the expeditious disposal of complaints.

Table 5: Cost-Effectiveness of Disposal of Cases

| Year | Expenditure (Rs.) | Complaints | | Cost Per Complaint (Rs.) | |
|-------|-------------------|------------|---------------|--------------------------|-------------|
| | | Received* | Disposed of** | Received | Disposed of |
| 83-86 | 67,177,705 | 123,523 | 24,779 | 544 | 2,711 |
| 87-90 | 93,932,750 | 132,453 | 45,532 | 709 | 2,063 |
| 91-94 | 134,592,946 | 190,165 | 85,887 | 708 | 1,567 |
| 95-98 | 166,215,895 | 171,352 | 93,895 | 970 | 1,770 |
| 99-02 | 201,009,341 | 149,911 | 99,423 | 1,341 | 2,022 |
| 2003 | 65,102,000 | 25,761 | 22,030 | 2,527 | 2,959 |
| 2004 | 84,709,509 | 25,327 | 22,030 | 3,344 | 3,845 |

Incidence of Complaints against the Agencies

9. A glance at the following table indicates the Agency-wise incidence of complaints during the year under report. WAPDA, which provides electricity to millions of consumers throughout the country, had the maximum number of complaints i.e. 9,253 registered against it which is the position since the establishment of this Office in 1983.

* Indicates the total number of complaints instituted.

** Indicates the number of complaints disposed of after detailed investigation after excluding complaints disposed of in limine.

Of the over-all number of admitted complaints, these constitute 63%. PTCL with 1,227 complaints (8%), Sui Northern & Southern Gas Company with 832 (6%), Allama Iqbal Open University with 342 (2%), State Life Insurance Company with 216 (1%), the Estate Offices with 195 (1%) and the Banks with 142 (1%), were among the seven most complained against Agencies in descending order.

Table 6: Volume of Complaints against the Major Agencies

| Agency | 2000 | 2001 | 2002 | 2003 | 2004 |
|----------------|--------|--------|--------|-------|-------|
| WAPDA | 15,034 | 13,642 | 13,167 | 9,545 | 9,253 |
| PTCL | 4,291 | 2,772 | 1,957 | 1,331 | 1,227 |
| SNGPL-SSGPL | 1,358 | 1,181 | 1,394 | 1,005 | 832 |
| AIOU | 593 | 588 | 415 | 324 | 342 |
| SLIC | 576 | 525 | 401 | 284 | 216 |
| Estate Offices | 633 | 215 | 185 | 172 | 195 |
| Banks | 1,080 | 984 | 714 | 991 | 142 |

Major Causes of Complaints

10. The following table provides a glimpse into the causes of complaints against the top seven most complained against Agencies.

Table 7: Major Causes of Complaints Against WAPDA

| Cause of Complaint | 2003 | | | 2004 | | |
|---|----------|----------|------|----------|----------|------|
| | Received | Admitted | % | Received | Admitted | % |
| Excessive/wrong/inflated billing | 8,861 | 7,462 | 78.2 | 8,944 | 7,187 | 77.7 |
| Imposition of penalty | 60 | 16 | 0.2 | 552 | 513 | 5.5 |
| Disconnection | 333 | 216 | 2.3 | 310 | 136 | 1.5 |
| Delay in providing connection | 285 | 176 | 1.8 | 265 | 138 | 1.5 |
| Delay in replacement of defective meter | 264 | 143 | 1.5 | 255 | 135 | 1.5 |
| Delay in installation of poles/transformers | 124 | 62 | 0.6 | 115 | 35 | 0.4 |
| Others | 2,064 | 1,470 | 15.4 | 1,991 | 1,109 | 11.9 |
| Total: | 11,991 | 9,545 | | 12,432 | 9,253 | |

11. In case of WAPDA, excessive/wrong/inflated billing led to 7,187 complaints, which is 78% of total cases entertained against this Agency. This aspect, therefore, needs the attention of the Agency so as its billing system is streamlined and made consumer friendly. The second major cause of complaint was imposition of penalty, which can also be linked with the above category, as at the time of lodging the complaints, the complainants were unable to identify the cause of excessive billing. Delay in provision of connection and disconnection of electricity was also a significant cause constituting 3% of the total complaints.

12. In case of the PTCL, which is the second most complained against Agency, 572 complaints i.e. 47% were on account of over-billing. In 12% cases the cause of grievance was delay in provision of the utility connection.

Table 8: Major Causes of Complaints against PTCL

| Cause of Complaint | 2003 | | | 2004 | | |
|----------------------------------|----------|----------|------|----------|----------|------|
| | Received | Admitted | % | Received | Admitted | % |
| Excessive/wrong/inflated billing | 850 | 625 | 47.0 | 748 | 572 | 46.6 |
| Delay in providing connection | 228 | 138 | 10.4 | 220 | 151 | 12.3 |
| Disconnection | 195 | 115 | 8.6 | 61 | 44 | 3.6 |
| Others | 781 | 453 | 34.0 | 1,046 | 460 | 37.5 |
| Total: | 2,054 | 1,331 | | 2,075 | 1,227 | |

13. After electric power, natural gas is the second most essential utility service being used by the citizens. As far as the cause of complaints is concerned, the trend remains the same as that in respect of electricity and telephones. In 50% cases, the complaints were regarding over-billing and in 31% it was delay in the provision of the facility.

Table 9: Major Causes of Complaints against SNGPL & SSGPL

| Cause of Complaint | 2003 | | | 2004 | | |
|----------------------------------|----------|----------|------|----------|----------|------|
| | Received | Admitted | % | Received | Admitted | % |
| Excessive/wrong/inflated billing | 607 | 463 | 46.0 | 500 | 412 | 49.5 |
| Delay in providing connection | 427 | 321 | 31.9 | 316 | 256 | 30.8 |
| Disconnection | 77 | 57 | 5.7 | 57 | 47 | 5.6 |
| Others | 228 | 164 | 16.3 | 255 | 117 | 14.1 |
| Total: | 1,339 | 1,005 | | 1,128 | 832 | |

14. Allama Iqbal Open University (AIOU), which provides education to hundreds of thousands of students, was at the fifth position among the most complained against Agencies. Here, most of the complaints i.e. 67% were on account of delay in issuance of degrees, certificates and results. This requires the attention of the University management so that delays on this account can be eliminated or reduced to the minimum.

Table 10: Major Causes of Complaints against AIOU

| Cause of Complaint | 2003 | | | 2004 | | |
|--|----------|----------|------|----------|----------|------|
| | Received | Admitted | % | Received | Admitted | % |
| Non-issuance of Diploma/ Certificates/Results | 346 | 232 | 71.6 | 320 | 230 | 67.3 |
| Failure to give admission | 56 | 47 | 14.5 | 86 | 65 | 19.0 |
| Administrative irregularities | 44 | 20 | 6.2 | 42 | 18 | 5.3 |
| Others | 46 | 25 | 7.7 | 31 | 29 | 8.5 |
| Total: | 492 | 324 | | 479 | 342 | |

15. In the case of State Life Insurance Corporation (SLIC), which is the sixth most complained against Agency, 60% of the complaints were on account of non-payment or delay in the payment of insurance claims.

Table 11: Major Causes of Complaints against SLIC

| Cause of Complaint | 2003 | | | 2004 | | |
|-----------------------------------|----------|----------|------|----------|----------|------|
| | Received | Admitted | % | Received | Admitted | % |
| Non-payment of Insurance claims | 226 | 156 | 54.9 | 92 | 75 | 34.8 |
| Delay/non-payment of death claims | 100 | 72 | 25.4 | 64 | 55 | 25.5 |
| Administrative irregularities | 44 | 15 | 5.3 | 88 | 41 | 19.0 |
| Others | 66 | 41 | 14.4 | 85 | 45 | 20.8 |
| Total: | 436 | 284 | | 329 | 216 | |

16. In the case of Railways, administrative irregularities and misconduct was the major cause of complaints (28%) followed by delays in payment of pensions and G. P. Fund (26%).

Table 12: Major Causes of Complaints against Railways

| Cause of Complaint | 2003 | | | 2004 | | |
|--|----------|------------|------|----------|------------|------|
| | Received | Admitted % | | Received | Admitted % | |
| Misconduct of Officials/ Administrative Excesses | 111 | 45 | 17.4 | 219 | 60 | 28.3 |
| Delay in payment of Pension/G.P. Fund | 88 | 51 | 19.8 | 91 | 55 | 25.9 |
| Discrimination in appointments | 44 | 9 | 3.5 | 11 | 5 | 2.4 |
| Delay in payment of outstanding service dues | 42 | 18 | 7.0 | 25 | 12 | 5.7 |
| Delay in refund of excess amount | 21 | 11 | 4.3 | 15 | 12 | 5.7 |
| Others | 265 | 124 | 48.0 | 108 | 68 | 32.0 |
| Total: | 571 | 258 | | 469 | 212 | |

Representations to the President

17. While finalizing the investigation of a complaint, efforts are made to base the recommendations, in most cases, on the understanding reached between the complainant and the Agency's representative, within the context of the law and the rules, so that there is no difficulty experienced in the implementation process and the according of relief. However, in quite a number of cases the Agencies complained against do not agree to the relief, or its quantum, contained in the recommendations of the findings. In such cases they have the option of reverting to the Wafaqi Mohtasib for reconsideration of his recommendations under Article 11(2A) of President's Order No. 1 of 1983, and/or of exercising their right conferred on them by Article 32 thereof through preferring representations against the findings to the President.

The statistical profile of representations to the President during the year under report is reflected in the table below:

Table 13: Representations to the President

| Description | Number | % |
|-------------------------------------|--------|------|
| Representations Accepted | 207 | 25.7 |
| Representations Rejected | 545 | 67.6 |
| Number of Representations Remanded | 24 | 3.0 |
| Number of Representations Withdrawn | 30 | 3.7 |
| Total | 806 | |

18. It will be seen from the foregoing table that during the year 806 representations, preferred against the findings of the Wafaqi Mohtasib collectively by both the Agencies of the Federal Government and the complainants were decided of which in 545 (68%) cases the decisions of the Wafaqi Mohtasib were upheld. In only 207 cases i.e. 26% the view point of the Agencies was accepted and in 24 representations the cases were remanded to the Wafaqi Mohtasib for further investigation keeping in view the guidelines provided. In 30 cases the representations were withdrawn by the Agencies or the complainants.

19. Taking into account the over-all number of complaints decided during the year i.e. 22,030, the number of representations decided by the President i.e. 806, constitute 3.7%. Out of these, 207 representations were accepted i.e. only 0.9%, which is a positive reflection on the quality of the findings/recommendations of the Wafaqi Mohtasib and their acceptance by the Agencies of the Federal Government. This fact is further re-endorsed by the rejection of the representations preferred to the extent of 68% by the President.

CHAPTER 3

Institution and Disposal of Cases under the Freedom of Information Ordinance, 2002

The Government of Pakistan promulgated an Ordinance titled “The Freedom of Information Ordinance, 2002” which came into force with effect from October 26, 2002, and extends to the whole of Pakistan. The purpose of the enactment is that the citizens of the country should have access to public record so as to make the Federal Government more accountable and ensure transparency in transactions.

2. The Ordinance defines “the record” copies of which can be demanded by an interested citizen. This may be in printed form or in writing and includes any map, diagram, photograph, film, microfilm, which is used for official purpose by the public body which holds it. The public record declared accessible by citizens includes policies and guidelines; transactions involving acquisition and disposal of property and expenditure undertaken by a public body in the performance of its duties; information regarding grant of licenses, allotments, benefits and privileges, contracts and agreements made by a public body; final orders and decisions; and any other record which may be notified by the Federal Government as ‘public record’ for the purpose of the Ordinance.

3. The Ordinance further provides that no requester is to be denied access to any official record, other than the indicated exemptions such as: noting on the files; minutes of meetings; any intermediary opinion or recommendation; record of the banking companies and financial institutions relating to the accounts of their customers; record relating to defence forces, defence installations or connected therewith or ancillary to defence and national security; record declared as classified; record relating to personal privacy of an individual; record of private documents furnished to a public body about which information is not to be disclosed to a third person.

4. The Ordinance also lays down the procedure for disposal of applications by the concerned Agencies of the Federal Government and the time schedule within which the

desired information is to be provided. In the event of this not being done, any aggrieved requester may submit a complaint in this regard to the Wafaqi Mohtasib or Tax Ombudsman (for Revenue Division).

5. The Wafaqi Mohtasib has laid down the procedure to investigate such complaints under which it has been laid down that the entire process from receipt of complaint to the delivery of the Findings should be completed within twenty-one days.

6. Since there was a time lag between the promulgation of the Ordinance and framing of rules under it, some Agencies of the Federal Government denied the provision of the public record to requesters on the plea that the rules on the subject had not yet been notified. In such cases, it was ruled by the Wafaqi Mohtasib that access to the public record could not be denied on the pretext of non-framing of rules as the Ordinance had become effective. This ensured the operation of the Ordinance.

7. In order to carry out the purpose of the Ordinance and in exercise of the powers conferred by section 25 *ibid* the Federal Government has now notified the Freedom of Information Rules, 2004 which came into force on 18.6.2004. Under these, the head of every public body is required to designate a senior official, not below BPS-19, under his administrative control for the purpose of providing duly attested photocopies of the public record to the applicant in accordance with the provisions of sections 7, 11, 12 and 13 of the Ordinance. In case no such official is designated the person Incharge of the public body is deemed to be the designated official. Thirty-two Divisions of the Federal Government are reported to have nominated their Officers with the specific responsibility to facilitate the public in accessing the required information.

8. An application form is a part of the rules to facilitate the applicant to apply for obtaining a photocopy of the available public record. Every public body is also required to make available the Application Form on its website. The applicant has to pay an initial fee of Rs. 50/- for ten or less than ten pages. There is an additional fee of Rs. 5/- per page of photocopy of every additional page. The rules provide for the procedure of filing of requests.

9. The rules also provide for the procedure for disposal of applications by the public body as well as the procedure for filing complaints with the head of a public body.

10. During the course of the current calendar year i.e. 2004, forty (40) complaints containing allegations of non-provision of the requested information by the concerned public bodies, were received in this Office. Two (2) were rejected *in limine* while thirty-six (36) complaints were dealt with at Head Office and one each at Regional Office Lahore and Faisalabad. Relief was provided in the case of thirty-one (31) complaints, while five (5) were rejected and two (2) are under investigation.

CHAPTER 4

Carry over of Complaints to Calendar Year 2005

The registration and disposal of complaints is a continuous process spread over the course of each calendar year. As a consequence there are always complaints registered in one year which, of necessity, have to be carried over to the next as the time available for their disposal during the year of registration, particularly those instituted in the last quarter, is understandably inadequate keeping in view the procedure for the investigation process prescribed by the Wafaqi Mohtasib (Investigation and Disposal of Complaints) Regulations, 2003. However, as indicated in the introduction to this report, efforts are now in hand to ensure that the pendency at the close of each calendar year reflects complaints instituted only during that year and the preceding calendar year. These efforts have led to the clearance of almost the entire pending cases relating to the years upto, and inclusive of 2002.

2. The number and time profile of complaints carried over to the calendar year 2005 from 2004 and earlier, Agencies to which they relate are indicated in the tables listed below:

Table 14: Time Profile of Pending Complaints

| S. No | Name of the Office | Year of Institution of Complaints | | | Total |
|--------|-----------------------------|-----------------------------------|-------|---------------|-------|
| | | 2004 | 2003 | Prior to 2003 | |
| 1. | Head Office, Islamabad | 1,066 | 301 | 15 | 1,382 |
| 2. | Regional Office, Lahore | 1,511 | 172 | 5 | 1,688 |
| 3. | Regional Office, Karachi | 840 | 417 | 20 | 1,277 |
| 4. | Regional Office, Peshawar | 1,888 | 179 | 16 | 2,083 |
| 5. | Regional Office, Quetta | 54 | 3 | 0 | 57 |
| 6. | Regional Office, Sukkur | 292 | 383 | 20 | 695 |
| 7. | Regional Office, Multan | 480 | 93 | 2 | 575 |
| 8. | Regional Office, Faisalabad | 286 | 150 | 3 | 439 |
| 9. | Regional Office, D. I. Khan | 137 | 0 | 0 | 137 |
| Total: | | 6,554 | 1,698 | 81 | 8,333 |

Table 15: Pending Complaints

| S.No. | Name of the Agencies | No. of Pending Complaints |
|---------------|--|----------------------------------|
| 1. | Cabinet Division | 12 |
| 2. | Commerce Division | 145 |
| 3. | Communications Division | 118 |
| 4. | Minorities, Culture, Sports, Tourism and Youth Affairs Division | 5 |
| 5. | Defence & Defence Production Division | 57 |
| 6. | Education Division | 160 |
| 7. | Environment, Local Government and Rural Development Division | 1 |
| 8. | Establishment Division | 7 |
| 9. | Finance Division | 330 |
| 10. | Food, Agriculture and Livestock Division | 6 |
| 11. | Foreign Affairs Division | 6 |
| 12. | Health Division | 32 |
| 13. | Housing and Works Division | 139 |
| 14. | Industries and Production Division | 44 |
| 15. | Information and Broadcasting Division | 5 |
| 16. | Information Technology & Telecom. Division | 675 |
| 17. | Interior Division | 256 |
| 18. | Kashmir Affairs, Northern Areas and State & Frontier Region Division | 11 |
| 19. | Labour Manpower & Overseas Pakistanis Division | 63 |
| 20. | Law Justice & Human Rights Division | 2 |
| 21. | Petroleum and Natural Resources Division | 470 |
| 22. | Population Welfare Division | 3 |
| 23. | Railways Division | 143 |
| 24. | Religious Affairs, Zakat and Ushr Division | 22 |
| 25. | Scientific and Technological Research Division | 5 |
| 26. | Statistics Division | 2 |
| 27. | Water and Power Division | 5,596 |
| 28. | Prime Minister's Secretariat | 2 |
| 29. | Non-Federal/Provincial/Private | 16 |
| Total: | | 8,333 |

CHAPTER 5

Major Categories of Complaints dealt with during the Year 2004

The common man's grievances against Government 'Agencies' and Government functionaries cover a wide range of subjects. Each of these complaints springs from one or another form of maladministration. It is through the investigation of these complaints that one can get an inside view of the working of the Government Agencies and the deficiencies and maladies that afflict them. Recurrence of complaints of similar nature pinpoint the major areas where these Agencies or their functionaries go astray and indulge in maladministration. In this chapter an attempt has been made to identify the major categories of the complaints dealt with during the year 2004.

Water & Power Division

Water & Power Development Authority

2. It is imperative for any public dealing utility organisation to generate a degree of confidence and credibility in its consumers to motivate them to pay their legitimate dues without resorting to evasive or unfair means. This is necessary more so in the case of WAPDA which enjoys a near monopoly in the field. Lately, WAPDA and its distribution companies did make an effort to improve their public image by institutionalising a system of public 'katchehries', complaint cells and Review Committees. However, these measures did not create the desired effect to mitigate the rampant public perception regarding inefficiency, negligence, corruption and administrative excesses of its functionaries. Admittedly, the perception can be partly attributed to the high prevailing tariffs. Mindfully, the government has taken steps to reduce consumer tariff. Further reduction is possible through reduction in Line losses. However, the perception could be considerably reversed by the Agency by inculcating efficiency and a consumer friendly culture in the organization. This could be done through periodic training of the Agency's functionaries for improving their knowledge, efficiency and public dealing skills. The majority of complaints of consumers relate to inefficiency, administrative excesses, graft and rude behaviour mainly at lower levels, from the Meter Reader upto Sub Divisional Officer. It would be advisable for the Agency to focus on these functionaries for the

purpose of relevant training and provision of an effective system of incentives, rewards and accountability. An important criterion for such incentives and accountability should be the number and nature of complaints received against the respective sub-divisions. Independent cells should be created for receiving and handling such complaints, with extensive publicity. The system should be seen and recognised by the functionaries as an effective tool for improving their performance.

3. There is also a dire need for the Agency to consolidate and publish their relevant laws, rules and instructions, subject wise, in the form of an Administrative Manual for the guidance and reference of its functionaries. Quite often it is noticed that functionaries of the Agency display a significant lack of knowledge of such laws, rules and instructions. This imposes an additional burden on the office of the Wafaqi Mohtasib, which has to keep itself abreast of all the relevant administrative instructions of the Agency and in the process of dispensing justice, has to educate not only the complainants, but also the functionaries of the Agency who come to plead their cases. The proposed manual should form a part of the curriculum for periodic training of the Agency's functionaries.

4. The major categories of complaints dealt with in the calendar year 2004 are discussed in the following paragraphs:

Detection Bills

5. Majority of the cases relate to detection bills (43%). Detection Bills mainly fall in the following sub-categories:

- (i) Meters tampered with, holes, burnt meters, seals broken etc.
- (ii) Direct connections.
- (iii) Change of polarity or other modes of changing the set pattern of wiring and one or more phases found dead.
- (iv) Slowness of meters.
- (v) Supplementary detection bills on account of audit notes/non-replacement of meter.

6. The following discrepancies in serving and charging the detection bills are generally noticed:

- (i) The Agency generally leaves the checking and reporting of such cases to low-level functionaries including lineman and line superintendents. There are accusations from complainants regarding demands of graft and excesses on refusal to oblige. It is therefore, recommended that such checking should be conducted

under the supervision of Executive Engineer or Sub Divisional Officer along with M&T staff with appropriate testing equipment. The checking should be conducted in the presence of the complainant or his representative and some respectable persons of the area, as required under Agency's instructions/rules. An FIR should invariably be lodged or a confessional statement in the handwriting of the complainant with his thumb impression obtained.

- (ii) The Agency invariably maintains that notices for alleged illegal abstractions of energy were issued while the complainants deny having received any notice. As proof of dispatch of notice, the Agency should send all such notices by registered post and produce a copy of the post office receipt. As an alternative, they should obtain the complainant's signatures on the office copy of the notice.
- (iii) Quite often the notices are for three days instead of the prescribed seven days notice. In some cases clear proof was available regarding fake notices placed in files subsequent to charging of the detection bills. Stringent action was required against such functionaries.
- (iv) In spite of the Agency's clear instructions that cases of tampered meters, broken seals, burnt meters etc do not warrant any detection bills unless theft of electricity was established through appropriate testing equipment/check meters, formal enquiries, the functionaries of the Agency continue to charge such bills without following the above requirements. Moreover, the Agency does not resort to any analysis of the consumption data of the complainant to establish that such illegal abstraction of energy did take place.
- (v) The functionaries of the Agency generally level allegations of change of polarity, direct connection, earth system, one or more phases dead, to avoid any resort to M&T testing. They fail to produce any evidence of these alleged mal-practices. A phase of the meter could be dead because of any internal defect in the meter but a detection bill is invariably imposed which is not justified.
- (vi) According to the Agency's instructions, slowness of meters has to be established through a check meter after informing the complainant, and testing in his presence. However, in a majority of the cases this is not done with the result that the Agency's detection bill is disputed on this ground. Moreover, the results submitted by the Agency are generally not corroborated by subsequent tests or

test meter results. They do not even conform to the historical consumption data analysis. In one case, after being told to provide a check meter result, it was found that the complainant's meter was actually fast and the Agency had to pay arrears for fast meter to the complainant.

- (vii) The Agency had issued revised instructions on 15/03/2003 that detection bills for loads upto 5KW should be based on average past consumption of twelve months or corresponding period of the previous years. However, no case came to the Wafaqi Mohtasib's notice in which these instructions were implemented.
- (viii) The Agency's functionaries continue to bill consumers on account of audit notes in which it is pointed out the defective/slow meter was not replaced and therefore, slowness should have been charged till the date of replacement. These detection bills are in violation of Agency's instructions regarding immediate change of defective meters and charging only three months detection bills to consumers. In spite of numerous decisions of the Wafaqi Mohtasib recommending withdrawal of such bills, the Agency persists in imposing this illegal charge.
- (ix) As the Agency is responsible for keeping their equipment in good order, detection bills should be served only when illegal abstraction of energy is established. If a meter is determined to be slow on account of any internal defect, it is not justified to charge any detection bill. In such cases the consumer should be charged on the basis of average consumption in the past eleven months or corresponding period of the previous year.
- (x) Detection bills are invariably charged on the cumulative units so determined for three to six months. This is not justified and the consumers should be allowed slab benefit on the basis of number of months charged.

Wrong Billing

7. Incorrect billing is the second largest category of complaints (23%). Such complaints fall mainly in the following sub-categories:

- (i) Incorrect billing due to fictitious readings.
- (ii) Incorrect billing due to non-feeding/incorrect feeding to computer.
- (iii) Failure to maintain Kalamzoo record/meter reading cards.
- (iv) Charging of cumulative units; and
- (v) Unjustified change of tariff from domestic to commercial.

8. The following discrepancies are generally noticed in cases of incorrect billing:
- (i) Incorrect billing is often the result of failure on the part of meter readers to take regular readings. This may be partly due to inadequate number of meter readers or simply due to inefficiency/negligence of these functionaries. Quite often meter readers record fictitious readings without actual site visits. The Agency needs to take disciplinary action against such erring functionaries to discourage the practice. In addition Line Superintendents or Sub Divisional Officers should periodically conduct a sample survey to determine if meter readers were performing their duty.
 - (ii) Quite often, functionaries of the Agency fail to feed meter reading data, MCOs and EROs to the computer, which results in incorrect billing. The Sub Divisional Officer concerned should be made personally responsible for ensuring that the data is fed regularly.
 - (iii) Kalamzoo record and meter reading cards are not maintained properly which also results in cumulative billing of consumers.
 - (iv) There are numerous complaints against charging of excessive bills on account of cumulative billing. In some cases such cumulative billing related to periods upto three years. As such cumulative billing is generally a result of inefficiency/negligence of the Agency's functionaries, the consumer should not be burdened with more than three months arrears, which should include slab benefit. The remaining arrears, as a matter of policy, should be recovered from the erring functionaries of the Agency. This will also induce the functionaries to be more efficient in performing their duty.
 - (v) Quite often domestic consumers are charged commercial tariffs on the basis of unconfirmed reports of lower functionaries regarding use of electricity for commercial purposes. The change of tariff is effected without following the prescribed procedure regarding issuing of notice to the consumer. In some cases the consumer actually uses a room in the house for his commercial activity while the Agency converts the tariff of the whole house. These practices are obviously unjustified and corrective action is called for.
 - (vi) Sometime there are disputes in which the complainant and the Agency dispute the final reading of the replaced meter and initial reading of the new meter. In order to avoid such disputes it would be helpful if MCOs, EROs, and RCOs are got signed from the consumer at the time of execution.

Additional Demand Notice due to Omission in Original Demand Notices

9. In spite of clear instructions of the Agency issued vide their circular No. 4453-62/GMCS/D(R&CP)/WM-321 dated 28/07/1992 prohibiting issuance of supplementary demand notices on account of any omission in the original demand notice, functionaries of the Agency continue to issue such additional demand notices after the original demand notice had been paid and the connection energised. This is patently unjustified as contractual obligations cannot be varied unilaterally. In all such cases, the amount should be recovered from the erring functionaries.

Billing of arrears of Previous Consumer to new Consumer

10. The Wafaqi Mohtasib and the President has held in a number of cases that the contract for supply of electricity is between a consumer and the Agency. The consumer can only be billed for any breach of contract during the period of the contract. However, the Agency persists in billing the premises instead of the consumer for the purpose of recovery of arrears which pertain to a previous consumer. The Agency needs to amend their rules/instructions to do away with this unjustified/illegal practice. Moreover, the Agency is authorized to disconnect electricity of a defaulting consumer if dues are not paid. They should not penalise the new consumer for their own negligence. The security deposit of consumers could however, be suitably adjusted to recover unpaid amount of one month.

Low Voltage Problem and Charging of LT Structures from Consumers

11. There are a number of complaints regarding low voltage, especially in rural areas, where excessive PVC to PVC connections were given in violation of the Agency's instructions. The consumers have to wait for years for correcting the low voltage problem, installation of LT structures and replacement of damaged/unserviceable/dangerous cables. Previously, the Agency was of the view that installation of LT structures could only be done at the cost of consumers or through funds placed at the disposal of District Nazims. However, this was not justified as the work fell under the definition of rehabilitation/renovation/ augmentation of existing system which ought to be at the cost of the Agency. Lately, the Agency has reportedly issued instructions for undertaking such work at their cost. However, the pace of work is slow and the Agency should allocate adequate funds for this purpose. Urgency is also dictated by the fact that such damaged and unsecured cables are dangerous to life and property.

Failure to shift overhead lines/transformers

12. A substantial number of complaints are received relating to the shifting/re-routing of aerial lines installed by WAPDA over private property without the consent of the

owners. In such cases, where technically feasible, WAPDA demands the cost involved from the applicants. The legal aspects relating to the problem are covered by Section 10 of the Telegraph Act 1885, (made applicable to WAPDA vide Section 51 of the Electricity Act, 1910 and Notification No. S.O.II(E)2/560, dated 06.06.1961 of the West Pakistan Government), which vide Section 10 authorises the extension of aerial lines over, along, across or through any land without the permission of the owners. The recovery of the cost of shifting/re-routing from the owners of the land or the buildings involved, where feasible, is authorised under Rule 70 of the Electricity Rules, 1937.

Employment of wards of deceased employees

13. A substantial number of complaints were received relating to the employment of wards of deceased employees of WAPDA. The Cabinet decision of 1996 that a member of the family of an employee who expires during the course of his service should be given suitable employment against an existing vacancy if he/she qualifies for the same was relied on in this regard. The correct position, indicated below, is, however, different

14. In view of the hazardous nature of the work involved, WAPDA has traditionally ear-marked certain vacancies for recruitment of the wards of deceased employees in grade 1-9 who were killed through electrocution in accidents while performing their functions. This facility was initially limited to the wards of only those who were killed in fatal accidents. However, as a welfare measure, this policy was expanded and its scope enlarged from time to time. At present in terms of the criteria notified through circular No. AD(E)11-A/07781/PR/ Chairman/21812-22461 dated 8th April, 2004, the facility covers six different categories in the order of precedence given below:

- (a) A child of an employee who died due to electric shock or injury causing death while performing official duty.
- (b) A child of an employee who became disabled due to electric shock or injury causing disability, while performing official duty.
- (c) A child of employee who died or was incapacitated due to some other reasons during service.
- (d) A child of deceased retired WAPDA employee.
- (e) A child of an employee who died or was incapacitated due to some other reasons during service.
- (f) A child of an employee in service whose child has not been recruited before under employees' children quota (WAPDA employees who resigned from service, shall also be allowed to avail employees' children quota under this category).

15. The recruitment under this reservation of seats is to be made on contract basis and subject to the candidate possessing the prescribed qualifications and experience competing with other candidates within the same category.

16. In order to reduce the number of such complaints, there is a need for the Agency to widely publicize the criteria indicated in paragraph 14 above amongst its employees.

Information Technology & Telecommunication Division

Pakistan Telecommunication Company Ltd. (PTCL)

17. PTCL was established under Pakistan Telecommunication (Reorganization) Act, 1996 with the object of providing domestic and international telecommunication and related services consistent with the provisions of the Act. It enjoyed a monopoly in provision of basic telephone services for 7 years before the sector was deregulated. PTCL is organized into a number of Telecom Regions based on geographical areas. The company expanded its base from about a 1.0 million lines in the early nineties to approximately 3.8 million lines by the end of 2003. The outdated electro mechanical technology was phased out and replaced by state of the art digital technology. Major categories of complaints filed against PTCL are briefly discussed below.

Excessive Billing of Local Calls

18. Maximum number of complaints filed against the PTCL was regarding excessive billing on account of local calls. Details of long distance, mobile, overseas and premium rate services (PRS) calls showing date, time and duration are mentioned in the bills. These details are not provided for the local calls because of the logistic and operational limitation of the system. Provision of these details for local calls would involve major hardware and software changes having considerable financial implications/cost.

19. The billing data is recorded electronically in digital exchanges on magnetic tapes. The data is reformatted and fed into the billing computer, which prints monthly bills in the form they are delivered to the subscribers. The entire process of recording, reformatting and billing is computerized. The possibility of human error is totally eliminated. Since the details of local calls are not mentioned, subscriber resorts to complaining when the number of calls billed are more than their expectation. The complaints are generally based on personal impression rather than any data or evidence.

20. The previous calling trend and the current calling trend of the subscriber, which can be established through meter observation reports (MOB) is helpful in the final

analysis. The cause of discrepancy is usually due to long duration multimetered calls and calls that are made without the knowledge of the complainant. According to the terms of contract, the subscriber is responsible for all calls made with or without his knowledge.

Wrong Billing of NWD, Overseas and Premium Rate Calls

21. The second major cause of complaints is wrong billing of Nation-wide Dialling (NWD), overseas and premium rate calls. Subscribers provided digital connections are allotted calling code to prevent unauthorized NWD, overseas, mobile and Premium Rate Calls (PRS) calls. The calling code is programmed into the system by system controller. When the code is activated, all outgoing NWD, mobile and PRS calls are blocked. Subscriber has the facility to change the calling code from his/her own telephone set directly without involving the exchange staff for enhanced security. It is the responsibility of the subscriber to keep the calling code activated and ensure its secrecy to prevent unauthorized calls.

Delay in Issue of Demand Note

22. New telephone connections (NTC) are provided on first come first served basis according to the priority entitled to the applicant. Demand note for payment of installation charges is issued after confirming the technical feasibility. Frequent complaints are received against delay in issue of demand note. Investigation normally leads to one of the following causes:

- (i) Non-availability of vacant pair in the primary cable i.e. underground cable between exchange and cabinet (DC).
- (ii) Non-availability of vacant pair in secondary cable between DC and distribution point (DP).
- (iii) Delay due to ulterior motive/negligence of the staff.

23. Availability of cable utilization data of primary and secondary cables in the divisional area in a computerized format would eliminate the delay in confirmation of the feasibility. It would also eliminate the practice of rearranging of the pairs in the network by the field staff for ulterior motives.

Delay in Provision of Connection

24. On issue of demand note, installation charges are required to be deposited in a designated bank by due date. Payment of installation charges creates a vested right and the applicant is entitled to a connection within a reasonable time. Complaints were

received of abnormal delays in the provision of the connection after payment of installation charges. Investigation usually revealed one of the following causes:

- (i) Non-receipt of paid copy of demand note by exchange staff.
- (ii) Non-availability of pair due to the delay in the completion/handling over of network.
- (iii) Delay due to ulterior motive.

25. It is the responsibility of the concerned DE to arrange immediate issue of advice note on payment of installation charges. Instead of waiting for the applicant to approach DE and provide paid copy of demand note, the concerned staff should arrange daily reconciliation with the concerned bank. Under no circumstances conditional demand note should be issued to meet laid down target without confirming the feasibility.

Discrimination in Provision of Connection

26. Another common cause of complaints is the violation of seniority while issuing demand note after registration. Investigation revealed one of the following reason:

- (i) Connection was provided through a cabinet/DP located in an area from where connection to complainant was not feasible.
- (ii) Priority of the complainant was lower than that of the applicant who has been provided connection.
- (iii) Connection provided under self-financing scheme.

27. Feasibility is dependent on availability of a vacant primary and secondary cable pair. At times it so happens that there is no vacant pair available in a particular cabinet or DP which serve a particular area. Pairs may be available in a cabinet/DP in a different area where a junior applicant desires a connection. This may result in provision of connection to a junior applicant.

28. Applicants are entitled to different priorities according to their status/profession. The priorities are listed at the back of application form. Applicants with higher priorities get preference over applicants with lower priorities.

29. Subject to technical feasibility, down payment of Rs. 20,000 entitles an applicant to get a telephone connection on priority under the "Self Finance Scheme". After deduction of the prevailing installation charges, the balance amount is adjusted against monthly billing.

Non-Provision of Connection at Defaulter Premises

30. Complaints were received against the non-provision of connections in premises which had been declared as defaulter premises due disconnection of telephone on account of outstanding dues. According to the policy a new connection could not be provided in the defaulter premises without payment of the outstanding dues. This resulted in genuine subscribers being refused connections on account of unrelated dues. The Agency also suffered loss of revenue. On recommendations of this Secretariat the Agency reconsidered the matter and revised its policy. The person responsible for clearing the dues is now declared defaulter and not the premises.

Delay in Removal of Fault

31. Due to the poor conditions of the external network, specially in rural areas, the frequency of line faults is very high. In spite of measures like establishment of Computerized Fault Management System (CFMS), mean time between failures and mean time for repair remains high. The situation demands maintenance on a regular basis to reduce the incidence of faults. It must be ensured that cable is laid and joints are made according to the specifications to ensure trouble free service. Use of self supporting aerial cable be reduced/ minimized in view of its limited life.

Delay in Payment of Retirement Dues

32. Approval of retirement dues like pension and G. P. Fund are processed centrally by the Office of Director Accounts located in Lahore. Number of complaints were received where retired employees or dependents of deceased employee were not paid the dues promptly creating hardship for the families. It was found that in most of the cases payments were delayed due to incomplete or late submission of the claim by the field offices. It is the responsibility of the field office to assist the retiring employees and their dependents in filing the claims. Once the claim is filed the progress should be monitored and observations/ objections attended to expeditiously. Finance Division (Regulation Wing) has issued elaborate instructions vide No. F.11(2)-Reg.6/2002 dated 25.11.2002 to eliminate delay in finalization of pension claims. PTCL authorities should also issue similar instructions to its field offices to ensure prompt processing of claims.

33. The gradual replacement of the electro-mechanical exchanges with the state of the art digital exchanges, automating the billing process and the expansion of the network to increase the number of lines has helped in reducing the number of complaints filed against PTCL by over 75% in the past 5 years. This reflects a quantum improvement considering the fact that number of subscribers have quadrupled. The internal complaint redress mechanism in shape of various committees has also contributed to the reduction in the complaints. This is a good model for other utilities to follow.

Petroleum & Natural Resources Division

Sui Northern Gas Pipelines Limited (SNGPL)

34. Various complaints received against SNGPL fall among the following categories:

Detection Bills

35. Detection bills mainly fall in the following sub-categories:

- (i) Meters tampered with by breaking seals, rubbing of teeth of driving gear etc.
- (ii) Direct tapping of gas.
- (iii) Abstraction of gas at a higher pressure.
- (iv) Sticky/misty meters.

36. Unscrupulous consumers resort to abstraction of gas unauthorisedly by tampering with the meter/regulator or direct tapping. The SNGPL has devised a policy on 'theft of gas—mode of recovery' duly approved by its Board of Directors. It contains procedure for disconnection in the event of suspicion of theft of gas, dispatching the disconnected/replaced meter to the Metering Workshop at Lahore and calculation of pilferage charges and their recovery. However, the procedure is seldom adhered to. It gives rise to controversies about meter readings and test report of the meter. It is due to the indifferent attitude of the officials that quick notice of any dip in the consumption of gas is not taken. It results in abnormally long period for which pilferage charges are calculated. The longer the period, the more the consumer suffers. It seems appropriate to fix a maximum period, say six months (183 days) for calculation of pilferage charges.

37. In case a meter becomes sticky or gets misty to make it impossible to take the reading, usually a long time is taken to change the meter. In such a case, a small consumer suffers when billed at the rate of 1.5 and 3.0 HM³ per month in summer and winter respectively if data for the previous summer and winter months is not available so as to make it a basis for the period the meter remained sticky or misty.

Excessive/Wrong Billing:

38. This category contains the following kinds of complaints:

- (i) Wrong reading recorded by the Meter Reader.
- (ii) Readings not taken by the Meter Reader.
- (iii) Accumulated bill due to non-issuance of monthly bills.
- (iv) Leakage.

39. The Meter Reader records a wrong reading inadvertently. The mistake may result in a huge bill. Though such a mistake gets detected at the time of the next reading, the Company officials do not take the required remedial step to provide quick relief and the consumer is compelled to lodge a complaint.

40. It is also not uncommon that the consumers allege that excessive bills are served without taking the actual reading and preparing bills on the basis of imaginary readings while sitting in the office.

41. At times, bills are not served for a long time (several months/years) after providing new gas connection or after reconnection. The reasons for non-billing as invariably stated by the Company are:

- (i) Relevant data were supplied to the Computer Section but due to some technical reasons it could not be updated;
- (ii) The Meter Reader took the readings regularly but failed to ascertain whether the billing was being done or not; and
- (iii) The consumer also failed to fulfil his obligation under Gas Sales Contract by not approaching the Company to have the bill issued.

42. In advancing the reasons as above the Company conveniently forgets that primarily it is its own responsibility to serve bills in time after initial installation or reconnection of the meter. The accumulated bill covering a long period becomes a burden to the consumer even if allowed to be paid in instalments.

43. Apart from inhouse line leakage which is the responsibility of the consumer under the Gas Sales Contract, leakage also takes place due to defective installation of meter either at the time of providing connection or at the time of reconnection. Any leakage from the outlet coupling of the meter gets included in the gas consumed. However, rebate is allowed by adjusting the leakage for a maximum of 15 days.

Delay/Discrimination in Providing Gas Connection/Supply

44. There are two sub-categories:

- (i) Pertaining to localities where gas exists; and
- (ii) Pertaining to new localities.

45. Complaints from individuals of an already covered/partially covered locality are received where either no survey of the site is carried out or no demand note is issued. The Company has a policy to remove anomalies under its combing operation which provides for provision of gas connection where gas pipe involved is upto 1500 meters in a single

case. In such cases the complaints are mostly about discrimination as the Company does not strictly adhere to the turn/merit criteria. In certain cases complaints emanate when gas connection is not provided on the pretext of shortage of material and meters even after the formalities like payment of demand note, signing of Gas Sales Contract, installation of houseline etc. have been met by a prospective consumer.

46. As for the new localities the complaints contain a request for assistance in getting gas supply. Sometime the reason for complaint is that an adjacent locality was provided the facility due to some indulgence of a person in position but the locality falling on the way was ignored. Usually the cost involved in redress of grievance is very high which the Company does not meet from its own resources and asks for the entire funds to be arranged and deposited by the complainant.

Disconnection/Replacement of Meters:

47. In the case of disconnection due to default in payment of bills, the complainants usually take the plea that due date for payment was still there when the meter was disconnected whereas the Company referred to the printed notice to the effect that the due date is meant for the current bill while in case of arrears the supply can be disconnected at any time. As a result of the insistence of this Secretariat the Company now stamps a distinct LAST NOTICE on the bill.

48. The meter is invariably disconnected/replaced in the consumer's absence. This is against the prescribed policy of the Company. Disconnection/replacement of meters in the absence of the consumer gives rise to avoidable controversies about the readings and the condition of the replaced meter.

Default by Previous Occupants:

49. There are complaints from new occupants who are asked to pay heavy arrears left by the previous consumers. The new consumer contests it on the plea that he cannot be held responsible for the default committed by the previous consumer.

50. The Gas Sales Contract being between the Company and the consumer, the Company's stand-point that the arrears are against the premises is not tenable. It is only because of maladministration on the part of the Company's officials that the bills were not recovered in time from the previous consumer. Such category of complaints pertains to the government owned houses allotted to government servants.

Education Division

51. The nature of complaints were of the following categories:
- (i) Failure to award scholarship despite established merit. Agency has no particular excuse except that selection was limited due to limited seats. In fact selection process was defective.
 - (ii) Failure to pay sufficient scholarship to sustain scholars abroad. Agency's reasons are that the Government has discontinued subsistence allowance (since restored) and the host Government scholarship is too meagre.
 - (iii) Refusal to admit children in morning shift/classes. Agency's viewpoint is that enough seats are not available in morning shift and that it follows policy.
 - (iv) Failure of NISTE to provide degrees/certificates with due recognition by other universities/departments. Agency's reason was that previously it had no affiliation. Now it has been affiliated with a university and there will be no problem in future.
 - (v) Failure of NISTE to grant pension to retired employees/legal heir of deceased. Agency's viewpoint is that it has no pension scheme. It is now being processed.

Allama Iqbal Open University (AIOU)

52. There were complaints of following categories:
- (i) Failure to grant admission despite fulfilment of all formalities. Agency's viewpoint is that fee not verified, admission application not received or late receipt etc.
 - (ii) Failure to declare results despite passage of long time. Agency's viewpoint is non-payment of balance dues or no admission etc.
 - (iii) Failure to provide degree/certificate without any reason. Agency's viewpoint as in (ii) above.
 - (iv) Failure to award degree/certificate on objection of ineligibility at the time of admission. Agency's viewpoint is that it was wrong admission as the candidate was not eligible or the candidate has provided certificate/degree which is not acceptable for various reasons.
 - (v) Failure to refund deposited dues after refusing admission. Agency has no legitimate excuse.

- (vi) Requiring to attend tutorials at far off stations from home town in violation of exercised option. Agency's viewpoint is that it was not possible to make a viable group at the designated station or it was found to be uneconomical.
- (vii) Requiring attending workshops at a place away from hometown despite availability of similar workshops in progress nearer home. Agency's viewpoint is that the candidate was 'added' to make up viable group at the other place.
- (viii) Unilateral award of penalty on charges of unfair means without processing the case through due process of law. Agency's viewpoint is that it was administrative decision as use of unfair means in large numbers was reported.

Quaid-i-Azam University

53. There were complaints of following nature:

- (i) Failure to provide a second chance to failed students to continue studies. Agency's viewpoint is that the rules provide only one chance.
- (ii) Failure to allot accommodation despite merit and seniority. Agency had no particular reason except that allotment was made by the competent authority in relaxation of rules.
- (iii) Failure to declare result despite passage of long time. Agency's reason is that it happens at times due to procedural delay and matter has to be settled with the intervention of the Syndicate which takes time.
- (iv) Failure to appoint even after selection through competitive process. Agency has no particular reason except that selection suffered from some defect.

International Islamic University

54. The complaints related to:

- (i) Failure to grant admission on need basis despite merit. Agency has no particular reason except that selection was limited to a number of vacancies.
- (ii) Failure to refund fees/dues after approving request for not attending the course. Agency's viewpoint is that the student made belated request due to which some percentage had to be deducted.

Commerce Division

State Life Insurance Corporation

55. The nature of complaints were:

- (i) Failure to pay surrender value of policies despite passage of long time. Agency has no particular reason.
- (ii) Refusal to concede payments of premiums made through Agency's officers despite an accepted practice. Agency's viewpoint is that officers are not authorized to receive payments and that all assured know it through policy documents etc.
- (iii) Refusal to admit death claims on trumped up charges of violation of good faith. Agency has various reasons; most popular being that the deceased was suffering from a disease before insurance/revival time which he did not disclose.
- (iv) Refusal to admit maturity claim by demanding premiums already paid. No particular reason except of disputed payments.
- (v) Refusing to pay bonus and profit with the surrendered policies. Agency's viewpoint is that these can be paid on matured policies only. A percentage is however paid in keeping with the time of surrender.
- (vi) Refusal to pay insurance money to its field workers/field assistants etc on charges of double employment. Agency's reason is that the employees had failed to disclose second employment which is not allowed to 'officers' but lower employees are not affected.

Housing & Works Division

Estate Offices

56. Some complaints related to:

- (i) Failure to allot accommodation despite seniority in General Waiting List. Agency has many reasons which are mostly not sustained.
- (ii) Failure to provide alternative accommodation after house declared dangerous/evicted by authorities. Agency's viewpoint is that it is not provided in rules. (The legal position is that there is no prohibition in rules.)

- (iii) Failure to pay rent of a rented building/house despite presence of lease agreement. Agency has many reasons in different cases. The end result is relief.
- (iv) Forcible eviction from accommodation despite valid allotment entitlement. Agency has no valid argument/reason in most cases.
- (v) Forcible eviction from accommodation despite entitlement. Agency's viewpoint is that occupant is unauthorized/un-entitled and living without allotment.
- (vi) Failure to allow self-hiring. Agency's viewpoint among others is that the house selected by the Government servant does not fall in the 'specified' station/locality.
- (vii) Failure to grant enhancement in rent despite ceiling/general orders. No particular reason.

Pakistan Public Works Department (PWD)

57. Most of the complaints were of the following nature:

- (i) Inaction of the Agency on complaints filed in respect of maintenance/repairs of accommodation in which the complainants reside.
- (ii) Complaints related to contractors who had undertaken contracts under defunct "Tameer-i-Watan" Programme. In these cases, the procedural formalities had not been completed at the relevant time, with the result that payment could not be made after the programme had discontinued with change of Government.
- (iii) The new allottees of official accommodation had to pay arrears of utility bills left unpaid by previous allottees. The complainants demanded that the amounts paid by them should be reimbursed to them.

Federal Government Employees Housing Foundation

58. There were following categories of the complaints:

- (i) Failure to allot plot despite eligibility. Agency's viewpoint is that offer was made but the government servant never replied at the relevant time and now no plots are available.
- (ii) Discriminatory treatment through self-conflicting allotment policies thus denying allotment of plots to owners of 200 sq yds or less plots/flats. No particular excuse except that the Executive Committee made policies like this which are being followed.

- (iii) Failure to hand over possession of allotted plots despite passage of long time. Agency's viewpoint is that development was delayed due to various reasons main being disputes with landowners.
- (iv) Failure to hand over possession of allotted/completed house even after clearing all dues. No particular reason.
- (v) Demand of additional development charges after years of allotment and full discharge of liabilities. Agency's reason is that additional funds are required as cost of development has gone up.

Pakistan Housing Authority

59. The nature of complaints were:

- (i) Failure to hand over the allotted apartments even after receiving full payments within due date/extended date. Agency's viewpoint is that it could not complete works due to many reasons including stoppage of work due to change of Government in 1999 and later shortage of funds.
- (ii) Failure to pay bills against works executed despite there being no dispute. Agency's reason is non-availability of funds etc.

Cabinet Division

Printing Corporation of Pakistan (PCP)

60. The cases were of the following categories:

- (i) Out-of-turn allotments of quarters by the Agency, ignoring the seniority position of complainants.
- (ii) Delay in processing of pension papers, due to non-vacation of official accommodation after retirement.
- (iii) Recovery of certain amounts, and non-payment of correct amount of G. P. Fund.
- (iv) Refusal to appoint sons of deceased employees.

Pakistan Telecommunication Authority (PTA)

61. These complaints pertained to refusal by the Pay-phone Companies to refund security deposits to the complainants who had obtained PCO connections from these companies. The complainants wanted PTA to get the amounts refunded to them as these companies were granted licences by PTA. The PTA, however, plead that they are a regulatory organisation and the disputes in question relate to the complainants and the Pay-

phone Companies which, being private companies are not within the purview of the Wafaqi Mohtasib as they do not come within the definition of an 'Agency' in terms of Article 2(1) of the Establishment of the Office of the Wafaqi Mohtasib (Ombudsman) Order, 1983.

Pakistan Atomic Energy Commission (PAEC)

62. Complaints pertained to:

- (i) Non-payment/less payment of rent for the accommodation hired for PAEC employees.
- (ii) Alleged injustice in recruitment to various posts in Kundian Nuclear Complex, (KNC), Chashma, District Mianwali.

Communication Division

National Highway Authority (NHA)

63. Complaints pertained to:

- (i) Non-payment or less-payment of compensation for acquired land.
- (ii) Non-provision of a suitable underpass below the main road for the passage of the effected population.

Pakistan Post

64. Complaints related to:

- (i) Non-delivery or late-delivery of inland registered letters.
- (ii) Non-delivery or late-delivery of registered letters or parcels addressed to destinations abroad.
- (iii) Delay in grant of pension to retired employees and family pension and other dues to the retired employees or widows of deceased employees.
- (iv) Since a large number of retired employees including ex-servicemen are receiving pension through Pension Books from the Post Office, complaints pertained to recoveries made from pensionary dues.
- (v) Non-payment or less payment of surrendered value of Postal Life Insurance (PLI) Policies.
- (vi) Repudiation of contacts of life insurance for alleged failure to meet premium payment requirements or suffering from ailments knowingly not declared at the time of taking out the policies.

Defence & Defence Production Divisions

65. Matters relating to the Defence Division, Defence Production Division, the military, naval, and air forces of Pakistan and departments under the management or control of either of the said Divisions or the said forces are outside the jurisdiction of the Mohtasib vide paragraph (c) of proviso to clause (1) of Article 9 of Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983. In spite of the limitation of jurisdiction, complaints are received specially from JCOs and other ranks of the armed forces and civilians paid out of defence service estimates or their dependents concerning the delay in payment of dues like pension, G. P. Fund etc. Some of these complaints convey a very pathetic picture of extreme hardship and human misery. Such complaints are processed for resolution on informal basis. The response from the concerned quarters is not only prompt but extremely encouraging.

66. Some major categories of complaints dealt are mentioned below:

Delay in the Payment of Pension to Civilians Employed in Lieu of the Combatants

67. Complainant had served for more than 10 years as civilian employee in a unit. He was discharged on being declared surplus but was not paid any pension. Military units employ civilian in lieu of combatants against non-availability (NA) certificates issued by respective Regimental Centres. The validity of the certificate is six months and is extendable. Pension is entitled to civilians employed against NA certificate on discharge under following conditions:

- (i) On attaining the age of superannuation.
- (ii) On completion of 25 years qualifying service.
- (iii) On invalidment out of service on medical grounds.

68. The complainant had not completed the minimum qualifying service and was, therefore, not entitled to a retiring pension. However, since he had more than 10 years service without break it was recommended that he should be paid service gratuity. Military Accountant General accepted the recommendation and the complainant was paid service gratuity.

Grant of Disability Pension

69. Complainant was invalidated out of service on medical grounds but his claim for disability pension was rejected. According to Central Services (Extraordinary) Pension Rules, disability is attributed to service in case it is established that the injury/disease was the result of, or its aggravation resulted from risk of the office. Nothing, which is a risk to human existence in the modern conditions, is deemed to be risk of the office unless such

risk is enhanced in degree by the nature of condition and obligation of government service. In view of the nature of illness in the instant case which was “impaired mental function” the attributability was not conceded. The individual was, however, entitled to invalid pension according to the rules which was sanctioned accordingly.

Counting of Former Service for Purpose of Pension

70. The complainant had completed the minimum qualifying service but was not granted retiring pension. Minimum qualifying service for retiring pension vide Regulation 67a of Pension Regulations (Armed Forces), Volume-I 1999 is 15 years. The complainant was transferred to reserve establishment after 12 years colour service. He was later recalled during 1965 and 1971 emergencies. His total service in three spells including the reserve liability was 18 years 3 months and 10. According to Note to Regulation 66, *ibid*, former service is reckonable towards pension provided the individual declares his former service and cause of discharge and elects to count that service towards pension at the time of re-enrolment after refunding the gratuity drawn for previous service. Option once made is final and irrevocable. In the instant case the petitioner neither exercised his option nor refunded the service gratuity. He was, therefore, paid the retaining fee for the duration of service during emergencies.

Grant of Financial Aid

71. Request was received from a destitute widow of a soldier against the delay in grant of financial aid by GHQ. On reference, Welfare & Rehabilitation Directorate informed that the complainant is required to apply for financial aid on the prescribed form to the Centre Commandant through District Armed Services Board. The complainant was advised accordingly. On receipt of the case in GHQ after verification through the Regimental Centre, Director Welfare and Rehabilitation approved a one time grant for the widow.

Delay in Payment of Family Pension

72. The complainant stated that her late husband, an ex-serviceman, was re-employed as Civilian Chowkidar in the lower formation of the army. He retired on 16.8.94 on reaching the age of superannuation. He expired on 1.1.96 but she had not been paid any family pension.

73. Investigation revealed that the date of birth recorded in the military discharge certificate of the deceased was different from the date recorded in the service book at the time of re-employment. This resulted in irregular retention of the individual beyond the age of superannuation. Pay and allowances paid during the period were required to be recovered which resulted in delay in payment of family pension.

74. According to Army Instructions, whenever a retired army personnel is re-employed, the date of birth recorded in the service document should be the same as in discharge certificate. In the instant case there was a disparity in the two dates. The contention of the unit was that the individual had deliberately concealed his actual date of birth to serve for a longer period and the overpaid amount was to be recovered before a pension could be sanctioned.

75. It was the responsibility of the unit to verify the date of birth before issuing appointment letter which was not done. This was an administrative lapse. The individual could not be held responsible at this belated stage for the lapse. The deceased had physically performed the duties and it was extremely unjust to deny the wages of his labour and deprive the family of the meagre income.

76. On recommendations of this Secretariat, Directorate of Civilian Personnel, GHQ, directed the unit to regularize the duration of irregular retention and advised CMP to release the family pension.

Conclusion

77. Complaints against Ministry of Defence and organizations under its command generally relate to delays in payment of dues. Keeping in view the strength of the armed forces and other organizations under Ministry of Defence, the number of complaints are negligible. This can be attributed to the efficient standard operating procedures of the units/formations and the efficacy of the complaints cells established in the office of Military Accountant General and various Regional Commands and Pension Sub Offices with Regimental Centres.

Cantonment Boards/MEO

78. The complaints generally pertained to the following:

Refusal to exercise powers

- (i) Failure to carry out development and provide services in a housing colony even after receiving transfer of immovable property fee (TIP), development charges, building plan fees and property taxes from the owners/residents. Agency's reasons are that no funds are being allotted by the Government to do the job.
- (ii) Refusing to pay pension even after sanctioning it. Agency's reasons are that they lack funds. People are paid on receipt of revenue in fair proportion to satisfy all.

- (iii) Refusing to grant pension to large number of low paid employees compulsorily retired with qualifying service. Agency's reason is that the cases were delayed due to a policy decision. (relief provided on recommendations of Wafaqi Mohtasib to all)
- (iv) Refusing to approve building plans without any reason. Agency has many reasons including technical reasons.
- (v) Refusing to grant permission to erect billboards even after receiving fee/charges. Agency has no particular reason.

Establishment Division

Federal Employees Benevolent and Group Insurance Funds (FEB & GIF)

79. Most of the complaints pertained to cases of employees who were retired on medical grounds. The Agency refused to allow benevolent fund grant for the reason that the invalidation certificate produced was not issued by a central medical board, as required under the rules.

80. A few complaints pertained to issues relating to period for which benevolent grant was admissible, in cases of retirement on medical grounds, or death of an employee during employment.

Finance Division

Central Board of Revenue (CBR)

81. Refusal to employ legal heirs of deceased employees against quota reserved for them. Agency's viewpoint is that they are trying to do downsizing and that Establishment Division has not yet provided cut off date for such requests. (matter settled with the intervention of Wafaqi Mohtasib).

Pakistan Bait-ul-Mal

82. Complaints pertained to:

- (i) Non-grant/delay in grant of Individual Financial Assistance (IFA).
- (ii) Non-grant/delay in grant of financial assistance for medical treatment. PBM provides such assistance, and has a prescribed procedure for the same, which includes verification from an authorized hospital. Such assistance is paid directly by cheque to the hospital concerned where the treatment is envisaged.

Foreign Affairs Division

83. The nature of complaints were:
- (i) Failure to render sufficient and timely help to repatriates/legal heirs to receive their outstanding dues from foreign countries particularly Libya, Iraq and Saudi Arabia. Agency has many reasons but most often quoted is 'slow legal procedures' of the host countries. In case of Iraq action has been withheld by host country due to present uncertain situation.
 - (ii) Failure to pass TA bills on repatriation despite passage of long time. Agency disputes on ground of admissibility. Most of the time it is found to be wrong.

Food, Agriculture & Livestock Division

84. Complaints pertained to widows of deceased employees of Pakistan Oilseed Development Board (PODB), with the request for payment of family pension and other benefits relating to their deceased husbands.

Pakistan Agricultural Research Council (PARC)

85. Complaints pertained to alleged injustice in recruitment against advertised posts.

Health Division

86. The nature of complaints were of following categories:
- (i) Failure to grant reimbursement of expenses incurred on treatment abroad. Agency's viewpoint is that the policy does not allow and the cases in which it was paid were approved by competent authority in relaxation of policy.
 - (ii) Failure to grant reimbursement of cost of medicines incurred as outdoor patients on advice of government physician for treatment of chronic diseases to non-gazetted staff. Agency's viewpoint is that since they are given medical allowance they are not entitled (under detailed examination in consultation with Finance Division).
 - (iii) Failure to grant reimbursement of cost of medicines despite entitlement. Agency has no particular excuse except that documentation was not being completed by the government servant.
 - (iv) Failure of Council of Tibb and Council of Homeopathy to grant recognition to colleges despite fulfilment of all formalities/

requirements. Agency has many reasons but end result is relief in most cases.

- (v) Failure of Council of Tibb and Council of Homeopathy to declare results of various courses in time.
- (vi) Failure to provide share from funds collected from non-entitled persons/lab tests etc. No excuse by Agency.
- (vii) Failure to allot accommodation in PIMS colony despite entitlement. (Procedure has been streamlined on Wafaqi Mohtasib's recommendations.)
- (viii) Failure to appoint despite selection on merit. Agency's viewpoint was that selection committee/previous administration failed to observe procedures correctly.
- (ix) College of Nursing and College of Medical Technology working under PIMS cannot provide certificates with countrywide acceptance. Agency's viewpoint is that affiliation is not being granted by any university. (It has been recommended by Wafaqi Mohtasib to Ministry of Health to take appropriate steps to procure affiliation).

Industries & Production Division

87. Complaints were generally received from the former employees of the Utility Stores Corporation whose services had been retrenched during the year 2000 as a part of the downsizing exercise through a Golden Hand Shake Scheme. The complaints related to non-payment of the promised compensation, either in part or in full. These invariably covered CP Fund, Fidelity Guarantee (Security amount retained by the USC), leave encashment, and the Golden Hand Shake amount. The Agency's response to such complaints is that vide the retrenchment letter the payment is subject to the availability of funds and the approval of the Government. In a number of Findings in such complaints this Office has stressed the need for early clearance of the payments owed to the complainants and has also addressed the Secretary, Ministry of Industries and Production, suggesting that an appropriate allocation be obtained from the Ministry of Finance for the purpose. This, unfortunately, has not yet come about.

Interior Division

Capital Development Authority (CDA)

88. The complaints generally pertained to:

- (i) Non-allotment of plots to complainant affectees of Islamabad despite an award in their favour. The Agency's viewpoint is that

- awards were fabricated or the matter is with the National Accountability Bureau.
- (ii) Non-allotment of plots to widows of CDA employees. The Agency's viewpoint is that they have not got fresh allotments from the Government for the purpose.
 - (iii) Non-allotment of quarters to low paid employees of CDA in violation of seniority. The Agency did not have any seniority list and pleaded that allotments were made by the 'competent authority' in relaxation of rules.
 - (iv) Failure to provide underground water tanks in Government-owned accommodation. The Agency's viewpoint was that they had run short of funds for the purpose.
 - (v) Failure to finalize pension cases despite passage of a few years after the retirement of complainants. In most cases, the Agency was unable to advance any cogent reasons for the delay.
 - (vi) Failure to refund 'contract security' deposits despite lapse of the fixed maintenance periods of the development works undertaken. Invariably the defence of the Agency is that there is a pending Audit objection/para in each case.
 - (vii) Failure to hand over possession of allotted plot (commercial, industrial, agro and residential) despite the passage of many years and even after receiving full payment. The Agency's viewpoint is that the locals are not vacating the acquired land and/or the development of the area is held up on account of non-availability of funds etc.
 - (viii) Failure to approve the building plans despite the passage of long periods of time. In most cases the Agency has no legitimate excuse to offer.
 - (ix) Failure to maintain the allotted Government accommodation in a proper state of repair. The Agency's viewpoint invariably is shortage of funds for the purpose.
 - (x) Failure to carry out proper maintenance of roads and streets. The Agency's viewpoint is that it is doing it according to plan and priorities and within the limitations of the allocated resources.
 - (xi) Failure to provide potable water in adequate quantities. The Agency's viewpoint is that there is a general shortage of water in Islamabad and hence the need for regulation of supply.
 - (xii) Failure to construct water supply services in Model Towns & villages. The Agency's response is that this is being planned now.
 - (xiii) Failure to transfer plots/houses even after receiving transfer fee. The Agency's viewpoint is that these plots were fraudulently

allotted to affectees by CDA's officers. Hence titles are defective and the transferees should pay reserve price to get the transfer. In some cases the matter is with NAB or with CDA/Commissioner for re-scrutiny of award.

- (xiv) Failure to subdivide plazas/multi-storey buildings. The reply of the Agency is that it is still trying to work out a procedure for the purpose even though the Regulation covering it has existed for the last more than 5 years.
- (xv) Failure to bill water consumption according to tariff rates fixed by the CDA. The Agency's viewpoint is that they centrally bill the owner of the multi-storey building. It is then up to him to sub-divide the water bill according to the share of each shareholder in the building.
- (xvi) Failure to grant approval for starting Housing Societies even after fulfilling all the requirements of Rules. The Agency' viewpoint is that they are busy carrying out a study to determine the availability of water in the Zones concerned. They have, however, now started implementation of the Wafaqi Mohtasib's findings to allow the applicant societies to proceed with development if they fulfil the requirements given in ICT Regulation (Zoning 1992).

Kashmir Affairs & Northern Areas & States and Frontier Regions (KANA & SAFRON)

89. Complaints pertained to:

- (i) Alleged injustice in the recruitment of male and female teachers in the Education Department Northern Areas.
- (ii) Non-payment/delay in the payment of compensation for land acquired for government projects.

Labour, Manpower & Overseas Pakistanis Division

Employees Old Age Benefits Institution (EOBI)

90. The complaints pertain to refusal of the Agency to allow old-age pension, or the dispute relates to the date from which the pension was granted. The pension is payable on attaining the age of 60 years, subject to completion of required length of insurable service. Consequently, the issues in dispute relate to evidence of date of birth, and verification of length of insurable service.

91. The other main issue, involved in a large number of complaints, is the date from which pension is admissible. Under the law, claim of pension is required to be made within one year from the date on which it becomes admissible i.e. on attaining the age of 60 years. The Agency invariably condones the delay. However, the law further provides that pension cannot be paid retroactively for more than six months preceding the month in which application is received. The complainants give various reasons for delayed submission of application and insist that pension should be paid from the superannuation date.

Overseas Pakistanis Foundation (OPF)

92. Many complaints related to non-payment of death compensation of workers who died during employment in Saudi Arabia or Gulf States. In fact, the OPF was only a liaison Agency between the complainants and the Pakistan missions in the concerned countries. The relief in such cases could only be provided by the courts in these foreign countries, and hence there was no basis for holding the OPF or M/o Foreign Affairs guilty of maladministration.

93. A few cases pertained to non-payment of compensation to Pakistanis displaced in the Gulf War. The OPF handled these cases for award of compensation by a UN Agency.

94. A couple of cases pertained to cancellation of allotment of plots in some housing schemes launched by OPF, and subsequently shelved.

Minorities, Culture, Sports, Tourism & Youth Affairs Division

95. Complaints were of the following nature:

- (i) Non-payment of pension and retirement dues to a former employee of an organization under the Ministry.
- (ii) Non-payment of due prize relating to the SAF Games Quiz.

Railways Division

96. Complaints pertained to:

- (i) Delay in payment of pension and other retirement dues as well as family pension in case of widows.
- (ii) Non-payment or stoppage of benevolent fund grant.
- (iii) Recoveries made from retirement dues due to liabilities determined against the employee due to negligence, or resulting from audit objections.

Scientific & Technological Research Division

97. Complaints pertained to non-payment of pension to former employees of the organizations under the Ministry/non-payment of family pension to widows.

Informal Cases (Provincial Governments)

98. The complaints were of the following nature:

- (i) Failure to complete documents for processing of pension cases for no valid reason. Agency's reasons are that more than one Agency is involved. Efforts are made to expedite.
- (ii) Failure to provide reimbursement of medical expenses despite no violation of rules by the complainant/government servant. Agency's reason is that Department failed to obtain prior permission to move the patient from one hospital to another outside the province.
- (iii) Failure to pay TA/DA for field work by Project employees. Agency's reason is that no funds were available.

Complaints Common to All Agencies

99. Most common grievances have been the delay in grant of pension to employees and family pension to widows or sons/daughters of the deceased employees. Non-payment of outstanding dues of the deceased employees to the families has been another area. Other common grievances related to non-payment of General Provident Fund and Benevolent Fund grants; incorrect maintenance of G. P. Fund account; delay in grant of pension on enhanced rate or minimum rate authorised by the Government of Pakistan; non-grant of increase on the basis of automatic restoration of pension on completion of the period of commutation; and refusal to grant commutation of pension on the basis of one medical examination conducted at the time of retirement while second medical examination in cases of invalidity could not be conducted due to death.

CHAPTER 6

Implementation Status of 'Findings/Recommendations' Pending Implementation during the Year 2002, 2003 and 2004

On analysis of the data, it transpired that there were a number of 'Recommendations' of the Wafaqi Mohtasib (Ombudsman), which required implementation by the Agencies. These 'Recommendations' were essentially of two kinds– (i) those in respect of which the complainants have preferred implementation petitions; and (ii) those in which such petitions had not been moved.

2. It was felt that periodic monitoring and review of the implementation status of both categories of unimplemented 'Recommendations' was the responsibility of this office. However, since it would have been excessively time consuming to compile statistics of such cases right from the inception of the Office of the Wafaqi Mohtasib (Ombudsman), it was considered more appropriate to restrict this exercise to those cases which had been finalized as of 1st April, 2002.

3. It was consequently decided that (i) the Head of each Regional Office, for the Region, and the Secretary for the Head Office, should on quarterly basis, review the implementation status of both category of cases with the Principal Officers of the Agencies concerned or their nominees; (ii) the outcome of the review should be intimated to the Head Office by the 20th of each month immediately succeeding the quarter; (iii) in the review, those cases which are intractable and need the intervention of the Head Office should be separately identified for taking up with the Principal Officers of the Agencies and (iv) the Wafaqi Mohtasib would review the reports in quarterly meetings to be held by the end of the month in which the reports are submitted.

4. The formats for submission of review reports of both categories of cases were prepared and provided to all the investigating officers. Based on the information provided

by them, the following table shows the implementation status of the cases pending implementation as of 1st April 2002 to 31st December 2004.

Table 16: Implementation Status of Findings

| Period | Brought Forward | Fresh Cases | Total Workload | Implemented | Under Implementation | Percentage of Implementation |
|--------------------------------|-----------------|-------------|----------------|-------------|----------------------|------------------------------|
| 01-04-2002 to 31-12-2003 | - | 5,249* | 5,249 | 3,642 | 1,607 | 69% |
| 01-01-2004 to 31-12-2004 | 1,607 | 3,044 | 4,651 | 3,342* | 1,309** | 72% |

5. The above table shows that the total number of cases pending implementation in the year ending 2003 was 1,607 which has been brought down to 1,309 in the year ending 2004, which is about 72% of the cases received for implementation. In the year 2005, it is hoped that the efforts would be made to ensure implementation of 'Recommendations' within the stipulated time given in the 'Recommendations'.

* This includes the cases brought forward from previous periods.

** This includes Review Petitions and Representations filed by the Agency under Article 12(2A) and 32 of P.O. 1 of 1983.

CHAPTER 7

Issue of Complaints relating to Departments of the Provincial Government (NWFP)

On the setting up of the Office of the Wafaqi Mohtasib (Ombudsman) at the federal level through the Establishment of the Office of the Wafaqi Mohtasib (Ombudsman) Order, 1983 (P. O. No. 1 of 1983), complaints against all public sector Agencies, whether of the Federal Government or of the Provincial Governments, were entertained and adjudicated by the Wafaqi Mohtasib. In the case of Provincial Governments this was with their explicit, and in some cases their tacit, consent as the institution of the Provincial Ombudsmen had not yet been created. This position continued until 1992 when the Office of the Provincial Ombudsman, Sindh Province, was created followed by that of Azad Jammu and Kashmir, also in 1992, the Punjab in 1996 and Baluchistan in 2001. With these institutions having been established, complaints against departments of their respective Provincial Governments were redirected to them. As a consequence complaints relating to the Provincial Governments registered with the Wafaqi Mohtasib progressively tapered off during the years as more and more complainants had recourse to their own Provincial Ombudsmen. However, in the case of the North-West Frontier Province, since the institution has not yet been established, complaints against Provincial Government departments in critical cases continue to be admitted and adjudicated by the Wafaqi Mohtasib with the implied concurrence of the Provincial Government departments. It is understood that a bill titled “The North-West Frontier Province Hisbah Act, 2003” is under active consideration for legislation and in the process stands referred to the Council of Islamic Ideology in terms of Article 229 of the Constitution of the Islamic Republic of Pakistan. The proposed law envisages appointment of a Provincial Mohtasib and District Mohtasibs in addition to other measures for complaint resolution and conciliation at levels below the district.

2. The complaints received in respect of departments of the Provincial Governments for the years 2001 to 2004 are indicated in the table below:

Table 17: Complaints received in respect of the Provincial Government of NWFP

| 2001 | | 2002 | | 2003 | | 2004 | |
|----------|----------|----------|----------|----------|----------|----------|----------|
| Received | Admitted | Received | Admitted | Received | Admitted | Received | Admitted |
| 380 | 24 | 397 | 28 | 347 | 10 | 201 | 8 |

CHAPTER 8

Issue of Complaints relating to Ministry of Defence

Article 9 of the Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983 specifies the jurisdiction of the Mohtasib. According to paragraph (c) of proviso to clause (1) of Article *ibid*, matters that relate to, or are connected with defence of Pakistan or any part thereof, the military, naval and the air forces of Pakistan or the matters covered by the law relating to these forces are out of jurisdiction. The President on a representation filed by Ministry of Defence was pleased to clarify vide CMLA's Secretariat order dated 13/8/84 that the ouster of jurisdiction contained under paragraph (c) of proviso *ibid* is absolute with respect to the matters relating to:

“The Defence Division, the Defence Production Division and the military, naval or air forces of Pakistan and any department, body, authority or organization directly or indirectly under the management or control of, or in any manner connected with, either of the said Divisions or the said forces.”

2. In spite of the limitation in the jurisdiction, this Secretariat continues receiving petitions from a large number of ex-servicemen, usually below the commissioned ranks, civilian employees paid out of defence services estimates and their dependents on various administrative issues. Some of the complaints convey a picture of extreme hardship and human misery deserving compassionate consideration. If on initial examination, there appears to be a *prima facie* case of maladministration, such complaints are referred to concerned Agency for appropriate action on an informal basis. The action is motivated by the fact that the complainant after failing to get the desired relief from the Agency approaches the Mohtasib as a last hope. If a reference by this Secretariat can result in redress of his grievance or intimation of the factual position, he stands rewarded. The significant aspect in the process is the willingness of the Agency to assist the aggrieved person with compassion.

3. While processing such complaints, one is always mindful of the fact, that the credibility of this Secretariat is not compromised because of the aroused sympathy. The aim is not only to seek relief for the complainant, but that it should be provided willingly by the Agency. A large number of retired defence personnel and civilians employed in lower formations of the armed forces and their dependents have secured relief through this approach. Prompt assistance and willingness of the Ministry of Defence, Services Headquarters, Regimental Centres and Offices of Military Accountant General, Controller of Accounts at Service Headquarters and Controller of Military Pension Lahore was never found wanting.

4. Complaints against Ministry of Defence and its affiliated organizations generally relate to delays in payment of pension dues; G. P. Fund balances; revision of pension; etc. The number of complaints received is negligible as compared to the size of the establishment. This is due to the efficacy of the standing operating procedures in place at various levels, which have been refined over a period of time.

5. Major causes of complaints filed against Ministry of Defence are listed in the table below:

Table 18: Major Causes of Complaints against Ministry of Defence

| Causes of Complaints | 2003 | | 2004 | |
|--|----------|----------|----------|----------|
| | Received | Admitted | Received | Admitted |
| Grant of disability pension | 6 | 0 | 13 | 0 |
| Delay in grant of pension/family pension & related matters | 93 | 27 | 75 | 17 |
| Delay in payment/transfer of G. P. Fund | 16 | 09 | 15 | 9 |
| Delay in payment of misc. service dues | 26 | 6 | 18 | 4 |
| Matters relating to Military Land & Cantonment Board | 37 | 6 | 20 | 8 |
| Disciplinary matters | 8 | 0 | 16 | 0 |
| Misc. | 89 | 18 | 135 | 16 |
| Total | 275 | 66 | 292 | 54 |

6. It is proposed to continue handling of such complaints in the manner in the future as well subject to the cooperation of the Agencies concerned.

CHAPTER 9

Issue of Complaints Relating to Cantonment Boards

Under the provision of section 3(1) of Cantonment Act, 1924, the government may declare any place in which any part of the armed forces is quartered or which, being in vicinity of such place, is required for the service of such forces, to be a Cantonment. The administrative affairs of the cantonment are managed by a Board constituted under section 13-A of the Act for performance of functions as specified in section 116 of the Act. The composition of the Board is as follows:

- (i) Officer commanding the station or such military officer nominated by the competent authority. He also functions as President of the Board under Section 20 of the Act
- (ii) Elected members. The actual number depends on the classification of the cantonment. It is 12, 7 and 2 for class I, II & III type of cantonments respectively.
- (iii) Health Officer.
- (iv) Maintenance Officer.
- (v) Magistrate Ist Class.
- (vi) Civil or military officers nominated by the Officer Commanding the station. The actual number depends on the classification of the cantonment. It is 9, 4 for class I & II type of cantonments respectively.

2. Complaints received against Cantonment Boards can be broadly categorized into two types. The first category is the complaints filed by the employees of Cantonment Board relating to personal grievances regarding service with the Board. These complaints involve terms and conditions of the service, promotion, seniority, pay fixation, disciplinary actions etc. Complaints on such issues are out of jurisdiction vide clause (2) of Article 9 of the President's Order No. 1 of 1983 and are not admitted. However,

complaints against the inordinate delay in the finalization of cases relating to the aforementioned issues are admitted and processed in accordance with guidelines laid in circular No. 1281/Secy/WMS/02 dated 25.6.2002. 'Recommendations' in such cases are restricted to removal of the cause for delay and early finalization of the cases.

3. The second category of complaints is those filed by general public relating to the functioning or the decisions of the Board. Major causes are:

- (i) Failure to provide facilities like drinking water, garbage collection; street lighting, repair and maintenance of streets etc.
- (ii) Delay in approval of building plans.
- (iii) Delay in the issue of NOCs for hoardings and billboards.
- (iv) Delay in the issue of birth or death certificates or other documents.
- (v) Matters relating to property and other local taxes, public safety, sanitation, building control etc.

4. Complaints involving the above mentioned issues are referred to the concerned Board. The response is prompt and generally positive. Appeals against the decision of the Board are required to be filed before Director General, Military Lands and Cantonments, an attached department under the Ministry of Defence.

5. It is proposed to continue handling of such complaints in the manner indicated in future as well subject, however, to the continued cooperation of the Agencies concerned.

CHAPTER 10

Issue of Complaints of Consumers against Gas Distribution Companies

Since its inception in 1983, the office of the Wafaqi Mohtasib has been adjudicating complaints received from consumers of gas against distribution companies, namely, Sui Northern Gas Pipelines Limited (SNGPL) and the Sui Southern Gas Company Limited (SSGCL), in pursuance of the definitions of the “Agency” and “Mal-administration” as embodied in Article 2(1) and Article 2(2) of the Establishment of the Office of the Wafaqi Mohtasib (Ombudsman) Order, 1983. These definitions are reproduced below:

- (1) “Agency” means a Ministry, Division, Department, Commission or office of the Federal Government or statutory corporation or other institution established or controlled by the Federal Government but does not include the Supreme Court, the supreme Judicial Council, the Federal Shariat Court or a High Court;
- (2) “Mal-administration” includes:
 - (i) a decision, process, recommendation, act of omission or commission which:
 - (a) is contrary to law, rules or regulations or is a departure from established practice or procedure, unless it is bona fide and for valid reasons; or
 - (b) is perverse, arbitrary or unreasonable, unjust, biased, oppressive, or discriminatory; or
 - (c) is based on irrelevant grounds; or
 - (d) involves the exercise of powers or the failure or refusal to do so, for corrupt or improper motives, such as, bribery, jobbery, favouritism, nepotism and administrative excesses; and

- (ii) neglect, inattention, delay, incompetence, inefficiency and ineptitude, in the administration or discharge of duties and responsibilities.”

2. With the promulgation of the Oil and Gas Regulatory Authority Ordinance, 2002, the Oil and Gas Regulatory Authority (OGRA), in terms of Sections 6, 11, 12, and 42 of the Ordinance, has attained exclusive jurisdiction to decide complaints, not only relating to licencees but also that of the consumers, against the gas distribution companies. Accordingly, OGRA raised the issue that complaints by the consumers against the Gas companies should henceforth be dealt with by it exclusively under its Complaint Resolution Procedure notified vide SRO 876(7)2003. The issue was examined. It was felt that there could be the following options for the disposal of complaints pending before the Wafaqi Mohtasib and the entertainment of fresh complaints in future:

- (i) To transfer all complaints pending investigation in the office of the Wafaqi Mohtasib, alongwith the record, to “OGRA” and re-direct all future complaints to it;
- (ii) To investigate and dispose of the existing complaints registered and pending with the Wafaqi Mohtasib as before in terms of P. O. 1 of 1983 and the Wafaqi Mohtasib (Investigation and Disposal of Complaints) Regulations, 2003;
- (iii) To maintain the status quo i.e. the Wafaqi Mohtasib to continue disposal of all pending complaints and registration of fresh complaints until such time as “OGRA” has instituted an administrative mechanism in each of the Provinces/Regions for the purpose after which all fresh complaints be entertained by it leaving the Wafaqi Mohtasib to dispose of only the pendency.

3. The balance of convenience, in the context of the interest of the complainants lay in option (iii) as this obviated the possibility of any disruption in the adjudication of a rather large number of pending complaints as well as a substantial number of fresh cases registered on monthly basis. This was so as although the laws, rules and regulations relating to resolution of complaints by OGRA are in place, the actual infrastructure in terms of personnel and their availability at the Provincial/Regional Offices was lacking. Such a procedure was also adopted in the case of tax related complaints till the Office of the Tax Ombudsman became fully functional to deal with them. The disposal of instituted cases and the institution of fresh complaints, therefore, continued to be dealt with by the Office of the Wafaqi Mohtasib during the course of the outgoing calendar year.

4. The OGRA have as of March, 2005, intimated that their organisational arrangements for the institution and disposal of complaints by members of the general

public against the Gas Companies in respect of provision of services are now in place and they are fully equipped to handle them.

5. As of 15th March, 2005, the Wafaqi Mohtasib's Office shall no longer entertain fresh complaints against the Gas Distribution Companies. The complaints already registered, however, shall continue to be investigated and adjudicated until the pendency is wiped off.

CHAPTER 11

Issue of Complaints of Consumers against Electricity Distribution Companies

The Water and Power Development Authority (WAPDA) was established under the Pakistan Water and Power Development Authority Act, 1958. Its operations covered generation, transmission and distribution of electric power. With the passage of time it grew into a large and unwieldy organization. This necessitated the separation of the function of distribution of electric power, which was given to eight regional Electric Power Distribution Companies. The electricity requirements of Karachi, however, continued, to remain with the Karachi Electric Supply Corporation (KESC). For better organization and control of the distribution companies, the National Electric Power Regulatory Authority (NEPRA) was established in terms of section 3 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1999. The distribution companies operate under licences granted by NEPRA. These licenses authorise these companies to operate only in accordance with the approved terms and conditions and to charge the tariff approved from time to time by NEPRA in terms of section 7 of the said Act.

2. In the context of handling of complaints by consumers, the following provisions of the said Act of 1997 need to be highlighted: –

- (i) The NEPRA is required to lay down Consumer Eligibility Criteria on the fulfilment of which a prospective consumer would acquire a legal right to be supplied with electric power by the licensees (section 21).
- (ii) NEPRA shall determine and prescribe procedures and standards for determination, modification or revision of rates, charges etc. (section 31).
- (iii) Each Provincial Government shall establish an Office of Inspection to enforce compliance with the instructions of the Distribution

Companies regarding metering, billing, electricity consumption charges and decision of cases of theft of energy and determining disputes relating to metering, billing and collection of tariff. These powers may be conferred on the Electric Inspectors appointed by the Provincial Governments under section 36 of the Electricity Act, 1910 to be exercised in addition to their duties under the said Act (Section 38).

- (iv) Any interested person, including the Provincial Government, may file a written complaint with the NEPRA against a licensee for contravention of any provision of the Act or any order, regulation licence or instructions made or issued thereunder (Section 39).
3. On 26th July, 2003, the NEPRA, in exercise of the powers conferred by section 21 of the said Act of 1997, introduced the Consumer Eligibility Criteria, 2003. All electric power distribution companies are now under a legal obligation to adhere to the provisions of this Eligibility Criteria and not to treat prospective consumers, or the existing consumers, in violation of its provisions. All the Provincial Governments have established Provincial Offices of inspection as well as the procedures relating to their operations.
4. To further streamline operations, NEPRA is required in terms of regulation 2(i)(XXVIII) of the National Electric Power Regulatory Authority Licensing (Distribution) Rules, 1999 to ensure that each licensee develops and gets approved the Consumers' Services Manual containing guidelines applicable to their consumers for obtaining electric power distribution services. The Companies have not yet prepared such manuals. In terms of instructions and procedures to be incorporated in the said manuals, consumers' complaints are required to be first handled at the level of the Company and then through the Provincial Offices of Inspection.
5. The office of the Wafaqi Mohtasib was established under the Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983. As the above narration would show, at that time there were no specific institutional arrangements for attending to complaints of consumers against WAPDA in respect of matters relating to the provision of electricity. Since WAPDA came within the definition of 'Agency' in terms of article 2(1) of the President's Order No. 1 of 1983 establishing the Office of the Wafaqi Mohtasib, complaints against WAPDA were entertained and investigated by the Wafaqi Mohtasib in terms of article 9 of the Order. Since the inception of the Office a total of 190,565 such complaints have been adjudicated, of this 15,653 have been decided during the calendar year 2004.
6. Although technically, the legal frame work for handling complaints against WAPDA and its Distribution Companies was provided through the establishment of the

National Electric Power Regulatory Authority (NEPRA) in terms of section 3 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1999, the institutional arrangements for the purpose were not put in place until lately. Consequently, the Office of the Wafaqi Mohtasib had the following options in the matter during the calendar year 2004:

- a. To transfer all the pending complaints under investigation, along with the record, to NEPRA for disposal and direct that all future complaints be instituted with it or the institutions put in place by it;
 - b. To investigate and dispose of all pending complaints and direct that all future complaints be instituted with NEPRA or the institutions put in place by it; or
 - c. To maintain the status quo i.e. the Wafaqi Mohtasib to continue investigation and disposal of pending complaints and the registration of fresh complaints till such time as NEPRA had established the required institutional infrastructure for the purpose, whereafter, by a specific cut-off date, all fresh complaints were to be registered with it or the institutions put in place by it.
7. In the interest of the complainants, it was felt that option (c) was the desired course of action to be adopted and consequently, all pending and freshly registered complaints continued to be dealt with by the Wafaqi Mohtasib during the calendar year 2004.
8. Now that NEPRA has been able to put in place the institutional arrangements for handling of the complaints against the Distribution Companies, it has been decided that all complaints pending in the Wafaqi Mohtasib's Office and those likely to be instituted by 15th March 2005, would continue to be investigated and disposed of by the Wafaqi Mohtasib whereas complaints after the indicated cut-off date (15th March, 2005), would have to be taken care of under the new dispensation by NEPRA and the institutional arrangements put in place by it.

CHAPTER 12

Issue of Complaints relating to 'Service Matters'

In terms of clause (2) of Article 9 of the Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983, "...the Wafaqi Mohtasib cannot accept for investigation any complaint, by or on behalf of a public servant or functionary, concerning any matter relating to the Agency in which the complainant is or has been working in respect of any personal grievance relating to the service therein". This debars an employee of any 'Agency' to approach the Wafaqi Mohtasib against alleged 'maladministration' by his employer.

2. This provision is broad based and does not define the scope of 'personal grievance'. Generally speaking, these are taken to be matters relating to the terms and conditions of service viz promotion, seniority, disciplinary action, termination of service, pay and allowances etc. Complaints involving these issues are not entertained for want of jurisdiction. In such cases the complainants are advised to approach the Federal Service Tribunal, which exercises exclusive jurisdiction in such matters.

3. However, complaints involving recruitment, delays in payment/grant of pension, provident fund, benevolent fund, group insurance, medical charges etc. or retirement benefits are subjected to a liberal interpretation of the definition of a personal grievance relating to service within an Agency. Since recruitment, as such, is a process which is clearly outside the scope of the definition of 'personal grievance relating to service within an Agency', the admissibility of complaints in this regard is not disputed. Similarly, complaints relating to delays in the payment/grant of pension, provident fund, benevolent fund, group insurance, or other retirement benefits, are also not affected as these, invariably, are complaints not against the parent Agencies of the complainants but against offices of the Accountant General, the District Accounts Officers, Managing Director, Federal Employees Group Insurance and Benevolent Fund and the Officers Incharge of the Accounts Departments of the Agencies. Furthermore, there is no employer-employee

relationship between the complainant and respondent and the complaint is not directed towards the employer per se.

4. In order to facilitate and ensure uniformity in investigation and disposal of such complaints, Circular No. Dy.1281/SECY/WMS/02 dated 25 June 2002 specifying the issues, which ought to be investigated, was issued for guidance of the investigating officers. These are listed below:

(a) **Post-retirement Issues**

- i. Pension;
- ii. Gratuity;
- iii. G. P. Fund;
- iv. C. P. Fund
- v. Group Insurance;
- vi. Benevolent Fund;
- vii. Travel concessions;
- viii. Medical facilities (to the retired employees);
- ix. Employees Old-age Benefits; and
- x. Denial of admissible perks and privileges.

(b) **In-service Issues**

- i. Medical reimbursement claims;
- ii. Allotment of accommodation and housing facilities;
- iii. Denial of admissible perks and privileges.
- iv. Delay and discrimination in the grant of various advances such as Motor Car Advance, Motorcycle Advance, House Building Advance and G. P. Fund Advance.
- v. Educational and other benefits for the children of employees.

4. The afore-mentioned approach has resulted in the provision of relief to a large number of complainants with the willing assistance and cooperation of the Agencies concerned. It is proposed to continue with this mode of handling such complaints in the future as well.

5. Major causes of complaints received on service related matters are listed in the following table:

Table 19: Major Causes of Complaints Received on 'Service Related Matters'

| Nature of Grievance | 2003 | | 2004 | |
|---|----------|----------|----------|----------|
| | Received | Admitted | Received | Admitted |
| Delay/non-transfer of GPF account | 253 | 162 | 210 | 120 |
| Stoppage of G.P Fund/Pension | 3 | 1 | 0 | 0 |
| Delay in sanction of EOABI Pension | 30 | 11 | 63 | 23 |
| Delay in grant/release/revival of Family Pension | 114 | 68 | 101 | 58 |
| Delay in sanction of Pension/GPF | 722 | 382 | 642 | 301 |
| Delay in payment of outstanding Service Dues | 379 | 167 | 260 | 117 |
| Stoppage of pension/B.F./G.P.F | 115 | 35 | 144 | 64 |
| Wrong calculation of Gratuity/Pension | 27 | 16 | 14 | 7 |
| Delay in reimbursement of Medical Bills | 74 | 39 | 89 | 42 |
| Discrimination in appointments on first recruitment | 649 | 138 | 613 | 101 |
| Promotion/Seniority | 521 | 43 | 168 | 12 |
| Removal from service | 15 | 4 | 14 | 0 |
| Discrimination in grant of Secretariat Allowance | 70 | 19 | 5 | 2 |
| Wrong fixation of pay | 190 | 58 | 151 | 23 |
| Allotment of plot/agricultural land | 157 | 37 | 135 | 7 |
| Allotment of accommodation | 435 | 203 | 402 | 195 |
| Miscellaneous | 2,525 | 730 | 2,945 | 665 |
| Total: | 6,279 | 2,113 | 5,956 | 1,737 |

CHAPTER 13

Need for Appointment of the Insurance Ombudsman

The insurance business is not restricted to anyone particular field. It can however, be broadly classified into the business of life insurance and insurance covering any other field of commercial or economic activity other than life assurance.

2. The business of life insurance in Pakistan was nationalized to restrict it exclusively to the public sector. This was done through the Life Insurance (Nationalization) Order, 1970 (P. O. 1 of 1970). As a field organization in this regard, the State Life Insurance Corporation of Pakistan (SLIC) was established under Article 11 *ibid*. The only other public sector organization sharing life insurance business with SLIC is the Postal Life Insurance.

3. This activity was being regulated under the provisions of the Insurance Act, 1938. On 19th August, 2000 the Insurance Ordinance, 2000, which repealed the earlier Act, was promulgated.

4. Unlike the Insurance Act, 1938, the Insurance Ordinance, 2000 provides for the Establishment of the Institution of Insurance Ombudsman through its sections 125 to 134. Certain features of this Institution have been established very differently from those of the Wafaqi Mohtasib (Federal Ombudsman) as spelled out in the Establishment of the Office of Wafaqi Mohtasib (Ombudsman)'s Order, 1983, President's Order No. 1 of 1983. The main differing aspects include the following:

- (i) The appointment is to be made by the Federal Government [Section 125(1)];
- (ii) He has to be a person with unimpeachable insurance or legal credentials and should not be a share holder of any Insurance Company [section 125(2)];
- (iii) He may resign by giving three months notice to the Commission i.e. Securities and Exchange Commission of Pakistan [section 126(2)];

- (iv) Appointments in the Secretariat are to be made in consultation with the Commission by obtaining the services on deputation from the Commission, any Insurance Company or through direct recruitment. The expenditure of the Secretariat is to be shared by Insurance Companies in the proportion to be determined by the Commission [section 126(4)];
- (v) The jurisdiction has been widened to include not only the public sector insurance organizations but also to cover private insurance companies. The exclusion from the jurisdiction include matters sub-judice in a court of law or complaints filed by or on behalf of any employee of any insurance company in respect of his service matters therein. The jurisdiction can be invoked on the ground of maladministration as defined in section 127 [section 127(1)(2)];
- (vi) The Insurance Ombudsman is obliged to entertain cases referred to him by any court of law (section 128);
- (vii) A complainant has been placed under a legal obligation to give one month's prior notice to the insurance company concerned before filing a complaint with the Insurance Ombudsman [section 129(2)];
- (viii) An aggrieved person has been given a right to file an appeal against the 'Findings' and 'Recommendations' of the Insurance Ombudsman which will lie within 30 days of the order to the Securities and Exchange Commission of Pakistan which may pass any order thereon deemed fit by it [section 130(2)];
- (ix) The Insurance Ombudsman shall submit annual report before 31st March every year to the Federal Government [section 134(1)].

5. Another interesting feature of the Insurance Ordinance, 2000, in the context of handling of complaints against insurance companies, is the establishment of the Insurance Tribunal envisaged in sections 121 to 124. These provisions, however, contain only broad parameters leaving aside the details to be settled subsequently. The Insurance Tribunal will have such jurisdiction on the basis of territorial limits or class or classes of cases as may be formally conferred. The decision of the Tribunal shall be final and not questionable in any court or before any authority, but in cases where the claim in dispute or penalty prescribed is not below Rs. 100, 000/-, an appeal may be filed within 30 days with the High Court having the territorial jurisdiction. The relationship between the Insurance Tribunal and the Insurance Ombudsman, from the point of view of a complainant, is not very clear at present.

6. Since the provisions contained in the Insurance Ombudsman, 2000, have not so far been implemented through the appointment of an Insurance Ombudsman, the complaints relating to SLIC and the Postal Life Insurance, being public sector Agencies,

as distinguished from complaints relating to private sector insurance companies, are being entertained and adjudicated by the Wafaqi Mohtasib. This is being done in the spirit of the establishment of the office of the Wafaqi Mohtasib to provide cost-effective and expeditious relief to complainants and has the endorsement of the Ministry of Law and the President while considering representations under Article 32 of P. O. 1 of 1983. Under the dispensation available before the coming into force of the Insurance Ordinance, 2000, complainants against the private sector insurance companies had recourse to the Controller of Insurance in the Ministry of Commerce for the redress of their grievances and subsequently, through agreement, by the Securities and Exchange Commission of Pakistan. This is no longer the case and, therefore, the need for the early appointment of an Insurance Ombudsman under the Ordinance for the redress of grievances of complainants not only against private sector companies but also the insurance sector as a whole including those against SLIC and Postal Life Insurance.

7. The following table gives the position of complaints admitted by the Wafaqi Mohtasib during the last six years:

Table 20: State Life Insurance Corporation of Pakistan (SLIC)

| Years | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 |
|---------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Complaints received | 543 | 576 | 525 | 404 | 284 | 216 |

CHAPTER 14

Issue of Inclusion of P.I.A. within the Jurisdiction of the Wafaqi Mohtasib

According to Schedule I to the Rules of Business, 1973, the Ministry of Defence consists of the Aviation, Defence and Defence Production Divisions. The Pakistan International Corporation, (PIAC), an autonomous corporation, was under the control of the erstwhile Aviation Division vide Schedule II to the Rules of Business, 1973. The Defence Division, the Defence Production Division, the Armed Forces of Pakistan and any department, body, authority or organization, under the management or control of, or in any manner connected with, either of the said Divisions or the said forces, were excluded from the jurisdiction of the Mohtasib vide paragraph (c) of proviso to clause (1) of Article 9 of the Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983, read in conjunction with CMLA Order dated 13/8/1984. Since the Aviation Division was not excluded from the jurisdiction of the Wafaqi Mohtasib, complaints of maladministration against PIAC were registered and processed in normal routine. The nature of complaints generally received against PIAC were:

- (i) Denial of board cards inspite of confirmed reservation.
- (ii) Loss of checked in baggage.
- (iii) Failure to compensate for lost/ damaged baggage.
- (iv) Misconduct of the cabin/ground crew
- (v) Discrimination in provision of seats to open ticket holders, etc.

2. Aviation Division was subsequently merged with the Defence Division. The merger resulted in the PIAC being removed from the jurisdiction of the Mohtasib by implication and investigation of complaints had to be discontinued. Since the PIAC was a public-dealing organization, the Wafaqi Mohtasib continued receiving complaints against it on various administrative counts which, however, could not be investigated for lack of jurisdiction. The issue was brought to the notice of the President who was pleased to

direct that the matter be analyzed in consultation with the Defence Division and a proposal be submitted. The Defence Division endorsed the maintenance of the status quo on account of the following operational and administrative reasons:

- (i) Aircraft and facilities of the PIAC were utilized to meet defence needs. Questioning of the inconvenience caused to passengers resulting from such eventualities may not be in the interest of security of the country.
- (ii) Extension of the jurisdiction of the Mohtasib in civil matters pertaining to an Agency under the administrative control of the Defence Division is likely to create confusion on account of the over-lapping of civil and defence matters.
- (iii) A complaint redress mechanism was already in place in the Defence Division to handle complaints from the public.

3. Presidential Order No. 1 of 1983 is an elaborate and comprehensive Order. It adequately caters to all perceivable eventualities. No difficulties were encountered in investigating complaints against PIA when entertained in the past. The merger of Aviation Division with the Defence Division has not, in any way, altered the role of PIAC. The concern of the Ministry of Defence regarding the security aspects is relevant and well appreciated but the remedy for issues of this nature relating to classified matter is already available in Clause(9) of Article 10 of the President's Order No. 1 of 1983 reproduced below:

“10. Procedure and Evidence.—

(9) For the purpose of an investigation under this Order, the Mohtasib may require any office or member of the Agency concerned to furnish any information or to produce any document which in the opinion of the Mohtasib is relevant and helpful in the conduct of the investigation, and there shall be no obligation to maintain secrecy in respect of disclosure of any information or document for the purposes of such investigation:

Provided that the President may, in his discretion, on grounds of its being a State secret, allow claim of privilege with respect to any information or document.”

4. The other reason offered by the Defence Division for maintaining the status quo is availability of a complaint redress mechanism within the Division for handling such matters. Complaint redress arrangements exist in almost all public-dealing departments. Under the Wafaqi Mohtasib (Investigation and Disposal of Complaints) Regulations, 2003, a complainant is required to approach the Agency in the first instance to seek

remedy. It is only after the Agency fails to respond, or the complainant is not satisfied with the response, that he/she can approach this Secretariat for the desired relief. None of the other Agencies have encountered any difficulties on account of investigation of complaints by the Mohtasib in the presence of their own grievance redress mechanisms. On the contrary, the Mohtasib's investigation complements the function for expeditious and appropriate disposal.

5. To facilitate good governance, the Ombudsman's office is designed and organized to provide a cost-effective remedy to citizens seeking redress against maladministration committed by the Federal Government Agencies. Dilution of the jurisdiction of the Mohtasib by excluding the PIAC, whose functioning is so intimately connected with the general public, is not desirable. By doing so a readily accessible and inexpensive channel of redress of grievance against maladministration is being denied to the public. It is in the public interest that the entire matter be reconsidered in a fresh perspective.

CHAPTER 15

Follow-up of Tasks set for the Office for the Calendar Year 2004 in the Annual Report 2003

The Annual Report, 2003, envisaged the following tasks, which were to be followed up in the Year 2004 with a view to bringing about improvements in the working of the Office and the reduction of the incidence of complaints. The updated position of these tasks is given in the ensuing paragraphs.

Establishment of Management Information System (MIS) in Wafaqi Mohtasib (Ombudsman)'s Secretariat under Access to Justice Programme (AJP)

2. The Wafaqi Mohtasib's Secretariat has planned to upgrade the computer infrastructure, the existing data bank and to establish an on-line networking system between the Headquarters and Regional Offices. The establishment of Management Information System (MIS) of Wafaqi Mohtasib's Secretariat is one of the components of Access to Justice Program, which is being funded by the Asian Development Bank through a soft loan of US\$350 million. This programme proposes to introduce comprehensive reforms in the Judicial and Police sectors throughout Pakistan with the objective of strengthening institutional capacity of judicial and quasi-judicial institutions through legal and judicial reforms and human development. For the MIS Project of the Wafaqi Mohtasib's Secretariat an amount of Rs. 18.820 million has been earmarked. Under this it is planned to upgrade the computer infrastructure, the existing data bank and to establish an on-line networking system between the Headquarters and Regional Offices.

3. The Project has already been approved by the competent forum. The major activities of the MIS project are the following:

- Computerization of Complaints;
- Computerization of Decisions Retrieval;

- Computerization of Budget & Accounts;
- Computerization of Personnel Management;
- Computerization of Web Designing & Development; and
- Linkage of all eight Regional Offices with Head Office.

4. In May 2004, on receiving the funds of Rs. 18.820 million for the Project, the process for implementation was initiated. However, on account of the short time available till the close of the financial year (2003-2004) and also the involvement of the foreign principals of the local bidding firms, the Project could not be completed. Only Rs. 2.54 million could be utilized during the last financial year. On re-provisioning of the balance funds by the Finance Division during the current financial year (2004-2005) fresh bids were invited for acquisition of the latest makes & models of hardware equipment in the market and for development of an updated software program. The Project is expected to be completed before the end of the financial year 2004-2005 under the supervision of the Pakistan Computer Bureau.

Construction of the Wafaqi Mohtasib Secretariat's Building at Islamabad

5. In line with the prestige and the vital role of the Office of the Wafaqi Mohtasib a new building on the Constitutional Avenue was planned to be erected. In January 1987, Plot No. 36, Sector G-5/1, measuring 7,777.77 square yards was allotted by CDA on lease for 33 years extendable to subsequent two terms of 33 years each for construction of the Wafaqi Mohtasib's Secretariat. Possession of the plot was taken over on 15.2.1987. The area was later enhanced in June 1987 to 9,666.66 sq yards.

6. In March 1987, PC-I was prepared by Pak PWD for approval by the Central Development Working Party (CDWP); which was accorded in May 1987. The execution of the project, however, could not be started for a number of years because of the following factors:

- i) Non-provision of adequate funds in time by the Government.
- ii) Inability of the Pak PWD to meet the technical requirements/ observations raised from time to time by the Planning Commission.
- iii) Change of executing Agency from Pak PWD to CDA.
- iv) Ban on new high-rise buildings in Islamabad during 1990s.

7. With the arrangement of funding under Access to Justice Programme, the PC-I was again submitted to the Planning Commission. The approval was accorded by the competent forum in June 2004, subject to rationalization of covered areas, specifications and cost of project in consultation with the Planning Commission. A number of meetings were held with the representatives of Planning Commission and CDA and a fresh layout

plan, prepared by the CDA was approved by the Wafaqi Mohtasib. CDA is carrying out detailed costing on the basis of fresh layout plan. Once the costing exercise is complete the requirements of the Planning Commission will stand fully complied with leading to the issue of the administrative approval by it and the commencement of the work.

The Wafaqi Mohtasib (Ombudsman)'s Employees (Appointment, Promotion and Transfer) Rules

8. The Office of the Wafaqi Mohtasib (Ombudsman) came into being under 'the Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983'. Article 36 lays down that the Mohtasib may, with the approval of the President, make rules for carrying out the purposes of the Order. Article 8(1) of the said Order inter alia provides that the members of staff, other than those mentioned in Article 20, shall be appointed by the President or by a person authorized by him, in such manner as may be prescribed by the Federal Government. Article 8(3) provides that the members of the staff shall be entitled to such salary, allowances and other terms and conditions of service as may be prescribed, having regard to the salary, allowances and other terms and conditions of service that may for the time being be admissible to other employees of the Federal Government in the corresponding Grades in the National Pay Scales. Article 20 authorizes the Mohtasib to appoint advisers, consultants, fellows, bailiffs, interns, commissioners and experts or ministerial staff with or without remuneration, to assist him in the discharge of his duties under the Order.

9. Since the establishment of the Office of Wafaqi Mohtasib (Ombudsman) the functions of the Wafaqi Mohtasib (Ombudsman)'s Secretariat and its Regional Offices have been carried on mostly by borrowing officers and staff from the Federal Government or by appointing persons under Article 20 of the P.O. No. 1 of 1983.

10. In pursuance of Article 36 of the Order, the framing of Service Rules for recruiting regular officers/staff for the Office of Wafaqi Mohtasib and terms and conditions of their service is in process for quite some time. In 1993 Wafaqi Mohtasib (Ombudsman)'s Secretariat Ministerial Staff Service Regulations, 1993, were notified by the Wafaqi Mohtasib (Ombudsman). However, these were later on considered inadequate and revised comprehensive Service Rules have been drafted in consultation with the Establishment, Finance and the Law Divisions and a Summary for the President for approval of these Rules is in the process of being submitted.

Monitoring of 'Recommendations' of the Report of the Joint Diagnostic Committee of the Wafaqi Mohtasib's Secretariat and WAPDA

11. Article 9(3) of the Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983 (P. O. No.1 of 1983) lays down that the Mohtasib may, inter alia, arrange for

studies to be made or research to be conducted in respect of any Agency of the Federal Government and recommend appropriate measures for eradicating injustice and maladministration.

12. Accordingly, over the years, it was observed that there was a gradual increase in the number of complaints against WAPDA before the Wafaqi Mohtasib the nature of which tended to be repetitive indicating that functionaries of WAPDA were not implementing the law, rules, regulations and policy circulars on the subject. To address this issue, the Wafaqi Mohtasib, in consultation with Chairman, WAPDA, constituted a Joint Diagnostic Committee comprising officers of the Ombudsman's Secretariat and WAPDA. The Joint Committee went through the existing Procedures and Policies pertaining to billing, with specific reference to detection billing, and also studied the internal systems of WAPDA for redress of grievances with a view to pinpoint weak areas and to suggest measures for improvement in its report.

13. The Joint Committee made focussed efforts to identify problem issues in these spheres. The internal redress systems of WAPDA along with steps to curtail the discretionary powers of the field functionaries were addressed and concrete and specific recommendations were made which, if implemented, would have gone a long way in addressing the problem. However, despite continuing reminders addressed to both the Ministry of Water and Power and WAPDA, their response to the implementation of the recommendations in their true spirit has been lukewarm during the years since the report was finalized. Now, however, a new dispensation in terms of grievance redressal in respect of complaints against the Electricity Distribution Companies is in place and, it is to be hoped, that NEPRA will be able to bring about the desired improvements in WAPDA and its Distribution Companies for the purpose.

Adjustment Lending in the Zarai Taraqiati Bank Limited (ZTBL)

14. During the course of investigation of various complaints against the ZTBL, it was felt that the loaning operations of the Bank at times contained the element of lending to current borrowers/defaulters for the purpose of showing high rates of disbursement and recovery of loans, perhaps with the tacit approval of the management, which had adverse effect on the health of the Bank and the credit meant for the agricultural sector. The modus operandi adopted for showing recovery through additional loaning to defaulters is as under:—

- (i) Sanctioning loans to existing defaulters in excess of the amounts of the earlier loans or the amounts in default recoverable at the time of sanctioning the new loans and utilizing the amounts so disbursed (totally or partially) to recover defaults in the previous

loans and not for the express purpose of assisting agricultural operations;

- (ii) Sanctioning loans to relatives (son, wife, father, sister, etc.) or friends for the same objective as indicated in (i) above.

15. To show a time gap between the clearance of default in the previous loans and sanction dates of the new loans to the same borrowers, an ingenious method is adopted with the connivance and covert support of some officials of the Bank. For this purpose, i.e. to cover the period of the required gap, some middlemen, either from within the ZTBL or from outside, exploit the situation to their advantage by providing funds to the 'would be borrowers of adjustment lending' at abnormally high and exploitative rates of return.

16. The activity of adjustment lending not only results in qualitative deterioration in loaning operations of the Bank but also in exploitation of the borrowing farmers. Thus the very purpose of the lending activity i.e. amelioration of the lot of the poor farming community through enhanced productivity and development of agriculture sector is frustrated and defeated.

17. The Annual Report 2003 envisaged the conducting of a study to determine the causes and extent of adjustment lending and suggest measures, both legal and administrative, to obviate or reduce the extent of the problem.

18. Fortunately the management is not oblivious of the phenomenon of adjustment lending and its adverse effects and has, over the years, taken certain policy measures such as:-

- (i) A circular dated 26.8.1989 issued by Credit Policy Department of the Bank to all the Regional Managers/Branch Managers stated that the Head Office observed that in majority of cases additional/fresh loans were sanctioned just for adjustment of recovery in respect of previous loans of the borrowers before or after their due dates. In some cases fresh loans to near relatives such as son, father, brother, brother-in-law etc. were sanctioned and adjusted as recovery against a loan account of a previous borrower. The circular recognized that such kind of additional and fresh loans did not in any way help the development of agriculture. All the Regional Managers were warned not to repeat this irregularity in future. They were advised to ensure that no loan was sanctioned for adjustment of recovery. Further, if it was detected that any additional/fresh loan was sanctioned for adjustment of recovery, disciplinary action would be taken against all concerned.

- (ii) An amendment in the Credit Policy was made vide circular dated 27.8.1996 providing that no loan should be granted to a spouse or dependent (below 21 years of age) of a defaulter in any case. As for other relatives their applications could be entertained on producing definite proof to the effect that the applicant had nothing to do with the defaulter and was managing his property separately and independently of the defaulter.
- (iii) The circular dated 10.6.1997 advised that henceforth adjustment lending would mean lending to the same borrower within 10 days of the recovery of previous loan/instalments and the Regional Manager must ensure that no adjustment in loan was made just to improve the recovery position. The lending policy has been relaxed recently providing that in case subsequent loan is advanced to the extent of 90% of an earlier loan advanced, no time gap is required to be observed but if subsequent loan is more than the original loan then the gap of 10 days is required to be observed. However, in a loan case of a dependent member of the family permission from the Regional Manager is required to be obtained and the utilization of such loan is required to be checked by the Regional Manager personally.
- (iv) It is mandatory for the Mobile Credit Officer to check utilization of every loan within one month/two months of the disbursement of development and production loans respectively. The Managers/Regional Managers and Audit Team also check the utilization randomly.
- (v) A tripartite control system has been started in heavy regions and the working of the MCO/Managers/Regional Managers is being monitored and supervised by those Incharge of the Inspection and Control and Audit Unit at the Head Office.

19. The management of the Bank are of the view that cognisance of the menace of adjustment lending has been taken and believe that with the above measures, coupled with the policy of not allowing loans to defaulter of the ZTBL as well as other Banks/DFIs, and the spouse and dependent children (below the age of 21 years) being debarred from obtaining such loans, this undesirable practice has been controlled to a very large extent and is expected to be eliminated altogether from the operations of the Bank in the near future.

20. From the foregoing discussion it is obvious that the ZTBL is alive to the situation and has taken various measures to curb the activity. Therefore, the issue of undertaking the study, as envisaged in the Annual Report 2003, has been reconsidered and it has been decided to postpone it for two years. Thereafter, the management will be asked to assess

whether the measures taken have resulted in the desired improvement. If it is then found that a study is essential, either the Bank will be asked to undertake itself or outsource it to consultants well conversant with such issues.

Administration of WAPDA Workers Welfare Fund

21. The Pakistan Water and Power Development Authority had formulated the Workers Welfare Fund Rules. In 1970 these rules were bifurcated into Part-I and Part-II. Part-I covers the officers while Part-II covers employees other than the officers. Over a period of time this Office has been receiving complaints by employees of the Agency or their dependants about refusal to sanction grants from the Fund or discontinuation of the grants on one ground or the other. An analysis of the complaints so received brought out the following points:—

- (i) Normally a very rigid approach is being adopted in applying the Rules right from the stage of acceptance of an application;
 - (ii) Exercise of discretion in entertaining the applications for acceptance;
 - (iii) Application of the Rules in disregard of the legality of the action; and
 - (iv) Violation of Rules in not paying the arrears otherwise permissible.
22. The above points are elaborated as follows:—

(i) Rigid application of Rules

The functionaries of the Agency while dealing with the request for grant from the Fund go by the letter of rule 6 of Part-II which lays down that “all applications, and requests for grant seeking aid from the Fund, shall be submitted not later than six months from the date of the notification of the casualty giving rise to a claim for the aid applied for. The period will be extended to one year in such cases.” The complaints received by this Office were rejected by the authorities of the Fund ab initio with reference to this rule. While processing such complaints it came to light, however, that this provision had been changed more than once by the Managing Committee of the Fund which under rule 18 has the authority to make the rules for the purpose of administering the Fund. Reportedly, the first change was made by the Managing Committee in its meeting held on 29.11.1999 by extending the period of delay from 1 year to 5 years. A further amendment was made by the Managing Committee in its meeting held on 26.1.2002 whereby

the Committee revised the earlier decision and decided to consider such applications on the merits of each case. Thus no specified time limit has been laid down by the Committee for entertaining applications. The rejection of cases by the functionaries of the Agency even after the said change merely on the strength of the said rule 6 amounts to maladministration. This Office had, therefore, to intervene in such cases by setting aside the decision of the Agency and recommending reconsideration of the applications in the light of the said decision dated 26.1.2002 of the Managing Committee.

(ii) **Exercise of Discretion**

From the response of the Agency obtained in relation to the complaints forwarded to it by this Office, a uniform statement quoting the above mentioned rule 6 was received with the addition that in cases where the delay is considered by the Agency to be beyond the control of the complainant, the applications are entertained and grant sanctioned. As no specific guidelines have been laid down by the Managing Committee, the functionaries do get a free hand to exercise their discretion in considering or not considering a delay beyond the control of an applicant and thus accepting or rejecting an application.

(iii) **Exercise of Discretion in Disregard of Legality of the Action**

In a number of cases it was noted that exercise of discretion in sanctioning a new grant or release of a ceased grant was taken in disregard of the fact that the action was not tenable under the rules and was violative of the general principle of law. A typical example is that of discontinuation of a grant already sanctioned on the ground of non-provision of marriage certificate by the claimant. Rule 6 of Part-II lays down that “the recipient of the grant shall be required to furnish a certificate every six months in the form set out in an Annexure (d)(i)(ii) that he/she has not ceased to be eligible for the grant on account of marriage, employment or setting up business, as the case may be.” In such cases invariably the reports from the Agency take the stand that since the claimant did not provide the requisite certificate, the grant ceased or cancelled. Additionally, as the claimant did not draw the grant for more than one year he/she became disentitled

to draw it any more. This action of the Agency is untenable primarily for the reasons that:-

- (a) Generally, the surviving family members of an employee are illiterate and living in rural areas and are unaware of the rules in this regard. Therefore, expecting an illiterate lady living in a village to comply with the rules is expecting too much.
- (b) The general principle of law is that if a person is entitled to a facility subject to certain requirements and if after some time he fails to meet those requirements he can reclaim his right after fulfilling the required conditionalities. Non-compliance with the required conditionalities does not make him ineligible for ever and does not take away his right to reclaim the facility.

(iv) **Refusal to Pay the Arrears**

Another serious deficiency found in the administration of the Fund relates to untenable refusal to pay the arrears. Such cases again fall into two categories:

- (a) Firstly those where a grant was sanctioned but was discontinued on the ground of non-provision of a certificate and the applicant claims arrears of the period of discontinuance;
- (b) Secondly, cases where the initial sanction of grant is made after a substantial gap and the applicant claims arrears of the previous period.

23. As far as the first category is concerned, in law, an applicant, on completion of the required formalities becomes entitled not only to the release of the grant but also to the arrears for the intervening period. The refusal of the Agency to sanction such arrears does not meet the requirements of law and amounts to maladministration. Similarly, the second category is squarely covered by the note titled Life Time Arrears underneath rule 6 Part-II which provides that "the monthly grant which was not drawn by the employee during his life shall be paid to his family members upto Rs. 5,000 on production of an Indemnity Bond. Provided that if the total amount exceeds Rs. 5,000 it shall be paid on production of a Succession Certificate". In the presence of this very clear provision the Agency has no legal reasons for not sanctioning the outstanding arrears to a surviving family member.

24. The processing of applications under the Fund has been decentralized w.e.f. 1.1.2004 and the powers have been delegated to the respective Distribution Companies. These Companies are now processing the applications at local level and have their own respective Committees for the purpose. The role of the Head Office of the Fund has been drastically reduced and is now mainly confined to inter regional transfer applications.

25. After decentralisation there is a need for undertaking a serious effort towards a correct implementation of the Rules, both in letter and spirit, particularly the implementation of Part-II which relate to low paid employees or their illiterate surviving family members. The reason for this is that the cases are now being handled by the staff having no familiarity with the rules and the procedures and virtually no experience at all.

26. This could be done, inter alia, by properly educating and familiarizing the concerned functionaries about the concept of the rules, their interpretation, legal implications etc. and providing written guidance material to them as well as putting them through formal training courses.

27. With decentralization of authority and increased inter-personal contacts, the situation is expected to improve. However, since the Headquarters Office of the Agency now has a much reduced load of work on this account, it should take up preparation of the guidelines and standing operating procedures for processing these cases and devising training material and training courses for the dealing functionaries.

Establishment of PCOs through Fraudulent Means

28. New telephone connections are provided by the Pakistan Telecommunication Company Limited (PTCL) on submission of prescribed application. Following documents are required to be attached with the application:

- i) Copy of the National Identity Card (NIC).
- ii) Documentary evidence of ownership or copy of lease agreement of tenement where connection is desired.
- iii) NOC from the owner (in case of hired premises) and copy of his NIC.
- iv) Supporting documents in case the telephone is desired on priority.

29. During the course of investigation of complaints against PTCL it was observed that in a number of cases connections were sanctioned without proper scrutiny of the documents. This resulted in unscrupulous elements obtaining connections by producing fake documents. Connections provided were subjected to indiscriminate use as illegal public call offices (PCO). This resulted in loss of revenue to the company and initiation of recovery proceedings against individuals whose documents were misused.

30. To address the issue it was decided to carry out a study in terms of Article 9(3) of the Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983 and to make 'Recommendations' to eradicate the menace.
31. On request of this Secretariat, Chairman, PTCL nominated General Manager (Investigation and Inquiries), PTCL Headquarters, Islamabad to assist in the study. His assistance is gratefully acknowledged.
32. In order to determine the causes of the problem following aspects were analysed:
- a. Existing Procedures for Installation of New Telephone Connection.
 - b. Shortcomings/weakness of the system.
 - c. Measures adopted by PTCL to overcome shortcomings/weakness.
 - d. Conclusion.

Existing Procedure for Installation of NTC

33. Applications for an NTC are registered in the office of Divisional Engineer (DE) concerned on payment of the prescribed registration fee. On confirmation of the technical feasibility, demand note for payment of installation charges is issued to the applicant. On receipt of the payment an advice note is issued for installation of the connection. Before the connection is activated, the applicant is required to sign a hiring contract. Clause 11(iv) of the contract reproduced below prohibits the use of a connection as PCO:–

“Customer shall not use or allow the said apparatus/connection to be used, or sublet for transmission of any message, in respect of which any illegal consideration is paid.

34. An individual desirous of operating a PCO is required to obtain specific sanction for PCO. PCOs which are operated by private parties are known as Extra Departmental PCOs (ED PCOs). Apart from paying the normal installation charges the applicant is required to deposit a security. According to terms of contract, the operator is required to meet the minimum sale criterion. Failure to meet the target results in cancellation of the sanction. ED PCO operators are paid commission at an agreed rate depending on the monthly sales.

35. In order to avoid security deposit and circumvent other operational restrictions certain unscrupulous elements obtained domestic connections by submitting fake documents. The connections are either installed or shifted illegally to PCOs. Since these are not installed in the name of PCO operator the income is embezzled causing loss of revenue to the company in shape of accumulation of arrears. Accumulation of arrears and default on payments had been the subject of every revenue meeting held at Regional and Headquarters level. This resulted in measures designed to improve billing system and allied functions through better monitoring.

Procedural Shortcomings/Weakness

36. Analysis of complaints revealed the following omissions which led to installation of phones which were subsequently misused as PCOs. This was possible only due to the negligence or the connivance of the concerned staff.

- i) Failure to scrutinize application and attached documents.
- ii) Unauthorized shifting and failure of the field staff to timely detect the same.
- iii) Delay in issue of bills.
- iv) Delay in disconnection on account of arrears.
- v) Restoration of connection on payment of instalment without adopting necessary safeguards.

Failure to Properly Scrutinize Application Form

37. Number of documents are submitted by the applicant while applying for an NTC. The purpose of these documents is to verify the credentials of the customer through cross check. Failure to do so resulted in provision of connection on fake documents. Some of the glaring omissions were:

- i) Different signatures on application form and NIC/Lease Agreement.
- ii) Telephone installed at an address other than that mentioned in application.
- iii) Fake lease agreement.
- iv) Lease agreements not supported by NIC of the owner of premises.
- v) Fake particulars of witnesses in the hiring contract.

Unauthorized Shifting

38. Telephone is installed at the address mentioned in application. In certain cases these were installed at addresses other than the one mentioned in application or these were shifted illegally to new location. The field staff failed to detect and report unauthorized shifting and facilitated the misuse. Surprisingly neither an inquiry into the irregularity was conducted nor any action taken against the delinquent staff.

Delay in Issue of First Bill

39. During the last decade the number of connections increased from about a million to over 4 million. The increase in the number of lines was not supported by a corresponding increase in the ancillary support facilities which came under tremendous pressure. Billing operation was one such area. It took, at times, more than 3 months to issue the first bill. This weakness in the system was fully exploited by the PCO mafia.

Restoration of Connection Without Due Safeguards

40. PTCL facilitates its clients by allowing restoration of telephone, disconnected due to non-payment, through payment of arrears in instalments alongwith current bills. For this purpose the defaulter has to personally submit an application to Divisional Engineer (DE) concerned. On approval, the Revenue Officer issues an amended bill. On receipt of payment connection is restored. It was observed that in certain cases restoration was permitted on application submitted by an individual other than the registered user. Once restored, the connections were again misused adding to the arrears. There was no mechanism to monitor such cases.

Delay in Disconnection on Account of Arrears

41. Billing is done regularly on monthly basis. Charges for calls made in the current month are billed in the following month. Due date mentioned in the bill is for current dues only. The amount included as arrears is already over due. Telephones are liable for disconnection for non-payment by due date. However, for inexplicable reasons the connections were not disconnected and the arrears kept accumulating.

Measures Adopted by PTCL

42. No formal studies on illegal installations and operations of PCOs have been carried out by the company. On the other hand, revenue generation and collection has always received greater importance. Problems relating to them were invariably included as agenda item in meetings at every level. As a result of deliberations, certain measures were adopted for monitoring the billing and payments. Since the illegal PCOs were thriving on embezzlement of revenue through various means, their operations were subjected to closer scrutiny. Measures adopted were:

- i) Replacement of analogue exchanges with digital exchanges.
- ii) Decentralization of billing.
- iii) Generation of monthly defaulters list.
- iv) Establishment of heavy caller cells.
- v) Establishment of network Surveillance and Security (NSS) Wing.
- vi) Review of ED PCOs policy.

Replacement of Analogue Exchanges with Digital Exchanges

43. PTCL has gradually replaced the electro mechanical (EMD) Exchanges with digital exchanges. In EMD exchanges billing data was recorded through mechanical meters. For this purpose each connection had a dedicated meter. Meter readings were noted and transferred manually for preparation of bills. In digital exchanges all billing

data is recorded electronically on digital counters and transferred directly to the billing computer. No manual operation is involved. This eliminated the possibility of human error. Since all operations are electronically controlled, the possibility of manipulation of billing data was eliminated.

Installing of Billing Computers at Regional Level

44. One of the major weaknesses in the old system was the time taken for generation of the bills, specially the first bill which took about 3 months. With availability of billing computer in all regions the processing has been decentralized and bills are now issued promptly on a monthly basis.

Generation of Monthly Defaulter List

45. Billing computers are programmed to generate monthly defaulter list. This helps in identification of major defaulters for timely initiation of recovery action and prevents accumulation of bad debts through prompt disconnection.

Establishment of Heavy Caller Cells

46. Heavy Caller Cell has been established at each major exchange, main switching units (MSU) and International Gateway Exchanges (IGE). The system generates the list of heavy callers. The cells monitor the payments of the identified callers to prevent accumulation of arrears.

Establishment of Network Surveillance and Security (NSS) Wing

47. NSS Wing was established for watch and ward functions. Its role is to monitor incoming overseas calls and to ensure that these do not bypass the PTCL gateway causing loss of revenue. The Wing was successful in identifying PCOs involved in illegal operations.

Review of PCO Policy

48. ED PCOs have been replaced by pay card phones which are provided by PTA licensed companies. With introduction of pay card phones services, PTCL has discontinued sanctioning ED PCOs as a matter of policy. The only exception are the VHF ED PCOs which are sanctioned for remote areas where no telecommunication network is available. It is far easier to monitor use of VHF PCOs. Introduction of wireless local loop (WLL) technology will greatly limit the utility of VHF PCOs in days to come.

Conclusion

49. The major reason for profitability of PCO business was the inadequate telecommunication facilities available to the general public and poor monitoring. The expansion of telecommunication sector did not keep pace with the demand due to increase in population, industrial development, rising living standards, increasing number of expatriates etc. The situation was exploited by the PCO mafia who thrived on the income of illegal PCOs.

50. The past decade has seen tremendous development in the communication technology. The analogue switching has been replaced by digital switching, overhead carrier systems have been replaced by high capacity optic fibre cable systems. Conventional HF and VHF Radio have been replaced by broadband digital radio systems and satellite communications. The new technologies have resulted in higher capacities at lower cost which has substantially reduced the per line cost. The outcome is rapid expansion of telecommunication infrastructure in the country and improvement in tele-density. The number of line connections have almost quadrupled in the past decade. In addition, there are over 3.5 million mobile phone users. The figure is likely to rise exponentially as the coverage increases and the cost decreases with more operators starting their operations.

51. The developments in the telecommunication sector and the consequential increase in the number of telephone users has reduced the attraction in PCO business. PCO business thrived on the weakness of PTCL system viz inadequacy, poor monitoring, inefficiency and bureaucratic inertia etc. which was resulting in the embezzlement/leakage of revenue. The deregulation of the telecommunication sector and the new technology have plugged the weakness. Measures adopted have not only effectively checked complaints against illegal PCO operation but there has also been an overall reduction in complaints against the PTCL by nearly 75% over the past 5 years. In view of the effectiveness of the measures already in place there appears no need to suggest any additional measures for the time being. The Agency should continue to monitor the effective implementation of measures to curb the menace.

Study on Housing and Works Division

Background

52. The Wafaqi Mohtasib's Annual Report for the year 2003 identified the following three major areas of maladministration requiring a special study to assist the Works Division in taking corrective action:

- (i) Illegal occupation of government accommodation inter alia, including houses trespassed by the Islamabad police.

- (ii) Illegal pool of houses in respect of Bureau of Emigration and Overseas Employment.
- (iii) Maladministration in Federal Lodges/Hostels because of misuse of outdated Rules for allotments.

53. The study was conducted on the basis of information obtained from the Ministry of Housing and Works, Estate Offices, PWD, I.G. Islamabad Police, Bureau of Emigration and Overseas Employment, discussions with various officials of these organisations and site visits. The main features of the study are summarized in the following paragraphs.

A. **Illegal Occupation of Government Accommodation**

Eligibility and Availability status of Government Accommodation

54. Under the Accommodation Allocation Rules, 2002, all married Federal Government servants (FGS) Working in Ministries/Divisions/Attached Departments (except those departments which have their own pool of houses) and contract employees in eligible departments were entitled to government accommodation. Federal Government Servants owning houses at the station of duty were entitled to self-hire their houses. Total strength of FGS was 367,069 out of which 14,745 were working in the Federal Secretariat. The total number of government accommodation at Islamabad, Lahore, Karachi, Quetta and Peshawar was only 28,240. FGS on the waiting list numbered 20,422. An additional 22,620 were accommodated in hired houses. The remaining employees are drawing Houses Rent Allowance. The effective total demand for additional houses was 43,042 (FGS on waiting list plus hired houses).

55. No proper survey has ever been done of the total number of illegally occupied houses at all the stations. However, the present conservative estimates given by the Estate Offices are as follows:

| | | | |
|----------------------|---|-------|--------------------------------------|
| Rawalpindi/Islamabad | : | 491 | |
| Karachi | : | 3707 | |
| Lahore | : | 23 | |
| Quetta | : | 150 | |
| Peshawar | : | 2 | |
| Total | : | 4,373 | (15.5% of total Govt. accommodation) |

Efforts made for vacation of illegally occupied houses

56. The Army Monitoring team made a significant contribution in identifying such illegal occupants. Computerisation of Estate Office record was undertaken. A survey of houses was initiated. Disciplinary action was taken against some officials. New

Accommodation Allocation Rules, 2002, were formulated providing for stringent punishments/ penalties. Hiring of houses was decentralised. In Karachi penal rent was imposed on illegal occupants under AAR 2002. Chief Executive's approval was obtained for taking disciplinary action against low level police officials (currently numbering 234) in illegal occupation of government accommodation.

Causes of limited success

57. The main causes of limited success in getting these houses vacated included incomplete survey of houses, incomplete computerisation of record, lack of proper mechanism/inspectors/police squad and transport facilities in estate offices, corruption in estate offices/PWD enquires, non-implementation of provisions of AAR 2002 against trespassers/illegal occupants (in Karachi the action initiated against illegal occupants was illegally suspended by the Ministry), allotments made by the Ministry in violation of rule 29A of AAR 2002 and issuance of stay orders by civil courts.

58. **Short term 'Recommendations'**

- (a) The process of survey of houses and computerisation of Estate Offices record should be completed as soon as possible.
- (b) The penal provisions of AAR 2002 should be strictly invoked, especially in Karachi, where the maximum number of houses are under illegal occupation.
- (c) The penal provisions include disciplinary action against serving officials, charging of penal rents, disconnection of utilities and debarring future entitlement.
- (d) Penal rents should be charged from occupants of houses who were debarred from government accommodation under AAR 2002.
- (e) Disciplinary action be initiated against incharge of Inquiry Offices and Inspectors who fail to report illegal occupation of houses.
- (f) Provisions of Central Government Land and Buildings (Recovery of Possession) Ordinance, 1965 should be invoked to get the houses vacated with the help of local police.
- (g) Provision of government accommodation to FGS being a service matter, the issue of Civil Courts giving stay orders to illegal occupants, needs to be taken up by the Law Division with the Chief Justice, Supreme Court, for appropriate action.
- (h) Rule 29A of AAR 2002 which states that the "Federal government may relax any rule governing allotment of accommodation to eligible FGS in public interest for deserving and hardship cases....." should be amended to include criteria for discretionary

allotments. Reasons for relaxation should always be specified and a fixed quota may be prescribed for such allotments.

- (i) Disciplinary action should be initiated immediately against police officials (now numbering 234) in illegal occupation of government houses as already approved by the Chief Executive. Any laxity in implementation of this decision should entail disciplinary action.
- (j) A separate Agency reporting directly to the Ministry of Housing & Works should preferably be set up to monitor and evict illegal occupants.

59. **Long Term ‘Recommendations’**

- (a) The facility of housing for government employees should be monetised through payment of adequate House Rent ceiling to all FGS. FGS who do not vacate government accommodation may not be paid this ceiling. Houses vacated should be privatised with the objective of selling the entire housing stock of the govt. Savings will also accrue on account of amounts saved on maintenance of houses, Estate Offices and PWD Enquires.
- (b) If monetisation of the facility is not possible due to immediate financial constraints then the available govt. accommodation should be distributed amongst all eligible departments on proportionate basis. The existing staff of Estate Offices can be absorbed in these organisations for performing the same function.

B. **Illegal Pool of Accommodation of Bureau of Emigration and Overseas Employment:**

60. The Bureau is an entitled organization for provision of govt. accommodation. It has eight regional offices and fourteen offices abroad. On its shifting from Karachi to Islamabad 60 houses were allotted to its officials by the Estate Office by name. The houses were not placed at the disposal of the Bureau. However, the Bureau started making allotments to other officers on vacation of the houses on the grounds that similar pool of houses were allowed to ISI and Ministry of Foreign Affairs by the Estate Office. These pools were created mainly on the consideration that their officers were liable to frequent transfers and it was impracticable for them to await their turn to mature on the waiting list. They were more likely to be transferred out of Islamabad again without ever being provided govt. accommodation. The same applied to officers of the Bureau. The Estate Office rightly contends that there was no provision in AAR 2002 for creation of pools and, therefore, the retention of these houses by the Bureau was illegal.

'Recommendations'

61. In order to resolve the problem as also to cater for the housing problem of the Bureau, the following 'Recommendations' are made:

- (a) The present number of 44 houses with the Bureau should be allotted to the occupant officials by the Estate Office.
- (b) An amendment in the AAR 2002 should be moved permitting the Ministry of Housing and Works to earmark a specific quota of houses for employees of departments with offices all over Pakistan/abroad and who were liable to frequent transfers.
- (c) A quota of 36 houses (50% of existing staff strength) may be laid down for officers/ staff of the Bureau.
- (d) Future allotments to these houses should be made by the Estate Office on the recommendation of the Bureau. They should not be eligible for govt. accommodation on the basis of the General Waiting List.

C. Maladministration in Federal Lodges/Hostels Because of Misuse of Outdated Rules for Allotment:

Existing Lodges/Hostels with Total Accommodation

62. There are presently nine Lodges and four Hostels located at Islamabad, Karachi, Lahore, Quetta and Peshawar having a total accommodation of 364 single rooms and 356 family suites. Out of this one hostel at Islamabad is exclusively reserved for females.

Rules for Allotment of Federal Lodges/Hostels

63. The rules for Hostels and Lodges were notified in 1983 and 1985 respectively and were last amended in 1992. Hostels are meant for FGS in grade 17 and above, provincial Govt. servants in grade 17 and above, retired employees and employees of autonomous/ semi-autonomous organisations. Lodges are meant for Chairman Senate, Speakers, Deputy Speakers of National Assembly/Provincial Assemblies, Federal Ministers, MNAs/MPAs, Senators, Judges, FGS in grade 17 and above, provincial govt. servants, employees of autonomous/ semi-autonomous bodies and retired employees. A 2% quota is also available for journalists. 10% accommodation can also be allotted to non-entitled persons.

64. Lodges are mainly for short stay of touring officers while hostels are for semi-permanent residents. However, both touring officers and semi-permanent residents are actually accommodated in both types of accommodation.

65. Rents are extremely low (Rs.25/- for single room in Hostels and Rs.45/- in Lodges) which were last fixed in 1992. Penal rents are levied for stay beyond ten days in Lodges. All Lodges/Hostels are generally fully occupied.

Maladministration/ problems in Lodges/ Hostels.

66. Mal-practices and misuse of Rules in Lodges/ Hostels are as follows:

- (a) Semi-permanent residence is permitted in Lodges in violation of rules.
- (b) Outstanding rent amounted to Rs.23,429,641/- accumulated over a number of years. No surcharge is imposed on late payments.
- (c) Prescribed rents being extremely low they do not even cover the utility charges or maintenance expenditures and a substantial reason for misuse of accommodation.
- (d) Maintenance and canteen facilities are poor.
- (e) Unauthorised/illegal occupants number 104 in all Lodges/Hostels.
- (f) There is no clear distinction between Hostels and Lodges and both semi-permanent and touring officers are residing in both types of accommodation.
- (g) Record keeping is extremely poor.
- (h) There is considerable wastage of utilities.
- (i) Incharge of Lodges/Hostels do not have powers for vacation of accommodation.

'Recommendations'

67. The following 'Recommendations' are made to improve administration of the Lodges/Hostels:

- (a) Rules for Lodges and Hostels should be merged.
- (b) Qasre Naz Karachi and Lodge No.1 Quetta should be reserved for touring officers/ short stays upto 20 days as other Lodges/ Hostels were available at these stations.
- (c) Chamba House Lahore, under occupation of NAB should be vacated for touring officers. NAB should also pay outstanding rent.
- (d) Ten rooms in Federal Lodges No.I and II Islamabad should be reserved for touring officers. Five rooms in Chamba House and Federal Lodge Peshawar should be reserved for semi-permanent residence.

- (e) Provincial government servants, employees of autonomous/ semi-autonomous organizations should not be eligible for accommodation in any Lodges/ Hostels as they have their own accommodation. MPAs, MNAs, Senators, Federal Ministers may be eligible for accommodation in Lodges except in Islamabad where Parliamentary Lodge is available besides provincial lodges.
- (f) Rents should be revised on the basis of permissible Daily Allowance and House Rent Allowance for touring and semi-permanent residents respectively.
- (g) Rents should be payable in advance by occupants. A refundable security deposit of one month's rent should be obtained from semi-permanent residents. Any default in payment should entail cancellation of accommodation. Late payment surcharge at 10% should be levied.
- (h) Individual meters should be installed for semi-permanent residents.
- (i) Outstanding rent should be recovered as arrears of land revenue or through AGPR.
- (j) XENs incharge should be given powers under the Central Govt. Lands and Buildings (Recovery of Possession) Ordinance, 1965 for vacation of illegally occupied accommodation.
- (k) Canteens should be run through private contractors instead of PWD functionaries.
- (l) All record of reservations/allotments, rents, expenditures, inventories etc should be computerized.
- (m) System of redressal of complaints should be instituted.
- (n) The Rules should not be relaxable.

68. It is hoped that the 'Recommendations' will assist the Ministry in taking remedial action for mitigating the listed problems.

Handbook for Investigating Officers in the Wafaqi Mohtasib's Office

69. This office was established under the Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order No. 1 of 1983, which also lays down the broad parameters of its functioning. Although Article 10 (11) thereof required formulation of regulations to prescribe the detailed procedure for the conduct of business, such regulations were brought into force after a gap of 16 years, through the Wafaqi Mohtasib (Investigation and Disposal of Complaints) Regulations, 1999.

70. Subsequently, in the year, 2002, certain amendments were made in the P. O. No. 1 of 1983 under which, inter alia, Article 11(2 A) was inserted. This article provides an opportunity to an Agency to convey to this Office, within the prescribed time frame, the

reasons for its inability to comply with the ‘Recommendations’ made in respect of a complaint. This Article, however, does not extend this facility to a complainant.

71. Besides, the operation of the above mentioned Regulations exposed the gaps and indicated points requiring further improvements. The said Regulations were, therefore, edited and extensively revised in 2003. Apart from other things, this resulted in prescribing different formats for recording of ‘Findings’ in different categories of cases e.g. “Closure ‘Findings’”, “Findings”, “Revised ‘Findings’” and “Rectified ‘Findings’”. A detailed exercise was also carried out to identify sub categories of Closure ‘Findings’ now incorporated in detail in Regulation 23.

72. As mentioned earlier, efforts were made to bring about uniformity not only in the format of ‘Findings’ but also in the approach and policy adopted for investigation and finalization of cases. This called for compilation of laws, rules, regulations, Agency’s instructions and similarly, the President’s decisions on representations made under Article 32 of P. O. No. 1 of 1983. To keep these ‘Findings’ and ‘Recommendations’ in line with the general principles of law decided by the Superior Courts, efforts were also made for compilation of such judgments on points relevant to the functioning of the Agency within the jurisdiction of this Office.

73. All these efforts could yield the desired results only if all this information was available to the Investigating Officers in a handy form. To meet this requirement, a Handbook for use by the Investigating Officers has been compiled.

74. In view of the voluminous nature of the information, the Handbook has been divided into three volumes as under:

Volume-I

This volume contains:

- Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983 President’s Order No. 1 of 1983
- Wafaqi Mohtasib (Investigation and Disposal of Complaints) Regulations 2003
- The Freedom of Information Ordinance, 2002
- The Freedom of Information Rules, 2004
- Instructions of the Wafaqi Mohtasib for Handling of Cases under the Freedom of Information Ordinance 2002 in Respect of the Role Assigned to It
- Contempt of Court Ordinance, 2003 (Ordinance No. V of 2003)

Volume-II

This volume contains:

- Select Decisions of the President on Representations against the Findings of the Wafaqi Mohtasib
- Judgments of the Superior Courts
- Select Circulars of the Head Office

Volume-III

This volume contains:

- Select illustrative 'Findings' in each of the prescribed formats and relating to closure, acceptance or rejection of complaints.
- Sub-categories of Findings, namely, Closure Findings, Findings, Revised Findings, Rectified Findings and Findings under the Freedom of Information Ordinance, 2002.

75. It is hoped that a study of this Handbook will equip the Investigating Officers with the required basic knowledge and information for proper investigation of complaints and also serve as a source of ready reference for the purpose.

76. With the passage of time as new rulings become available from the judgements of the superior judiciary and the decisions of the President on representations against the Findings of the Wafaqi Mohtasib, as also changes in the jurisdiction of the Wafaqi Mohtasib over the functioning of different 'Agencies' of the Federal Government, brought about by the appointment of more 'specialty Ombudsmen' for different subjects/areas, the Handbook would need to be revised periodically to take account of the new realities.

Development of Training Modules for Investigating Officers

77. The function of the Wafaqi Mohtasib (Ombudsman) is to diagnose, investigate, redress and rectify any injustice done to a person through maladministration by Federal Government Agencies. The Mohtasib is assisted in the performance of the task by investigating officers with varied administrative experience, working independently at the Head Office and the Regional Offices on the investigation of cases. In order to have a uniform and consistent approach to the laws, rules, regulations and policies, all new incumbents, charged with investigation of the complaints go through an orientation session. The investigating officers are familiarized with the common causes and nature of complaints, investigation procedures, and conduct of hearings and drafting of "Findings"

by the Advisor (Appraisal). These measures were found to be extremely useful in ensuring uniformity and consistency of “Findings”. However, to make the orientation session optimal it was considered appropriate to develop training modules for Investigating Officers in respect of the ‘Agencies’ against which most of the complaints are received.

78. The scope of the modules developed is fairly exhaustive and embrace the subject in totality with particular focus on each of the different kinds of complaints that are preferred against the Agency. Specimens of typical “Findings”, important departmental circulars on various issues and the President’s decisions on Representations against the Findings of the Wafaqi Mohtasib, involving the Agency have been included. The modules were developed by officers, who not only had theoretical knowledge of the subject but had also worked as Investigating Officers for a considerable length of time.

79. During the current year training modules for the following Agencies were developed:

- (i) Water and Power Development Authority (WAPDA)/ Karachi Electricity Supply Corporation (KESC)
- (ii) Sui Northern Gas Pipelines Limited (SNGPL)/ Sui Southern Gas Pipelines Limited (SSGPL)
- (iii) Pakistan Telecommunication Company Ltd (PTCL)
- (iv) State Life Insurance Corporation (SLIC).

CHAPTER 16

Select 'Findings' of Calendar Year 2004 Providing Relief to Complainants

COMMERCE DIVISION

State Life Insurance Corporation (SLIC)

- (1) ***Complaint No. Reg.H/434/2004***
**Complainant to be Given Benefit of Three Instalments Duly Paid by Him in
Respect of Surrender Value of Policy**

Mr. Qaiser Fazal Mehmood Khan of Haripur had purchased an insurance policy for a sum of Rs.500,000/- on 30th November, 1994 and the annual premium to be paid was Rs.14,540/-. The complainant paid Rs.14,915/- as the first premium, i.e. Rs.375/- in excess of the fixed instalment. This excess amount was placed by the SLIC in its suspense account. The 2nd instalment was due in 11/1995 and the complainant paid the amount of Rs.14,540/- on the due date to the Area Manager Mr. 'X', for depositing it with the SLIC. He gave the money to the Officer in trust, believing that he is a responsible person, but Mr. 'X' retained the cash himself, deposited a cheque of his own instead, and issued a provisional receipt to the complainant.

The complainant stated that on 14th April, 1996 the same Area Manager demanded Rs.14,165/- for payment of the 3rd instalment, with the plea that in this way the excess amount of Rs.375/- would be got adjusted by him. The Area Manager again issued a provisional receipt to the complainant.

After the 3rd instalment the complainant decided to surrender the policy, but SLIC was preparing his claim on the basis of two instalments rather than three. Calling this as unfair the complainant requested for intervention.

On taking up the matter with the Agency, it got an inquiry conducted by Mr. 'Y', the elder brother of Mr. 'X'. From the policy record it was revealed that the cheque deposited by Mr. 'X' in November, 1995, as the 2nd instalment was

dishonoured. This was basically the reason why the Agency was preparing the complainant's surrender claim on the basis of two instalments instead of three.

Investigation of the complaint indicated that Mr. 'X' had been receiving premium from the complainant in violation of Rules, but to give credence to his illegal acts, had been issuing receipts on printed receipt pad of SLIC. His services had been since terminated (not for this offence) and he was no more in the service of SLIC. It was unfortunate that the inquiry in the matter had been got conducted by his real brother, reflecting poorly on the Agency. Maladministration was thus established against the Agency.

It was established beyond doubt that the complainant had duly paid the 2nd and 3rd instalments to Mr. 'X', the Area Manager of SLIC and was thus entitled to get the benefit of the same while surrendering his policy. Accordingly it was recommended that:

- (i) The surrender value of complainant's policy be based on 3 premiums paid by him and payment be made to him in accordance with the rules accordingly;
- (ii) Action should be taken against delinquent officers who failed to take adequate steps to unearth the nefarious and fraudulent acts of Mr. 'X' over a number of years; and
- (iii) Action should also be taken against the Inquiry Officer Mr. 'Y' Manager for his deliberate failure to bring out material facts during the inquiry and during investigations.

COMMUNICATION DIVISION

Pakistan Post Office

- (2) ***Complaint No. Reg. H/6695/2003***
Profit to be Paid on the Amount Wrongfully Retained by the Post Office

Mst. Nasreen Akhtar, resident of Saroba, Tehsil Pind Dadan Khan, District Jhelum stated that her husband had served in Pakistan Army as Gunner and died during service due to heart attack on 16th April, 1996. She had been sanctioned Family Pension of Rs.1,250/- from that date. The photocopy of the relevant page of Family Pension Payment Order (PPO) issued to her by the Jhelum GPO on 5th June, 1996 indicated that an amount of Rs.189,795/ on account of gratuity had been also sanctioned and credited on the said date.

The complainant stated that the aforementioned amount was paid to her by the Extra Departmental Post Office (EDPO), Saroba on 2nd July, 2003, i.e. after a period of 7 years. She stated the amount was supposed to have remained in Special Savings (SS) Account, on which profit is paid, but it was not paid to her for the period the amount remained with the Post Office. She requested for intervention with the request that profit be paid to her accordingly.

An inquiry conducted by the Agency indicated that the then ED Postmaster Saroba, had not paid the aforementioned amount to the widow for unknown reasons. However, the Agency refuted the claim for payment of profit, as the amount was neither disbursed nor deposited in any scheme of Savings Bank.

It was held that if the wrongfully kept amount was not invested in any savings scheme, the complainant is not at fault for this. It was accordingly recommended that the complainant be paid due profit on the amount of Rs.189,795/- for the period of 5th June, 1996 to 1st July, 2003, for which it remained with the Post Office, on the same rates as were applicable from year to year in case of savings schemes of the Post Office.

(3) ***Complaint No. Reg.H/3592/2004***
Encashment Against Lost Defence Savings Certificate (DSC) Ensured

Mr. Hidayat Ali of Naushera, Tehsil and District Khushab stated that his late son had purchased a Defence Savings Certificate (DSC) of the face value of Rs.50,000/- from Naushera Post Office. He stated that after the sad demise of his son, he had been the holder of the DSC. He stated that when the DSC matured in May, 2002, he submitted the claim for encashment of the same with profit. The complainant stated that two or three times he was called to the Post Office Naushera, and in October, 2002 when he was returning from there, somebody stole his DSC as well as his NIC. The complainant stated that on the other hand, after a period of about six months on 16th November, 2002, he was informed that his claim had been passed, but by that time he had lost the DSC.

The complainant stated that he registered an FIR with the Police and documents were prepared for the issue of a duplicate DSC. He stated that on 14th April, 2003, the Divisional Superintendent, Postal Services, Sargodha prepared the case and sent it up for further clearance. The complainant stated that from April, 2003 to April, 2004, i.e. a period of one year, his case had been shuttling between Khushab and Sargodha and Director of Accounts, Pakistan Post Office, Lahore. The complainant stated that he is a very old person and he had been running from pillar to post from May 2002 to April, 2004 for a period of 2 years,

without any signs of getting the cash relating to the DSC. He therefore requested for intervention.

On taking up the matter with the Agency, the Director General, Pakistan Post Office, Islamabad informed that the declaration in lieu of the lost DSC had been issued by the Director of Accounts, Pakistan Post Office, Lahore. Further, the Deputy Postmaster General, Faisalabad Region, Faisalabad informed that the complainant's DSC had been discharged on 15th July, 2004 at Naushera HSG Post Office.

When the complainant was addressed for rejoinder, he gratefully acknowledged the relief and stated that he has got the same simply due to intervention of this Secretariat. In grateful words he acknowledged the role played by this Secretariat for redressal of grievances of people like him.

(4) ***Complaint No. Reg.H/6250/2004***
Short-Payment of Money Order Made Good

Mr. Muhammad Khan of village Banda P. O. Rajoiya Tehsil and District Abbottabad stated that he is a very poor person, has only one son who is working in Quetta in a dairy farm. The complainant stated that his son sent him Rs.10,000/- by a Money Order in March, 2004 from Quetta, and the amount is equal to about three months salary of his son. The complainant stated that he was only paid Rs.1000/- by the Post Office. The complainant received a telephonic call from his son, stating that he had sent Rs.10,000/- to him, on which the complainant replied to him that he had received only Rs.1000/-. The complainant's son sent quite a few applications to the Post Office Department, complaining about this apparent pilferage, but there was no response, due to which he requested for intervention.

The Agency stated in its report that the Money Order in question was issued from Gowal Mandi P. O. Quetta on 11th March, 2004 for Rs.10,000/- on the MO Form. Admitting the mistake, the Agency sanctioned payment of the remaining amount of Rs.9,000/- to the complainant, which amount was duly paid to him on 29th July, 2004.

On calling the complainant's rejoinder, he gratefully acknowledged that he has got the relief as above, only with the intervention of this Secretariat. He stated that otherwise, he had to run from pillar to post for these months. It was recommended that the Director General, Pakistan Post Office should have an inquiry conducted at a fairly senior level, in order to determine as to whether this was a genuine mistake, or, ill intentions were involved. This is also called for, in

order to avert the recurrence of such incidents, causing immense distress to the affected individuals, in the future.

Postal Life Insurance

(5) **Complaint No. Reg.H/13604/2002**
Complainant Not to be Penalised for Wrong Classification of Child Insurance Policy and be Paid the Death Insurance Claim

Mst. Musarrat Jabeen, widow of Mr. Irshad Ahmad Khan, Assistant Professor, University College of Administrative Sciences, Kotli, Azad Kashmir stated that her husband had purchased a Child Protection Policy for Rs.100,000/- in the name of their daughter Maham Irshad on 1st February, 2002, of which the first instalment of premium for three months, amounting to Rs.1914/- was also paid on the same date. The complainant stated that her late husband went for higher education in United Kingdom, where unfortunately, he met with an accident and died on 23rd March, 2002. The complainant stated that she has minor children and stated the distress through which she passed, while the body of the deceased was brought to Pakistan and buried. The complainant stated that the Agency had rejected the claim against the policy, stating that the very insurance proposal was defective. The complainant called this as unfair and requested for intervention.

Investigation of the complaint indicated that the date of birth of Maham Irshad being 28th February, 1990, on the date of purchase of the Policy, i.e. 1st February, 2002, she was 11 years and 11 months of age. The date of birth of late Mr. Irshad Ahmad Khan, the proposer being 13th May, 1960, his age next birthday on the date of the proposal, i.e. 1st February, 2002 was to be 42 years. Table VIII relating to Rule 4 of PLI Rules provides as follows:

* Monthly Premium for Rs.1000/- Sum Assured.

| Age of Proposer | For CP-14 | For CP-13 |
|---------------------------|---|---|
| Next Birthday 42 years | Age of Child Next Birthday being 4 to 11 years * Rs.6.38 | Age of Child Next Birthday being 5 to 12 years * Rs.6.84 |

Investigation of the complaint revealed that the Agency had treated the Policy to be of category CP-14, whereas in accordance with the above, it should have been treated to be of category CP-13. The amount of Rs. 1914/-, the first

three months premium had been calculated on the basis of the figure of Rs.6.38 as above, whereas treating of Policy as CP-13, it should have been worked out at the rate of Rs.6.84 per thousand of the Sum Assured. Therefore, the three months premium should have been Rs.2052/- instead of Rs.1914/-, the difference being Rs.138/-.

It was concluded that the complainant cannot be penalized for a fault wholly and solely that of the Agency in categorizing the Policy as CP-14 instead of CP-13. It was observed that accordingly, there was no reason whatsoever to refuse the claim of the complainant. However, the first three months premium should have been Rs.2052/- instead of Rs.1914/- and hence Rs.138/- were less paid. It was consequently recommended that:

- (i) The complainant be paid the amount of Rs.1 lakh, being the claim against the insurance; and
- (ii) The amount of Rs.138/- less paid, be adjusted out of the same.

DEFENCE DIVISION

(6) *Complaint No. Reg.H/9471/2000* Gratuity to be Paid to the Complainant Re-Employed as Civilian Cook.

Mr. Karam Hussain of Islamabad stated that he was re-employed as civilian cook in 5 Mountain Field Ambulance on 1st March, 1973 and was discharged on 1st December, 1993 on being declared surplus to the establishment. He had not been granted any pension in spite of the lapse of 7 years, due to which he requested for intervention.

In response to the complaint, 5 Mountain Field Ambulance intimated that the complainant was appointed as a Cook against a non-availability certificate issued by AMC Centre in lieu of a combatant on 7th June, 1975. He was discharged from service on 1st December, 1993 after 18 years and 5 months of service. Pension papers were submitted to CMP in May, 1996, but were returned with the observation that civilian employees could be granted pension only under the following conditions, which the complainant did not fulfil:

- (a) On attaining the age of superannuation.
- (b) Completion of 25 years qualifying service.
- (c) On impalement.

It was observed that since the complainant had more than 10 years of service he was eligible for grant of service gratuity. The unit was advised to submit his service gratuity claim to CMP. The matter was also referred to Military Accountant General (MAG) for necessary assistance.

The MAG confirmed that CMP Lahore Cantt. had issued service gratuity cheque in favour of the unit. Receipt of cheque was confirmed by the Commanding Officer, who also confirmed that the payment had been made to the complainant and his grievance stood redressed.

Pakistan Space and Upper Atmosphere Research Commission (SUPARCO)

(7) ***Complaint No. Reg.H/13468/2002***
Compassionate Allowance Recommended

Mr. Abdul Qahar resident of village Behram Dheri, Tehsil & District Mardan was appointed as Beldar in SUPARCO on 19th May, 1985. In April, 2002 he requested for retirement on medical grounds and at the same time requested for leave on full pay (LFP). The complainant was examined by the Central Medical Board. According to the report it was indicated that he was a patient of Pulmonary Tuberculosis and had been under treatment for one year. However, he was declared medically fit for duty by the Medical Board.

The Agency stated that after the expiry of his extended LFP the complainant reported for duty on 16th October, 2000 for one day and thereafter absented himself unauthorizedly, and did not report despite telegrams. Consequently, after due procedure under the Government Servants (E&D) Rules, 1973, the complainant was removed from service with effect from 15th March 2002. According to Section 19(3) of the Civil Servant's Act, 1973 no pension is admissible to a civil servant who is dismissed or removed from service, but Government may sanction 'compassionate allowance' not exceeding two-thirds of the pension or gratuity, which would have been admissible to him had he been invalided from service on the date of such dismissal or removal.

It was observed that the complainant had served the Agency from 19th May, 1985 to 14th March, 2002, i.e. for a period of about 17 years, and on the basis of the same, he would have been entitled to pension in the normal circumstances. Keeping in view the fact that the complainant is a patient of Tuberculosis, it was recommended that he be granted the 'compassionate allowance' envisaged as above.

The Agency came up with its reasons for not implementing the 'Recommendations'. In the Revised 'Findings' it was observed that the complainant who had been performing his duties for 17 years, absented himself from duties with effect from 17th October, 2000. It was observed that though reasons for the same, cannot be precisely established, it could presumably be ascribed not to wilful absence, but due to the disease, which might have aggravated at that time. Accordingly, the original 'Findings' were reconfirmed in the Revised 'Findings', stating that if the Agency continues to feel aggrieved by these reconfirmed 'Recommendations', it may if it so desires, prefer a representation to the President under Article 32 of President's Order No. 1 of 1983.

EDUCATION DIVISION

- (8) ***Complaint No. Reg.H/7630/2003***
Agency to Properly Evaluate the Cost of Living in Turkey and Ensure Finances to Scholars Accordingly

Mr. Aamir Hanif, Assistant Professor, Electrical Engineering Department, University of Engineering & Technology, Taxila stated that he was given a scholarship for doing Ph.D in Turkey, for which a monthly maintenance allowance of Rs.3000/- was sanctioned. He stated that he reached Turkey, on 22nd November, 2002 and found that it was not possible to exist in Turkey because this amount and his own salary of Rs.8500/-, which he was drawing from UET, Taxila as a Lecturer was insufficient to maintain the expenses. He stated that he therefore decided to come back to Pakistan on 27th November, 2002, joined the University and reported to the Ministry of Education as required. That Ministry debarred him from availing of any scholarship for five years.

The complainant alleged discrimination on the basis that his colleague, Mr. X, Assistant Professor had also gone to Turkey and had come back after one month, but he was not so debarred and was allowed to join UET, Taxila without any penalty. The complainant's appeal to the authorities about this discrimination had been rejected.

Investigation of the complaint not only confirmed the discrimination alleged by the complainant, but also maladministration in that the Ministry had failed to review the arrangements, which had discouraged the Scholars from staying in Turkey due to one and the same cause, i.e. high cost of living without adequate financial support.

It was accordingly recommended that:

- (i) The Ministry of Education should withdraw the order of debarring the complainant from availing further scholarships;
- (ii) It should carry out a proper study of cost of living in Turkey (and other countries to which the scholars are sent) and accept only those offers under Cultural Exchange Programmes, whereby scholars can live a respectable life and honourably pursue their studies/research, or in the alternative, grant subsidies from its own resources; and
- (iii) The subsidy of US\$ 200 sanctioned for students of General Studies, MA/MSc and \$300 to students of Ph.D per head per month in the annual budget be disbursed to the scholars at the earliest as per procedure.

Allama Iqbal Open University (AIOU)

(9) *Complaint No. Reg.H/5080/2003* Withheld B.Ed Degree to be Issued

Mr. Riasat Ali of Sargodha had passed BA from Karachi University and had taken admission in Allama Iqbal Open University (AIOU) for B.Ed. The university provided him pass results, but demanded from him a copy of his diploma from PAF. He told the university that he had no such diploma. The Karachi University had given the complainant admission in B.A on the basis of a certificate of PAF. The complainant consequently obtained the B.A Degree, on the basis of which AIOU had given him the admission in the B.Ed Course. The complainant stated that he had tried his best for the last 2 ½ years to get his B.Ed Degree from AIOU, but in vain.

AIOU stated in its report that the matter had been placed before the Academic Council and on the basis of their observations, they had written to the Karachi University to clarify the award of BA degree to the complainant, apparently after equating the complainant's PAF certificate to FA.

Investigation of the complaint indicated that the Karachi University had admitted the complainant to the B.A Course on the basis of PAF's Certificate of 2 months and 21 days training duration. The Certificate was referred to the Inter Board Committee of Chairmen (IBCC) who had ruled that it could be considered for job opportunities as additional qualification, but it could not be considered at par with HSSC.

In its reply to the AIOU, the Karachi University stated that after the complainant having been admitted and his having completed the B.A Course successfully, the certificate of PAF was 'immaterial'.

It was concluded that the complainant holds a valid degree from Karachi University, and AIOU have no powers to challenge the procedure and powers of Karachi University, which is an autonomous body of the Province of Sindh.

Moreover, it was observed that there were no provisions in the prospectus of AIOU, authorizing it to investigate the background qualifications of a candidate for acquiring a B.A degree from another University of the country, enjoying autonomy and statutory powers of awarding degrees. It was observed that the complainant had been duly admitted in the B.Ed. programme of AIOU in 1999, had successfully completed it, and passed the final examination. Withholding of the degree by the AIOU after that, was therefore held to be an act of maladministration. It was accordingly recommended that the B.Ed degree be issued to the complainant immediately.

FINANCE DIVISION

AGPR, Sub Office, Peshawar

- (10) ***Complaint No. Reg.P/2674/2002, P/2675 and P/2676/2002***
Gratuity to be Paid to Ex-Employees of Afghan Refugees Commissionerate.
No Recoveries to be Made on Account of Pension Erroneously Paid.

Mr. Muhammad Sayyar, Mr. Fazal-e-Rabbi, ex-UDCs and Syed Siddique Akbar, ex-LDC, Afghan Refugees Commissionerate, stated that they were allowed gratuity in the first instance and then withdrawing the same, they were allowed pension, and thereafter their pension as well was stopped. They requested for restoration of their pension on the plea that they had rendered more than nine years and nine months service in Afghan Refugees Organization and deficiency in their service upto six months could be condoned according to Finance Division's Notification No.F.19(1)-Reg.7/96-1031 dated 11th November, 1996.

The AGPR Sub Office, Peshawar had ordered the recovery of over-paid amount from them. The Agency stated that the complainants were retrenched employees of Afghan Refugees Organization and the Government had allowed pensionary benefits only to those retrenched employees of the Organization who had rendered at least 10 years qualifying service. During the checking of pension cases by an Audit Party it was noticed that some employees who had rendered more than 9 but less than 10 years service had been also allowed pension. On a

clarification sought by the States and Frontier Regions Division, the Finance Division had clarified that these retired employees were not entitled to pension, but to gratuity only, under Finance Division's O.M No.12(8)Reg-6/1 dated 31st December, 1982. This was stated as the reason for withdrawal of the benefit and consequent recoveries.

Examination of the matter indicated that the Finance Division had *ab initio* withdrawn the aforementioned orders dated 11th November, 1996 through letter No.Reg.-II/Misc/Pen/96-97 dated 2nd August, 2000. As such, in cases coming within the mischief of the order dated 11th November, 1996 the benefit of pension was withdrawn and recoveries of over-paid amounts were ordered.

It was held that the Finance Division had a right to interpret the earlier orders, but these could not be applied with retrospective effect. The affected employees had drawn pension under valid Government orders at that time. It was accordingly recommended that:

- (i) Being entitled only to receive gratuity, the request of the complainants for continuation of pension cannot be accepted, as being without merit;
- (ii) In terms of GFR-49, the Agency does not have any legal right to recover the amount of pension already paid; and
- (iii) The amount of gratuity admissible to each of such employees should be paid without any undue delay.

Zarai Taraqiati Bank Limited (ZTBL)

(11) *Complaint No. Reg.H/5696/2003* Issuance of Notice for Lumpsum Payment.

Qari Ghulam Habib Khan of Tehsil Essa Khel District Mianwali had obtained a loan of Rs.180,000/- from ADBP (now Zarai Taraqiati Bank Limited (ZTBL) in 1993 for purchase of tractor. He deposited Rs.270,567/- (inclusive of Rs.47,760/- as advance) in eight instalments. He alleged that he was never informed of the upward revision of mark up and resultant higher amount of instalments. Consequently, by a notice dated 7th May, 2003, the Bank required him to deposit an amount of Rs.128,878/- as the final instalment. The complainant stated that he was neither in a position to repay this amount in lumpsum nor he was satisfied with this action of the Bank. The Agency stated in its report that the complainant took the aforementioned loan on 8% rate of return on 20th February, 1993 but the rates were revised from time to time by the Bank. The

Agency stated that the change in rate of return was communicated to the complainant verbally through concerned Mobile Credit Officer (MCO), apprising him that the last instalment would consequently be quite heavy. The complainant repaid all his instalments except the last one i.e. Rs.128,878/-.

The Agency pointed to condition No.4 of the loan sanctioning letter and Clause 25 of the Loan Agreement. The same provided that the customer shall abide by the Bank's terms and conditions for grant of loan subject to variation, which may be made from time to time in pursuance of the provisions of Agricultural Development Bank Ordinance, 1961, the Rules and Regulations made thereunder and administrative orders/instructions of the Bank. The Agency took the stance that the complainant, as the borrower, had agreed to abide accordingly.

It was observed that there may be efficient Branch Managers who may have informed the borrowers of the change in mark up and resultant higher instalments in writing, but there may be many who did not inform the borrowers and kept on accepting the originally determined instalments, as a result of which the borrowers were being asked to pay the balance in lump sum. The same indicated that there are bound to be hardship cases.

In view of the above position, it was recommended that:

- (i) The case be placed before the Board of Directors to consider and decide on the relief required in the form of recovery in suitable instalments in all such cases where the mark up rate was revised from time to time and the borrowers are being asked to repay a rather heavy amount in lump sum;
- (ii) Till such time as a decision is taken by the Board of Directors as indicated in (i) above, recovery in lump sum should not be effected from the complainant.

(12) ***Complaint No. Reg.S/50/2001***
Agency to Release Retiring Benefits Withheld Illegally

Mr. Muhammad Nawaz Abbasi of Qamber, District Larkana, ex-Deputy Director of the Agency had opted for retirement under its Golden Handshake Scheme (GHS) and had retired on 31.10.1997. He stated that Mr. X, the then Regional Manager, Larkana, due to personal grudge with him raised a liability against him, relating to three loan cases, stated to have been processed by the complainant in 1991 when he was posted as Manager, ZTBL, Qamber Branch. The

complainant stated that he had never processed or investigated the loan cases in question, and rather they were actually processed by Mr. Z, a Mobile Credit Officer (MCO) and sanctioned by a Regional Manager, Mr. Y, who had been also retired in the same scheme, and full payment of retirement dues had been made to him.

In its report the Agency stated that the complainant was involved in the three defective loan cases, due to which an amount of Rs. 974,682/- had gone in default, and it was decided consequently, that an amount of Rs. 531,000/- be deducted from his retirement dues.

Investigation of the complaint indicated that the loans in question were investigated, processed and sanctioned in 1991, and neither the complainant, nor any other officer, if involved in defective processing etc. of the loans, was served with any charge sheet/show cause notice by the Agency. The liability was raised against the complainant when he retired on 31.10.1997. On the other hand, it was noted that Mr. Y, who had sanctioned the loans in question had retired under the same Scheme in 1997, was paid his full retirement dues. The Agency had also failed to take any action against Mr. Z, the MCO, who had investigated and scrutinized the loan cases.

It was thus concluded that there is no justification what-so-ever for withholding of Rs. 531,000/- from the complainant's retirement dues, and in doing so, the Agency is guilty of maladministration. It was consequently recommended that the Agency should release the aforementioned withheld amount to the complainant and also pay him the upto date mark-up on the same.

(13) ***Complaint No. Reg.F/967/2002***
Default of Late Father Cleared by Inheritor Not to Deprive Him of Fresh Loan

Mr. Ulfat Hussain of Tehsil Chichawatni District Sahiwal complained that the amount of tractor loan sanctioned to him has been withheld by the Agency.

ZTBL stated in its report that a loan of Rs.2,70,000/- was sanctioned in favour of the complainant on 20th October, 2001 for purchase of Fiat-480 tractor. The complainant's father Mr. Muhammad Sharif s/o Allah Bakhsh had taken a loan of Rs.1,30,000/- for the purchase of tractor in June, 1995, and repayment of the same was in default. ZTBL announced a relief package for the defaulters, as per its Circular dated 17th October, 2000. As the complainant's father had expired, he contacted the Bank in order to avail the same. He paid the default amount as determined by the Agency after giving remission according to the relief package.

However, as per Agency's Circular dated 20th November, 2000 such transferees of land who acquired agricultural land through inheritance or gift were not eligible for a fresh loan unless they paid back the afore-mentioned remitted amount with uptodate mark up. The Agency took the stance that as such, the complainant cannot be given a fresh loan unless he pays back the amount of remission given in the case of his late father's loan. This was stated to be the reason for withholding of the tractor loan that was sanctioned to him.

Examination of the case indicated that the complainant inherited the property from his father on 25th June, 1998, which was much earlier than his availing of the relief package on 30th June, 2001. It was observed that the complainant in fact assisted the Agency in recovering the dead amount of the loan taken by his late father on 29th June, 1995 and this should not create a disability with respect to his own relationship with the Agency.

It was also observed that there is a glaring difference between the two categories of title holders, i.e. those who got the title by gift and those who got the same by inheritance, following an act of God. It was observed that the Agency must adopt two different approaches for the said two categories.

It was held that refusal of the Agency to release the amount of tractor loan sanctioned to the complainant amounts to maladministration. It was consequently recommended that:

- (i) The amount of tractor loan sanctioned to the complainant be released to him without further delay and without insisting on the repayment of the amount of relief availed by him; and
- (ii) The Agency should ultimately re-examine the above policy and amend it in the context of the afore-mentioned rationale.

(14) ***Complaint No. Reg.P/3928/2002***
Repayment of Loan Liability Rationalised

Mst. Mumtaz Bagum d/o Mir Rehman, resident of Ijara, Tehsil and District Charsadda had obtained a loan of Rs.2,65,000/- for the purchase of Ttractor and Rs.40,000/- for its attachments/implements @ 8% interest from ZTBL on 25th March, 1992, and a written agreement was signed to this effect. However, when she requested for a copy of the agreement, she was told that the same cannot be given to her, being a secret document.

The complainant stated that she had been paying the instalments regularly over a period of 8 years against demand notices issued to her on the basis of 8%

mark up. However, when she enquired from the Bank Management about the balance amount outstanding, she was astonished that the entire payment had been adjusted against interest and not against the principal amount, and that also without informing her that the rate of interest had been increased gradually from 8% to 9%, 11% and 14%.

In its report the Agency stated that the complainant had undertaken to abide by the Bank's terms and conditions for the grant of loan, subject to variations which may be made from time to time. The Agency stated that as per general Banking practice, any payment made by the borrower is first adjusted towards mark up and the remaining amount towards the principal.

A Relief Package announced by ZTBL on 19th July, 2004 was also discussed during a hearing. It was found that although the complainant's case was covered by the same, it would not do full justice to her. In accordance with the same, the loanee was required to pay 50% of the outstanding amount of principal. Investigation of the complaint indicated that the complainant had been paying instalments almost regularly, and she was not at all informed about the revision of interest rates. It was observed that not only the loanee deserved to be given suitable relief, but also the procedure regarding re-payment should be rationalized. It was accordingly recommended that:

- (i) The complainant may either clear the left over balance of principal amounts of Rs.1,54,319/- as on 31st December, 2000 in respect of Tractor, and Rs.7,018/- as on 3rd November, 1997 regarding implements, in one go within a period of one month and the amount of return claimed by the Bank after 31st December, 2000 and 3rd November, 1997 respectively be waived off; or
- (ii) In case that may not be possible, the entire left over principal amounts as above, be split into four equal instalments to be repaid within a maximum period of four months on the existing rate of interest. Moreover, the amount of return claimed by the Bank after 31st December, 2000 and 3rd November, 1997 should stand waived off; and
- (iii) The amount of Rs.13,583/- paid by the loanee in respect of implements even after clearing the amount of return be adjusted against the principal amount; and
- (iv) The Bank should inform all borrowers invariably about all the major policy decisions concerning them and get proper acknowledgements in writing in future. Para 2(4) of the Sanction letter and Clause 25 of the Agreement Form

where-under a borrower cannot object to any change or amendments in the loan agreement from time to time may be examined and suitably amended.

HEALTH DIVISION

(15) ***Complaint No. Reg.H/12372/2003***
Delay in Constituting Medical Board.

Mst. Sahibzadi stated that her husband Mr. Dhani Bukhsh Abbasi, Registration Clerk in NADRA, DRO Badin is employed since 1982. She stated that he is suffering from some disease for the last 2 years. His department referred his case to the Medical Board for retirement, consequent to which the Ministry of Interior wrote a letter dated 12th July, 2003 to the Health Division, Islamabad for the purpose. She stated that despite passage of one year the Board has not been held.

On the Contrary, the Agency stated in its report that the incumbent did not report to the Central Medical Board for medical examination till 5th April, 2004 in spite of being asked. During the hearing that was held, the representative of the Agency again reiterated that in spite of being addressed, the individual did not report for medical examination. However, the Agency's representative could not produce any notice or letter issued to the complainant or his Department by the Director Central Health Establishment fixing a date and time for the individual to appear before the Board.

Investigation of the complaint indicated that there is a possibility that the complainant did not get the information regarding the date of his medical Board and he kept on waiting for a call, which he never got.

In the light of the foregoing it was recommended that:

- (i) The Ministry of Health should carry out a study of the procedure being followed by the Director Central Health Establishment, Karachi for fixing schedules for holding Medical Board for retirement and other purposes and the method of intimation of the same to the concerned Departments of affected individuals; and
- (ii) The complainant's Medical Board be held immediately and he be informed of the date and time for the same preferably through his Department at Badin.

National Council of Homoeopathy (NCH)**(16) *Complaint No. Reg.H/1228/2004*
Unfair Withholding of Results by the National Council of Homoeopathy**

Ms Shaista of Hyderabad stated that she had obtained admission in Foundation Homeopathic Medical College in the year 2002. She had appeared in the 1st year examination conducted by the National Council of Homoeopathy in May, 2003. Results were declared in August, 2003 but her result was held up. She requested for intervention, so that she could appear in the 2nd year examination.

Homeopathic Medical Colleges are controlled by National Council of Homoeopathy (NCH), established under Homoeopathic Practitioners Act, 1965 (II of 1965). Calling of applications for admission by unregistered colleges is prohibited under Section 37A *ibid*. In its report the Agency stated that the college joined by the complainant is an unrecognised one and it had served notices to unrecognised colleges not to carry out admissions unless they are recognized; or in the alternative to ensure that students enrolled in their colleges should be transferred to recognized institutions. There were originally 25 unrecognised colleges, out of whom 10 had been recognized, while 15 were still unrecognised, including the complainant's College.

Investigation of the complaint revealed that NCH had received enrolment forms and examination fees from students of all the unrecognised colleges when examination for the year 2002-2003 were held in October, 2002. The Council had also issued Admit Cards to the students to appear in the examination and had deposited the received amounts in its Account. However, their answer scripts were now lying un-marked, while schedule of applications for examination of 2nd year had been also issued. In spite of the same, the results were not declared.

It was observed that sponsors of the Homeopathic Colleges spend millions of Rupees in setting up the colleges and pay huge registration fees, but keep running from pillar to post for the purpose of recognition. The complainant's college was inspected a number of times and deficiencies were indicated every time. It was observed that it is the students of these unfortunate colleges who finally suffer in the process.

Maladministration was thus established in various aspects against the Agency and it was *inter-alia* recommended that:

- (i) Results of all the colleges, the students of which had been issued Admit Cards be declared after marking of answer scripts.

- (ii) Ministry of Health should take appropriate measures to improve the working of NCH so as to:
 - (a) Expedite recognition process of unrecognised colleges through an efficient mechanism/process; and
 - (b) Stop the unrecognised colleges effectively from admitting students in violation of Section 37 A of the law.

INFORMATION TECHNOLOGY & TELECOM DIVISION

Pakistan Telecommunication Company Limited (PTCL)

(17) ***Complaint No. Reg. K/679/2003***
Excessive/Wrong Billing

Mr. M. Hassan Ajmeri of Karachi received a bill of Rs.13,119/- on account of overseas calls made from his telephone on 21st July, 2002. Since he had not made the calls, he filed a petition before the Agency, whose HVC rejected the same. He filed an appeal against the said order to the RVC which also rejected his prayer on the plea of his failure to use the secret code for barring overseas, NWD/STD calls. He stated that he was not aware that he could prevent the misuse of his telephone by activation of the secret code. He requested that the bill in question be withdrawn.

In its report the Agency stated that the RVC rejected the petition of the complainant on 14th January, 2003 on the basis of failure of the complainant to use his secret code facility. The Agency took the stance that since the calls had been made from the phone of the complainant, he was liable to discharge his liability. In his rejoinder the complainant pointed out that he had also been billed a sum of Rs.4,017/- on account of NWD calls which he never made.

Investigation of the complaint indicated that all the calls had been made on a single day, i.e. on 21st July, 2002 to countries like Saudi Arabia, Switzerland and India. Same numbers had been called in succession. Representative of the Agency conceded during the hearing that the complainant could not have made so many calls on one single day in quick succession in a short period of time. The Agency admitted that the possibility could not be ruled out that the telephone line was misused by parallel connection or by interception.

Consequently, it was recommended that the Agency should:

- (i) Waive/withdraw both the bills, amounting to Rs.13,119/- and Rs.4,017/-, on account of overseas and NWD calls respectively;
- (ii) Undertake an awareness programme through media, particularly the electronic medium, about the advantages of use of freely provided facility of secret code for barring outgoing calls; and
- (iii) Hold a thorough probe to unearth the responsible officials in this case and take disciplinary action against them.

(18) ***Complaint No. Reg. H/2415/2003***
Misuse of Telephone in Complainant's Absence

Dr. Iftikhar Ahmed of Lahore had been selected as a Paediatrician by the Ministry of Health, Government of Iran, in the year 1990, consequent to which he requested that his telephone No. 380534 installed at his residence No. E-14/D, Street No. 7, Officers Colony Lahore Cantt. may be placed under 'Safe Custody'. The same was effectuated on 28.7.1990. During his absence he never got this telephone operational, as he was in a possession of another telephone No.6680034 in the same premises.

The complainant stated that during his absence his telephone No. 380534 was shifted unauthorizedly from his residence to Rasool Begum Building, Walton Road, Lahore on 20.12.1992 where it was misused heavily. Due to non-payment of bills it was closed, then restored and yet again closed. As a result the complainant was burdened with the liability of a telephone bill of Rs. 88,520/-. According to him, his telephone could not have been shifted/restored under PTCL Rules unless and until clearance certificate was obtained from the SRO that there are no arrears against it, besides, the subscriber has to formally apply for the restoration of his telephone number. With the same, the complainant alleged that the misuse was carried out duly with the connivance of the officers/officials of the Agency.

On his complaint to the Agency, the KAP Associates who are authorized contractors of PTCL for collecting the telephone revenues, stated that the actual defaulter has been traced. During the hearing that was held, the Passport of the complainant was perused, which indicated that he left for Iran firstly on 6.8.1991, a second time on 5.5.1992, and a third time on 10.6.1993. He entered the country on 15.4.1992 and 21.4.1993. On perusal of PTCL record in respect of defaulter telephone No. 380534 it was noticed that no formal application for its restoration

was found in the relevant record. Not only that, the clearance certificate prior to shifting of telephone connection, which is a mandatory provision, was also not available in the file.

Maladministration thus having been established against the Agency, it was recommended that:

- (i) The complainant be absolved of the responsibility to pay PTCL's dues;
- (ii) PTCL should recover the defaulted amount of Rs.88520/- in appropriate proportion from the officers/officials who had not only managed restoration of telephone No.380534 on improper documents but also had allowed it to be misused; and
- (iii) Action against those officers/officials who are found involved should be initiated under the E&D Rules, 1973.

(19) ***Complaint No. Reg.L/3663/2001***
Unjust Recovery Notice. Default Amount to be Recovered from Agency's Officials

Mr. Muhammad Saleem Sheikh of Lahore stated that he had been declared a defaulter by PTCL for non-payment of dues amounting to Rs. 287,968/-, stated to be outstanding since 1994 against telephone No. 6859920, which was allegedly installed in his name at 28 Ayesha Colony, Baghbanpura, Lahore. The Recovery Inspector took the complainant to the aforementioned premises, belonging to Mst. Naseem Afza, who informed the Recovery Inspector that she did not know the complainant and he had never been her tenant. Record of the Agency indicated that Mr. Ali Khan and Mr. Tanweer Ahmad had been the witnesses to the hiring contract. They were also contacted on their given telephone numbers by the Recovery Inspector and they also denied having given any affidavit to the complainant or to the Director, Revenue Recovery, PTCL. It was thus proved that the connection was installed fraudulently in the name of the complainant.

On examining the record of the Agency, it was clear that signatures on hiring contract were different from those of the complainant as on his NIC, the supposed NOC given by the owner of the premises, Mst. Naseem Afza was bogus. It was concluded that in installing this connection fraudulently in the name of the complainant, there was gross negligence on the part of at least two officials; slight negligence was also found on the part of the then Divisional Engineer, in according approval for issuance of Demand Note.

It was observed that a loss of Rs. 287,968/- had been caused to the national exchequer/PTCL, but it was due to the negligence of PTCL officials, and the complainant was in no way responsible for it. It was accordingly recommended that:

- i) The defaulted amount of Rs. 287,968/- be recovered from the responsible staff in proportion to their responsibility; and
- ii) Disciplinary action be initiated under the Efficiency & Discipline Rules, 1973 against the concerned staff for their misconduct, inefficiency and negligence in performing their duties in installing telephone number 6859920 on improper documents.

(20) **Complaint No. Reg.L/4476/2002**
Wrong Billing

Mr. Qasim Yar Tiwana of Lahore Cantt stated that in the year 1994 his mother late Mrs. M. Yar Tiwana had rented out her premises No. 18-A, Zafar Ali Road, Lahore to a Company X. The office of the Company was located in the upper portion and the ground floor was used for residential purposes by the tenant Company. A telephone No. 6650694 was installed in the name of complainant's late mother, which remained in the use of the tenant with her permission, till vacation of the house in February, 1997.

Two more telephone connections No. 6669946 and 6672289 were also got operational by the tenant Company on the premises in the name of Mr. A. After the vacation of the premises, bills for outstanding dues were received as follows:

| Telephone No. | Outstanding Dues |
|---------------|------------------|
| 6650694 | Rs. 9,905/- |
| 6669946 | Rs. 264,640/- |
| 6672289 | Rs. 211,233/- |

The complainant prayed that he cannot be held responsible for the dues against telephone No.6669949 and 6672289. All the three telephone numbers had been disconnected due to non-payment of the default amounts. Due to default in respect of these telephones, another telephone No. 6676663 of the complainant was also disconnected.

It was observed that PTCL had amended the definition of defaulter premises vide letter No. PH:1-9/2000 dated 14.11.2001, according to which the

owners is not liable to pay the charges for the use of telephone by a tenant. It was accordingly recommended that:

- (i) The complainant be absolved of the responsibility to pay the outstanding dues of PTCL against telephone numbers 6669946 & 6672289, with which he was not concerned, and his T. No. 6650694 be restored after the payment of Rs. 9905/-, the outstanding dues against it, and fulfilment of all codal formalities under the rules;
- (ii) Telephone number 6676663 in the name of owners of the premises be restored on payment of dues outstanding against it, if any;
- (iii) Disciplinary action be initiated against those officers/officials of the Agency who were found responsible for not disconnecting the telephone numbers in question and allowing the arrears to accumulate; and
- (iv) The accumulated arrears (Rs.475,873/-) be recovered in appropriate proportion from those held responsible, as a consequence of action under (iii) above.

(21) ***Complaint No. Reg.H/1410/2002 link with (i) Reg.H/964/2002 (ii) Reg.H/990/2002 (iii) Reg.H/1578/2002 (iv) Reg.H/797/2002***
Facility of Premium Rate Calls to be Activated Only on Subscriber's Request

Mr. Saeed Ahmad Shah of Islamabad stated that he was billed calls made to an unknown No.517777279 during September, October and November, 2001 and January, 2002. No action was taken on his complaint to the Agency. He requested that charges against the disputed calls be deleted and bills revised.

The General Manager, ITR, Islamabad stated in his report that the disputed number was dialled to participate in SAF Games Quiz Programme. The number dialled by the subscriber was 0900-27933. Calls made to this number are routed to intelligent network (IN) platform via the premium rate interface No.517777279 allocated to the SAF Games Secretariat. That is why telephone No.517777279 appeared in the bills instead of No.0900-27933. These calls were charged at Rs.25.41 per minute. The complaint filed by the complainant had been discussed and rejected by the DVC on 2nd February, 2002.

The Agency informed that the programme was advertised by SAF Games Secretariat in press before it was launched. Cost of calls was mentioned in the advertisement. PTCL had also released an advertisement regarding premium rate calls separately. The calls are billed on the basis of data recorded by the computer

installed at clients end. Being a new project, certain problems were encountered in retrieval of data, which resulted in the billing being delayed, but the problems were resolved later on.

It was observed that the value of prizes offered by sponsors of the quiz programmes and the aggressive marketing increases the possibility of misuse of a connection by unscrupulous elements. The Agency argued that the same can be prevented with the use of calling code facility available to the subscribers. It was observed that one should not lose sight of the fact that a very large majority of subscribers, specially in rural areas, are barely literate and not conversant with the calling code facility, much less the activation and deactivation procedures.

It was recommended that in future, the facility of premium rate calls should be activated on the written request of the subscriber, like other value added services. A copy of these 'Findings' was also endorsed to the Chairman, Pakistan Telecommunication Authority for his indulgence, in view of a large number of complaints being received on this account.

(22) ***Complaint No. Reg.S/655/2003***
Agency to Apologize for Giving Telephone Numbers Without Technical Feasibility and to Refund the Amount of Bogus Bills

Mr. Sarang Khan and two others of Moro, District Naushahro Feroze stated that after waiting for New Telephone Connections (NTCs) for about two years, they had received the Demand Notes on 21.5.2001, the amount of which was paid by them. However, the telephones were not installed, while they were allotted telephone numbers in their names as under:

- | | | |
|------|-----------------|-------------------|
| i) | Tel. No. 411185 | Mr. Ghulam Sarwar |
| ii) | Tel. No. 411683 | Mr. Shamam Ali |
| iii) | Tel. No. 411033 | Mr. Sarang Khan |

The complainants consequently started receiving telephone bills, in which not only the current PTCL dues were claimed, but arrears running into thousands were also included. They requested for inquiry and action against the concerned officials involved in this 'deplorable example of PTCL degeneration.'

In its report, the Divisional Engineer (Telephones), Nawabshah stated that the Demand Notes were issued to the complainants in May, 2001 under a 'promotional package', they paid the amounts, on which they were allotted telephone numbers, without physical installation of telephones. It was stated that

NTCs installation was not technically feasible in the village of the complainants due to non-availability of the OSP net-work.

The complainants had been billed for amounts of Rs. 4710/-, Rs.5800/- and Rs. 4700/- respectively without there being telephone connections. The Agency was held responsible for gross maladministration in doing so and also for extending the 'promotional package', when it was simply not possible to install the telephones in complainants' village. It was consequently recommended that:

- i) The PTCL should extend a sincere apology to the complainants for being unable to provide NTC installation due to technical reasons;
- ii) Refund the amount of demand notes deposited by them;
- iii) Cancel all the bogus bills issued to the complainants against their non-existent telephones; and
- iv) Fix responsibility to punish those who conducted a bogus promotional campaign of NTCs.

(23) ***Complaint No. Reg.H/764/2003***
Complainant Recommended for Appointment Against Disabled Persons Quota

Mr. Muhammad Zubair of Sargodha stated that he had applied for the post of Engineering Supervisor in PTCL in response to the advertisement. He appeared for the test/interview and although he was first in merit amongst the candidates selected against the disabled persons quota, he was not issued an appointment letter. The complainant stated that he is the only supporter of 7 brothers and sister and a mother.

The Agency stated in its report that the complainant had neither mentioned as his disability nor attached any disability certificate with his application, and alleged that his claim is an afterthought. It was stated that the complainant was considered against Punjab quota. He secured 77.40 marks, whereas the last candidate selected against Punjab quota had secured 78.90 marks. The Agency stated that the five candidates who had been selected against the 2% reserved quota for disabled persons, had provided clear evidence of their disability.

The complainant stated in his rejoinder that candidates selected against disabled quota had secured less marks than him. Secondly, he stated that he had submitted his request for consideration against disabled persons quota by registered letter dated 28th October, 2002, but he received no response.

Examination of the matter indicated that the advertisement released to the press had no mention of total number of vacancies and their break down by quotas. It was further revealed that out of five candidates selected against disabled persons quota, three had not mentioned any disability in their applications, like the complainant. It was observed that the complainant has a polio affected leg and walks with the help of crutches, and it was surprising as to how the Selection Committee could miss this and not consider the complainant against disabled persons category. Maladministration was thus established against the Agency.

As the process of recruitment had since been finalized and the selected candidates had already undergone departmental training, it was recommended that the complainant's case be reconsidered afresh alongwith other candidates now being considered for recruitment, in response to an advertisement, which had appeared in the press on 28th September, 2003, as a special case.

(24) ***Complaint No. Reg.H/6320/2003***
Complainant be Paid Rent with Three Yearly Increase as Initially Committed by the Agency

Mrs. Asifa Haroon of Islamabad stated that her late husband had leased building No.26, I&T Centre, G-8/4, Islamabad to PTCL w.e.f. 3rd March, 1986 for a period of three years at a monthly rent of Rs.5168/-. The lease was extended for another term of three years and the rent was enhanced by 25% to Rs.6460/- per month. The complainant's husband died on 4th May, 1991 and payment of rent was discontinued by the Agency. The complainant requested the PTCL to intimate the rent payable to her, in order to enable her to apply for a succession certificate. In response, the Director (Admn) PTCL vide letter No.1-9/98 dated 20th July, 1998 intimated that after grant of 25% increase after every three years, she was entitled to receive Rs.8075/- p.m. from 10th April, 1992 to 9th April, 1995, Rs.10,094/- p.m. from 10th April, 1995 to 9th April, 1998 and Rs.12,617/- p.m. from 10th April, 1998 to 9th April, 2001.

The complainant applied for a succession certificate in the Court of Civil Judge, Islamabad accordingly, which was issued on 31st July, 2002. Instead of making the payment at the agreed rate, the Agency issued a sanction for Rs.941,222/- based on a flat rate of Rs.6406/- p.m. for the entire remaining period of occupation. The complainant called this as unjust in view of the rates already conceded by the Agency in its letter dated 20th July, 1998.

In its report, the Agency justified the aforementioned sanction for Rs.941,222/- with the stance that there was no fresh agreement for enhanced rates, and hence the complainant was not entitled to the increases as claimed.

Further, the Agency took the stance that after the complainant had obtained the succession certificate some relatives had filed a civil suite questioning her title to the property. The Agency stated with the same that the matter was sub-judice. However, it was observed that the stance is incorrect, as the suit in the court of Senior Civil Judge, Islamabad had been dismissed on 24th January, 2003 and the appeal consequent to the same had been dismissed by the District Judge, Islamabad on 26th March, 2003. The complainant had filed the instant complaint after the same on 10th July, 2003.

The stance of the Agency of not having signed renewed lease agreement on enhanced rates was also rejected, being unfair. Maladministration, thus having been established against the Agency, it was recommended that the complainant be paid rent at the rates intimated vide PTCL Headquarters letter No.1-9/1986 dated 20th July, 1998.

(25) ***Complaint No. Reg.S/366/2001***
Excessive/Wrong Billing

Mr. Altaf Hussain of Mehrabpur, District Naushahro Feroze stated that he basically uses his telephone No.210-MHR for incoming calls and makes outgoing calls rarely, but in spite of that he received a grossly unjust bill for March 2001, amounting to Rs.245,690/-. He stated that the PTCL staff had tried to persuade him that his bills could be reduced to a nominal amount, if he, like many others, greased their palms. He refused the same and as a retribution the very next month, 99963 local calls were posted in his account and the aforementioned heavy bill was charged on him. The complainant stated that he lodged complaints with the Agency, but it remained unmoved. The complainant stated that his family had been terribly distressed with the levy of these huge illegal charges.

In its report the Agency stated that the complainant's complaint was considered by the DVC Panel on 29th April, 2002 and it was observed that excessive billing had been due to 'technical reasons'. Consequently, a rebate of Rs.242,294/- was recommended. However, as the same was beyond the competence of the DVC, its 'Recommendations' were forwarded to the General Manager, STR-V, Sukkur for final approval, where the case had been pending since April, 2002.

Investigation of the complaint revealed that while a forum in the shape of RVC already exists for examining the cases involving rebate beyond the competence of the DVC, the General Manger instead constituted a Committee under the Chairmanship of Deputy General Manager to examine these, including

22 others also, and the matter had stood at that. The arrears of the complainant arose to the figure Rs.267,590/- till February, 2003.

It was held that the arrears were not caused due to misuse of the telephone by the complainant and the DVC acknowledged the same and recommended a rebate. The Agency had also failed to explain as to what was the 'technical fault' involved in the 22 cases. It was observed that there was no justification for the General Manager to bypass the RVC and constitute a parallel Committee, which had not even met once in a period of two years. Gross maladministration was therefore established against the Agency.

It was accordingly recommended that the Agency should:

- (i) Immediately provide a rebate of Rs.267,590/- to the complainant in light of the acknowledgement of the DVC regarding the arrears being unfair;
- (ii) Expedite settlement of the 22 other cases of similar nature; and
- (iii) Convey displeasure to the General Manager, STR-V Sukkur for his role as above.

(26) ***Complaint No. Reg.M/57/2004***
Interest to be Paid for Delayed Payment of Gratuity/Commutation

Mr. Javed Saleem of Bahawalnagar, who had retired as a Telephone Operator complained that his gratuity was delayed for 4 years and 6 months. He requested that interest be paid to him for the delayed payment; the expenses incurred on the medical treatment of himself and his family during these years be reimbursed to him; and leave salary be paid to him for 26 days, lying in his credit at the time of his retirement.

The Agency stated that the complainant was appointed as Telephone Operator on 9th March, 1982, was allowed to retire on medical grounds w.e.f 12th November, 1996, during his service he availed 1837 days leave without pay, and thus had qualifying service of 9 years 11 months and 9 days at the time of his retirement. It was stated that the complainant applied for pension on 14th February, 2000 and his pension/gratuity case was finalized by Director Commercial Accounts, PTCL on 10th May, 2001.

The Agency further stated that the complainant applied for a medical card on 7th July, 2001 and the card was issued to him on 24th July, 2001. As regards his claim regarding the payment of 26 days leave salary, it was stated that the same

cannot be acceded to, as the period had been commuted towards his qualifying service in the light of 'Recommendations' of this Secretariat dated 14th December, 2000 in case No. L/7203/2000.

Examination of the case indicated that during the proceedings of case No. L/7203/2000, the Agency had failed to bring to notice that Article 21-8(1) of PTCL Service Regulations, 1996, clearly provides that deficiencies upto 6 months in qualifying service shall be deemed to have been condoned automatically. Due to the concealment of this fact by the Agency, this Secretariat gave 'Recommendations' of adjusting 21 days from the earned leave to make up the deficiency in qualifying service, which was not necessary in view of the aforementioned Article.

It was concluded that the Agency had unnecessarily delayed payment of gratuity/commutation to the complainant. As regards leave salary of 26 days, it was seen that the relevant rules provided that the employee is entitled to encashment in lieu of the earned leave, only if he had applied for leave, but was refused by the competent authority, which was not the case here. As regards the medical expenses during the period of over four years, it was observed that the complainant's general request, without any medical bills, could not be acceded to.

Consequently, it was recommended that the Agency should:

- (i) Pay the complainant interest on the gratuity/commutation he received, on the Bank rate for the period from 12th November, 1996 to 14th May, 2001.
- (ii) Take disciplinary action against the Divisional Engineer, Bahawalnagar who refused to pay the pension/gratuity in violation of Article 21-18(1) of PTCL Service Regulations, 1996 and delayed the finalization of the case for more than four years.

(27) ***Complaint No. Reg.S/758/2002***
Excessive Wrong Billing

Haji Muhammad Sarwar of Bhirya Road District Naushahro Feroze complained about inflated bill for Rs.147,090/- relating to June, 2001 against his telephone No.435689, due to 60177 calls having been recorded. The complainant stated that his monthly expenditure on telephone had never exceeded Rs.10,00/- per month on the average, while there had been some fluctuation. He was not ready to believe that it could however rise to this

forbidding figure. He could not get any relief consequent to his complaints to the Agency for correction of the bill.

The Agency stated in its report that the Divisional Vigilance Committee had considered the complaint in its meeting held on 8th March, 2003, and after observing that the telephone was STD and the case was time barred, the complaint was rejected. The arrears against the complainant arose upto Rs.148,330/- upto February, 2003.

Billing data from 5/2000 to 4/2001 indicated that in the three years period the number of calls from the complainant's telephone had averaged between 200 to 250. However, in November, 2000 a high number of calls, i.e. 3766 was recorded. On his complaint, the DVC had waived off calls upto 3466 out of the same.

On a careful examination, the Agency located a technical fault in complainant's telephone, i.e. that it was 'continually stepping after tracing of circuit and BZ pins were touching with a piece of reason core'. As a result, it was acknowledged that the complainant's meter had become defective.

As regards the observation of the DVC, rejecting the complaint as time barred, it was observed that the complainant had applied for cancellation of excessive calls immediately after receiving the bill. Secondly, it was observed that the complainant's telephone being STD is irrelevant, as number of calls had not exceeded 250 during the three years period. These facts had been totally ignored by the DVC. Accordingly, it was recommended that the Agency should:

- (i) Immediately waive off 60177 calls recorded in the complainant's monthly bill for June, 2001;
- (ii) Issue a revised corrected bill to him by adjusting the amount of arrears standing at Rs.148,330/-; and
- (iii) Instruct the Divisional Vigilance Committee to adopt a more realistic attitude in examining the subscribers' complaints with a positive mind.

(28) ***Complaint No. Reg.H/3666/2002***
Rebate for Excessive Billing Ensured

Mr. Javaid Iqbal of Mehrabpur, District Naushahro Feroze, subscriber of Telephone No. 738 stated that his monthly expenditure had never exceeded beyond a few hundred Rupees, but in January, 2002 he received a bill for Rs. 247,680/-, which he believed was highly inflated. He lodged several

complaints to the concerned authorities, but in vain. He therefore requested for intervention.

The Agency stated in its report that telephone No. 738-MHR was installed in the name of the complainant on 30.3.1985, and was converted into digital No. 430738 on 4.3.2002 on the commissioning of digital exchange at Mehrabpur. The Agency stated that the complaint was considered by the Divisional Vigilance Committee (DVC) on 22.4.2002 and keeping in view the previous trend of calls as well as the technical report of the Assistant Engineer, Telephones, Mehrabpur, the bill was revised from 99058 calls to 1652 calls. It was stated that consequently, a rebate of Rs. 236,727/- was recommended for the complainant, but for its adjustment, the final approval of General Manager, STR-V, Sukkur was pending.

A hearing in the case was held on 27.4.2004, which was attended by both the parties. It was observed that the aforementioned formal approval for the rebate recommended by the DVC had been pending with the GM for more than two years. The Divisional Engineer, Telephones informed that a Technical Committee had been constituted by the General Manager to examine the reasons for which highly inflated bills had been sent to the complainant and to some other subscribers in the similar way. The Technical Committee had not, however, been able to hold an inquiry to determine the cause of excessive billing. It was agreed that the matter would be decided within 30 days. Consequently, the rebate was finally confirmed by the General Manager STR-V, Sukkur by his letter dated 25.8.2004. The complainant's grievance was thus redressed consequent to intervention of this Secretariat.

(29) ***Complaint No. Reg.H/5501/2003***
Grievance Regarding Excessive Billing Redressed

Rana Abdul Sattar of Tehsil and District D. G. Khan complained that in his bill for 12/2002 he was charged for a call of 428 minutes duration, supposed to have been made on 20.12.2002. He approached the Agency for correction of this bill, but his efforts having failed, he requested for intervention.

The Agency stated in its report that the call in question was recorded by the 'In Platform' and processed accurately by 'SDC Wing' of computer. The PRS No. dialled by the complainant was 0900-77721, against which the call was charged @ Rs. 12.06 per minute. The complainant was supposed to have remained connected with the 'IN Platform' of M/S Tele-Media for the duration mentioned against the call.

The case of long duration call of 428 minutes (07 hours and 08 minutes) was considered in the meeting of the DVC, held on 28.08.2003 and was rejected. It was also considered in the RVC meeting on 18.03.2004, but the complainant could not represent himself and the case was kept pending till the next meeting of RVC.

A hearing that was held in the case, was attended by a representative of PTCL Multan Region, Multan and the complainant. Representative of the Agency was asked to reconsider the case in the RVC after associating the complainant and intimate the outcome thereof.

Consequently, the Agency intimated that the RVC revised the disputed call of the complainant to 3 minutes duration only. The genuine grievance of the complainant thus stood redressed.

HOUSING AND WORKS DIVISION

Estate Office

(30) ***Complaint No. Reg.L/280/2003***
Procedure for Hiring of Houses for Government Servants Recommended to be Rationalised. 'Recommendations' Accepted by the Government

Mr. Muhammad Asim Mehr of Lahore stated that he had been living in a private house, hired through Estate Office, Lahore on 21st June, 1992. He applied for enhancement of rent after three years and thereafter periodically, as per his entitlement and rules, but there was no outcome. He was informed that the case for enhancement of rent had been sent to the Ministry of Housing and Works on 18th August, 2001, but there was no response. The complainant requested that the Agency be directed to allow enhancement of rent of the house as per his entitlement and rules.

In addition to addressing the grievance of the complainant, the matter was also looked at in the larger perspective. It was noticed that over 90% of Government servants who had been provided with official accommodation, go in for hiring private/self owned houses. An extremely cumbersome process is involved, and the Ministry of Housing and Works and Estate Offices all over the country have a huge establishment dealing centrally with hiring cases. It therefore appeared rational that the process of such hiring should be decentralized, the Ministries/Division should do the hiring at their own level, and specific budget provisions be provided to them for this purpose. It was observed that autonomous

bodies of the Federal Government are already processing the hiring cases of their employees at their own level and rarely any complaints had arisen in this regard.

It was accordingly recommended that while the Agency should issue the sanction for increase in rent in case of the complainant according to his entitlement and rules, for a rectification of the whole system, it was recommended that the Agency should examine the possibility of doing away with the centralized hiring of private accommodation and delegate powers to the respective Ministries/Division and Organizations of the Federal Government, to whom requisite funds should be allocated for the purpose, instead of the Works Division as was being done presently.

A copy of these 'Findings' and 'Recommendations' were also forwarded to the Principal Secretary to the Prime Minister and Secretary Finance Division for having a Committee constituted for examining the issues as per above. It is most assuring that the Government implemented these 'Recommendations' and the hiring of private houses was decentralized accordingly w.e.f. 1st July, 2004.

(31) ***Complaint No. Reg.H/1140/2003***
Discriminatory Treatment in Hiring of House

Mrs. Aasia Bano, Lecturer, F. G. College for Women, Kashmir Road, Rawalpindi stated that she had applied for hiring a private house. She stated that the Ministry of Housing & Works hired a house for her for one year from 7th October, 2002 to 6th October, 2003, while it allowed hiring to her colleague for two years. She thus complained of discrimination.

The Agency stated in its report that the complainant, is an employee of Cantonment Garrison Institutions and the Government/Works Division discontinued the facility of hiring for these employees from the pool of the Estate Office w.e.f 20th May, 2003. However, the order was withdrawn on 20th December, 2003. However, the order was withdrawn on 20th December, 2003. The Agency stated that accordingly, the lease can be executed now further for three years, for which the owner/allottee may contact the Estate Office.

It may be stated that the Agency had restored the aforementioned facility in compliance with the 'Findings'/'Recommendations' of this Secretariat in another case.

(32) **Complaint No. Reg.H/8957/2003**
Rent of Hired House to be Paid from the Date of Actual Occupation by the Allottee

Mr. Gulzada, Assistant, Ministry of Health, Islamabad stated that his house No.2040 Dhoke Hassu, Rawalpindi was hired by the Agency w.e.f 12th October, 2002 for the residence of Mr. Shafiq-ur-Rehman, Stenotypist. Pak. PWD took over the house. The allottee had been living in the house since then, but sanction for hiring was issued w.e.f 15th April, 2003, without assigning any reason. Consequently, the complainant was not paid any rent for the period of 12th October, 2002 to 14th April, 2003, which caused the complaint.

Investigation of the complaint indicated that the Estate Office accorded the permission for hiring the house w.e.f 12th October, 2002, but the Assessment Board reported on 25th February, 2003 that the house was incomplete and recommended for withdrawal of permission to occupy the same. Works Division withdrew the permission vide their letter dated 21st March, 2003, but subsequently restored the status quo vide their letter dated 29th March, 2003. The house was again inspected on 15th April, 2003 and was found complete and recommended for hiring w.e.f 15th April, 2003.

It was observed that it was a case of maladministration, in that the Agency issued permission to hire/occupy the house w.e.f 12th October, 2002 without firstly ascertaining whether it was fit for occupation. The house remained in the use of the allottee w.e.f 12th October, 2002 irrespective of its state of completion. Accordingly, the complainant was entitled to receive the rent with effect from that date.

Consequently, it was recommended that:

- (i) The complainant be paid rent w.e.f 12th October, 2002 as his house was in occupation of a Federal Government servant with the permission of Ministry of Housing and Works.
- (ii) Before allowing occupation/hiring of a house a preliminary inspection of the house should be arranged by the Works Division to ascertain if the house is fit for hiring.
- (iii) While granting sanction for occupation/hiring of a house the Works Division should fix a date for the visit/assessment by the Assessment Board and mention it in the permission letter itself instead of leaving the matter to the Estate Office.

(33) ***Complaint No. Reg.H/7538/2004***
Retiring Officer's Serving Daughter to be Allowed to Retain the Father's Accommodation Or Alloted Alternate Accommodation

Ch. Asghar Hussain, ex-D.G, NADRA, stated that on his retirement, he applied for allotment of Government owned house No.69-Cat-II, St.36, F-6/1, Islamabad, which had been allotted to him during service, to his real daughter on the restoration of Rule 16(14), allowing the same. The complainant stated that his daughter had not been allotted any Government accommodation during her 15 years service as a teacher under the Ministry of Education. Instead the Estate Office issued a notice dated 13th August, 2004 to the complainant to vacate the house within 24 hours. The complainant also alleged that the Agency had malafide intention to allot the house 'to a person of their choice'.

On taking up the matter with Agency, it stated firstly, that the complainant's daughter was in BPS-14 and her request was not covered under the provisions of Rule 15(2) of Accommodation Allocation Rules, 2002, as the accommodation was two categories above her entitlement. Secondly, the Agency took the plea that the complainant's daughter had not formally applied to the Ministry of Housing and Works for accommodation.

During the hearing that was held, the Agency further took the plea that under a directive of the Prime Minister's Secretariat, a house was to be allotted to one Mr. 'X', and this was the reason for the immediate vacation notice to the complainant. However, when a copy of the directive was produced, it was found that the directions were for allotment of House No.81, Cat-II, I-8/1, Islamabad to Mr. 'X' and not the complainant's house.

The complainant stated that his daughter had been allotted a hired accommodation, which means that she had applied for the allotment of accommodation, and thus the plea of the Agency in this respect stood negated. He further stated that the hired house was de-hired due to family problems of the daughter and she had been living with him since November, 2003.

It was observed that the household effects of the complainant were thrown on the roadside on 16th August, 2004 although he had obtained a stay order from the court, which he showed to the Inspector, but he did not allow him to enter his own house till the neighbours intervened. Second time, he was forcibly evicted on 23rd August, 2004 without the Agency showing him any counter-court order, if there was any. The same indicated an improper enthusiasm, ineptitude and flagrant violation of the law by the Agency. It was concluded that the

complainant's daughter was fully eligible to retain the accommodation. It was accordingly recommended that:

- (i) The complainant's daughter should be put back in the possession of House No.69 Cat.II, St.36, F-6/1, Islamabad, or, alternatively be allotted a house of her entitlement; and
- (ii) Disciplinary action should also be taken against the Officer who ordered vacation/eviction of the complainant on 16th August, 2004 and 23rd August, 2004.

INTERIOR DIVISION

(34) ***Complaint No. Reg.H/7266/2003***
Domicile Certificate Issued to Complainant, for Which He had been Striving Since 1999

Mr. M. Shabbir Chaudhry working in Engro Chemicals, Daharki, Sindh stated that he had applied to District Magistrate Ghotki for issuance of domicile certificate. The District Magistrate vide his order dated 25.06.1999 rejected the complainant's application on the grounds that he was born in Bahawalnagar, obtained education from Karore Pakka, District Multan in Punjab Province, does not have any immoveable property in District Ghotki and is residing temporarily at M/s Engro Chemicals Ltd., Daharki, where he was employed in a private Company, and has no permanent abode in the District.

The complainant had appealed against this order to the Interior Division on 14.10.1999, but his appeal had not been decided till the lodging of this complaint on 19.8.2003. He had requested that the Interior Division be advised to issue him domicile certificate without any further delay.

On taking up the matter with the Agency, it informed that the Secretary, Interior Division had been pleased to grant domicile certificate to the complainant, the receipt of which the complainant had confirmed with thanks. The case was closed with the satisfaction that the complainant had got relief, for which has been striving since 1999, with the intervention of this Secretariat.

CDA**(35) *Complaint No. Reg.H/1957/2004*
Complainant to be Absolved of Rental Dues, If Any, Relating to the Quarter Allotted to His Late Father**

Mr. Javed Saeed of Islamabad joined CDA in 1971 as Sanitary Supervisor (BPS-10) and retired on 4th April, 2002, with 31 years of service. His pension was held up, in spite of his various representations to the authorities including Member (Administration), CDA.

The Agency stated in its report that the complainant had lived in the Quarter allotted to his deceased father, who was also an employee of CDA. It was stated that rental charges of Rs.194,107/- on standard rent basis were due to be recovered from the complainant, for which reason his pension had been stopped.

Investigation of the complaint indicated that the complainant's father had been allotted Quarter No.669-B, G-6/1-2, Islamabad and was dismissed from CDA's service on 12th March, 1985. However, after his dismissal neither the allotment in his name was cancelled, nor any vacation notice was served, because of the pendency of case in the Lahore High Court, Lahore. The Quarter remained allotted in the name of complainant's father till his death on 6th March, 2003.

The complainant stated that he never lived with his deceased father after his marriage in 1976, but he continued to visit his father alongwith his family. The complainant stated that he had been applying for allotment of a Quarter, but none was allotted to him, although numerous junior persons were allotted accommodation. He stated that CDA never charged him for illegal occupation of this Quarter.

It was observed that despite the delay of two years in settling the complainant's claim for pension, at no stage any inquiry was held to hold the complainant guilty of illegal occupation of the Quarter by CDA, nor it had been otherwise determined/proved conclusively that the complainant illegally occupied the house allotted to his father and remained in occupation since the dismissal of his father in 1985 to the date of his retirement, 12th March, 1985 to 12th April, 2003.

It was concluded that the complainant had nothing to do with the liability of rent, if any, which should be legitimately charged to the deceased allottee, if it could be legally possible at this stage. Accordingly recovery of Rs.194,107/- from

the complainant was held to be unjust, unreasonable and based on irrelevant grounds, and hence amounting to maladministration.

It was accordingly recommended that the complainant be absolved of the responsibility of the amount of Rs.194,107/- proposed to be recovered from his pensionary dues.

FIA

(36) *Complaint No. Reg-H/6889/2003* Off-Loading of Complainant and Family from PIA Flight Held to be Unjust

Mst. Zarina Begum of Hafizabad, wife of Mr. Khalid Pervaiz stated that she, alongwith her two daughters and one son reached Karachi Airport on 16.8.2002 to board PIA Flight No. PK-787 for London. After clearance of the luggage, boarding cards were issued to them, but Mr. X of the Immigration Staff of FIA detained her and her children and prevented them from boarding the Plane, on the allegation of bogus passports and visa. The Plane left. However, on payment of U.S Dollars 225 on 18.8.2002, she was allowed to board a Plane. The complainant questioned that if the Passports were bogus then why she was allowed to board the Plane after two days. She stated that due to this unfair treatment of FIA, she and her family suffered immense suffering and mental agony and one of her daughters developed jaundice on reaching U.K. The treatment of jaundice was very expensive in U.K, and the complainant stated that after two weeks she had to come back to Pakistan for the treatment of her daughter. The complainant requested that she be paid compensation and action be taken against the corrupt officials of FIA.

The hearing that was held, was attended by the complainant's husband and officers of FIA Karachi and Islamabad. The Passports bore two 'Exit' stamps of 16.8.2002 and 18.8.2002. It was admitted by the Agency that the earlier 'Exit' Stamp should have been cancelled and reasons for off-loading should have been recorded. The existence of the two 'Exit' Stamps without any justification thus, was proved to be an act of maladministration on the part of the officials of the Agency. It was accordingly recommended that

- (i) A full-fledged inquiry be conducted by a Senior Officer of the FIA about the entire episode; and
- (ii) Action be taken against those held responsible for the injustice and misconduct under the Removal from Service (Special Powers) Ordinance, 2000.

KASHMIR AFFAIRS AND NORTHERN AFFAIRS DIVISION**KANA & SAFRON**

(37) ***Complaint No. Reg.H/7968/2002***
Medical Board for Sanction of Benevolent Fund Grant for Northern Areas Employees Created at Gilgit

Mst. Sultan Bi, wife of Mr. Ibrahim had been serving as a Sweeper in the District Headquarters Hospital, Skardu for many years. She stated that at one stage the DHQ Hospital found her unable to perform her further duties and referred her to a Medical Board, which declared her unfit for further service. The complainant stated that the same was quite some time back, and in May, 2002 when she requested for a Benevolent Fund grant, she was asked to appear before the Medical Board at Islamabad for this purpose. She stated that with her old age and bad health and the travel expenses involved, she cannot even think of going to Islamabad. She stated that there had been many instances where the benefit of a Benevolent Fund grant had been given on the basis of examination by the Medical Board at Skardu. She requested that she be sanctioned a B.F Grant.

On taking up the matter with the Agency, it was acknowledged that it is difficult for the employees of the Northern Areas to appear before the Medical Board at Islamabad for the purpose of grant of Benevolent Fund. It was indicated that it is not only Islamabad but also the employees of Northern Areas were being asked to appear before the Medical Board located at Shami Road, Peshawar. The Agency realized the difficulty and a positive outcome during the pendency of this complaint was that the Northern Areas Administration constituted a Medical Board located in Gilgit.

As for the complainant, she was asked to appear before the Medical Board at Gilgit on 12th July, 2004. However, it was discovered that she had already appeared before a Medical Board in the year 2000. During a hearing that was held, the Northern Areas Administration informed that the complainant's case for a Benevolent Fund grant had been rejected consequently.

The Investigating Officer contacted the Federal Employees Benevolent Fund and Group Insurance Fund Organization, Islamabad on telephone and requested them to make an effort to locate some previous papers about the case of the complainant. It is worth appreciating that the FEB&GIF Organization, Islamabad responded immediately and provided a copy of their letter No.10171 RB 2000 dated 21st July, 2000 on the subject of 'Benevolent Fund Claim in r/o Mst. Sultan Bi, Sweeper'. Vide the same, the Northern Areas Administration had

informed that the case for payment of BF grant was placed before the Regional Board FEBF&GIF, Islamabad for consideration and it was rejected on the ground that the complainant had been placed in the Disability Class 'B' by the Prescribed Medical Board, which was not covered under the provisions of Rule 22 of FEBF&GIF Rules, 1972 effective from 1st January, 1999.

Although it was found that the complainant was not entitled to a B.F grant, and the case had been rejected earlier, the positive outcome of the investigation was the constitution of Medical Board for consideration of BF cases of employees of Northern Areas at Gilgit itself.

LABOUR, MANPOWER AND OVERSEAS PAKISTANIS DIVISION

Employees Old-Age Benefit Institute (EOBI)

(38) *Complaint No. Reg-H/3306/2002*

Removal of Anomaly in the Grant of Old-Age Pension Recommended

Mr. Muhammad Maqbool Shah of Village Sarwala, Tehsil and District Attock had retired from Lawrencepur Woollen & Textile Mills w.e.f. 15.1.1996 on attaining the age of 58 years and was granted EOBI pension @ Rs. 374/- p.m. , whereas those who retired from service upto 30.6.1991 on attaining the age of 55 years were granted pension @ Rs. 425/- p.m. w.e.f. 1.7.1991. He contended that a person who had longer service and retired at higher age should get more pension.

The Agency stated that pension of the complainant had been correctly fixed according to the provisions of Section 22(2C) of the EOBI Act, 1976, which provided for reduced old-age pension for persons retiring before attaining the age of 60 years w.e.f. 1.7.1991. The pension is reduced by ½ % for each completed month by which the age falls short of 60 years. The retirement age for male workers was revised upwards from 55 to 60 years w.e.f. 1.7.1991. However, the Lawrencepur Woollen & Textile Mills decided to fix it at 58 years. As a result, the pension of the complainant got fixed at an amount, which is less than the minimum pension of Rs. 425/- p.m. being allowed to persons who had retired at the age of 55 years before 1.7.1991. It was noticed that these provisions, which were incorporated in the law through amendments, had created an anomaly. It was recommended that the Agency should reconsider the issue with a view to clarifying that Section 22(2C) of the EOBI Act, 1976 is not applicable to the cases of minimum pension.

The Agency reverted back with its reasons for non-implementation of the recommendation, stating that under Section 21 of EOBI Act, 1976, no amendment

changing the contribution or any benefit under the Act, can be made without actuarial valuation of EOBI Fund, and also that the recommendation cannot be implemented without amendment in the law. Appreciating the difficulties in implementing the original recommendation, Revised 'Findings' were given with the final 'Recommendations' that:

- (i) EOBI, should get the necessary financial implications, in case of proposed amendments in law worked out and put up before its Board of Trustees;
- (ii) In case the Board finds that the resources available with the Agency are not adequate to meet the enhanced expenditure w.e.f. 1.7.1991, the Agency should request the Government for a lump sum grant; and
- (iii) In case necessary funds become available, the Agency should submit a Summary for the Cabinet, recommending the proposed amendments in law.

PETROLEUM AND NATURAL RESOURCES DIVISION

Sui Northern Gas Pipelines Limited (SNGPL)

(39) *Complaint No. Reg.P/4214/2003*

Complainant Not to Suffer for Failure of Agency to Bill Him Regularly. Payment of Arrears Allowed in Instalments

Mr. Siraj Khan of Aza Khel Payan, Nowshera, who had taken a domestic connection of Sui Gas in April, 1994 complained that the Agency did not issue him any bill despite several reminders. In 8/2003 the Agency sent him his first bill for Rs.33,110/-. Unable to pay the entire amount at once, he made partial payment of Rs.3000/-, but the bill arose to Rs.35,980/- by the next month. The complainant requested that burden of negligence of the Agency should not be passed on to him, and he should be allowed to clear the amount in instalments.

The Agency took the stance that if the complainant did not receive the bills regularly, he should have contacted the concerned offices, as according to Clause 16 of the Supply Agreement it is the responsibility of the consumer to ensure that he is served consumption bills regularly.

It was held that no doubt Clause 16 of the Supply Agreement envisages the same, but the Agency cannot be absolved of its responsibility to serve the bills regularly. Failure to do so, indicates its inefficiency and negligence, which

amounts to maladministration. It was accordingly recommended that the complainant be allowed to clear his arrears @ Rs.1500/- per month alongwith his current consumption bills.

(40) **Complaint No. Reg.H/8402/2003**
SNGPL Asked to Publicise Its Long Term Programme

Mr. Muhammad Bostan of Sarwarabad Kheweski Payan, District Nowshera complained on behalf of residents of Saadatabad and Azimabad that they have applied for gas connection to their locality in 1997 and in spite of efforts they have not been given the same.

On taking up the mater with the Agency it reported that in order to extend gas to that localities the following length of pipes, besides other essential material, would be required:

| | |
|------------------|-------------|
| 4" Diameter Pipe | 3500 meters |
| 2" Diameter Pipe | 1000 meters |
| 1" Diameter Pipe | 1300 meters |

The Agency stated that the cost of the material is beyond the financial capacity of the Agency and it is therefore not in a position to meet the request from its own resources.

It was appreciated that SNGPL would surely be working under a set programme. However, it was recommended that it should publicise its long term (say ten years) programme which they plan to implement through their own internal finances, and as well as publicise a yearly progress report.

Sui Southern Gas Company (SSGC)

(41) **Complaint No. Reg.H/3858/2003**
Excessive/Wrong Billing

Mr. Abdul Majeed A. Memon, resident of Hyderabad stated that on his complaint his gas meter was replaced on 13th November, 2002, and the meter reading subsequently taken on 13th December, 2002 showed a consumption of 361 units which was in accordance with the trend of past consumption. He stated that in the month of December, 2002, an estimated bill, without actual reading of the meter, with a note of high consumption, was sent to him. In the next month of January, 2003, another bill, covering both the months of December, 2002 and

January, 2003, was sent, showing a consumption of 1770 units, i.e. 885 units for each month, which was almost 200% higher than the trend of his bills in the past.

In the following months the monthly consumption was normalized and hence the disputed period was 3 months from November, December, 2002 and January, 2003. However, the Agency refused to receive the actual consumption bills of the subsequent months, and insisted that the disputed amount should be paid first. The complainant was, therefore, forced to make payment of the same.

The Agency was asked to provide at least six months monthly consumption before and after the disputed period. Consumption for the earlier six months was 815 CM, indicating an average monthly consumption of 136 CM. Consumption for the later six months was 738 CM, indicating an average monthly consumption of 123 CM. As against that, the bill for the disputed period of 3 months was for 2380 CM, indicating an average monthly consumption of 793 CM, which was prima facie unfair.

Accordingly, it was recommended that the Agency should:

- (a) Reduce the bill for the months of November, December, 2002 and January, 2003 to the level of the average of earlier six months, i.e. 123 CM per month;
- (b) Waive of all penalties/surcharges for non-payment of bills within due dates;
- (c) Evolve a system by which subsequent current bills are allowed to be paid till the fate of the disputed bill is decided; and
- (d) Provide the facility of payment of arrears by three equal instalments along-with the future monthly bills.

National Refinery Limited

(42) *Complaint No. K/157/2004*

Share Certificates Transferred to Legal Heir

Mr. Javed Iqbal of Karachi stated that on the death of his sister, he applied to National Refinery Limited (NRL) to transfer 50 shares to the eldest son of his late sister, i.e. his nephew. He received a letter from NRL informing him that the total number of shares was 415. After getting a succession certificate, a request

for the additional shares was also moved, but these were not transferred in the name of his nephew, and instead objections were raised as follows:

- i) The succession certificate, which was issued by a Court of Peshawar, did not have the seal and signatures of the Judge.
- ii) The request should be made on a Stamp paper of Rs. 50/-, bearing the signatures of all the heirs.

Both the requirements were fulfilled. However, the shares were not transferred by the Agency, stating that the original shares had been misplaced. From the complainant's side, it was alleged that misplacing of the share certificates is as a result of negligence on part of the Agency. After a considerable process, the NRL stated that they had issued an acknowledgment on 31.3.2004, stating that the documents were now complete. It was stated the shares would be transmitted immediately, once the Deed of Relinquishment, after signatures, is received by the share Registrar of NRL.

When the complainant was addressed for a rejoinder, he very gratefully acknowledged the relief, stating that the same was exclusively due to the intervention of this Secretariat. He stated that otherwise he had been running from pillar to post for a long time.

RAILWAYS DIVISION

(43) ***Complaint No. Reg.H/10810/2003***
Dichotomy between Provincial and Federal Government Rules Regarding Family Pension to Unmarried Sister, Recommended to be Reviewed

Miss Feroz Khatoon of Kundian, District Mianwali stated that her brother had retired from Pakistan Railways and she is the unmarried sister of the deceased. She was refused family pension by the Agency for the reason that she is over 21 years of age.

The Agency stated in its report that under Rule No.2-b(iv) of Finance Division's letter No.1(13)-Reg.6/83 dated 23rd October, 1983 the surviving unmarried sister is only entitled to family pension if she is below the age of 21 years.

Examination of the matter indicated that the Punjab Civil Servants Pension Rules, 1963 provide to the contrary. Paragraph 4.10(2)(A) of the same provides various alternatives for the sanction of family pension to the survivors of a

deceased employee. In case of an unmarried sister being entitled as such, there is no limit of 21 years of age unlike, of the Rule under Federal Government.

It had been recommended in a few earlier complaints that the bar of 21 years of age be removed. However, the Finance Division went in representation to the President and the decision was conveyed vide letter No.235/2002-Law (WM) dated 20th August, 2002 of the Law, Justice and Human Rights Division. Vide the same, although the President has been pleased to accept the representation of the Agency and set aside the Mohtasib's 'Recommendations', it had been observed as follows:

“Nothing in this order will, however, debar the Agency to review the policy regarding grant of family pension to male or female family members of a deceased government servant who are incapable to earn their livelihood, keeping in view its recourses and overall justification for the grant”.

Accordingly, it was recommended that in view of the dichotomy between the Rules of the Federal Government and Punjab Government, the Finance Division may review its policy regarding the grant of family pension to the surviving unmarried sister of a deceased employee, if she happens to be more than 21 years of age.

(44) ***Complaint No. Reg.L/534/2003***
Commutation to be Paid to Widow of Deceased Employee

Mst. Umme Amtal, widow of Mr. Ghulam Sarwar, resident of Gujranwala stated that her late husband was a Sub Engineer in Pakistan Railways and was retired from service on 6.10.1986, on being declared invalid by Medical Board. The deceased had signed his pension papers on 11.11.1986, but died on 12.12.1986, before he could sign the commutation papers. The complainant stated that the Government had allowed payment of commutation to the widows of deceased employees, and she had accordingly requested the Agency, but her request was turned down.

Examination of the case indicated that the Ministry of Finance had allowed commutation to family of a deceased Government servant who after retiring on invalidation by a Medical Board could not sign his pension papers due to death, but this order was to be effective from 22.5.2001, as the word 'henceforth' had been used in the O.M. The complainant's husband was invalidated on 6.10.1986. The Agency stated that before 1991, in such cases of retirement on invalidation, a second Medical Board was required to be constituted

for recommending commutation, but since the complainant's husband died before convening of the second Medical Board, he could not appear before it. Consequently, the complainant/widow could not be paid the commutation.

It was concluded that the deceased employee had duly signed the pension papers and exercised option for commutation of pension and it was for the Agency to convene the second Medical Board, which it had failed to do during the lifetime of the deceased employee, for which the complainant cannot be penalized.

Accordingly, it was recommended that the Agency should, without any further delay, act upon the option for commutation of pension exercised by the deceased employee and release the amount to the complainant.

WATER AND POWER DIVISION

(45) *Complaint No. Reg.H/13668/2002* Unjust Disconnection of Electricity and Removal of Transformer

Malik Misri resident of Tehsil Kaloor Kot, District Bhakkar, stated that he has an electricity connection for 'Atta Chakki' ever-since last 13 or 14 years, and he regularly paid his electricity bills. He stated that he had paid the electricity bill of Rs.8300/- in UBL, Bhakkar, on 27th November, 2002, as per photocopy enclosed. The last date of payment was 28th November, 2002. The complainant stated that in spite of this, on 29th November, 2002 when he was not present at home, the officials of the Agency came, forcibly disconnected the electricity and also took away the transformer and related electrical fittings.

In its report the Agency stated that on 29th November, 2002 when the Agency's officials visited the complainant's premises, they were kept in the dark about the aforementioned bill having been paid. The Agency even stated that the complainant's son asked that the equipment may be removed. It was stated that if the complainant is desirous of reconnection, he would have to apply for reconnection according to the Reconnection Policy in vogue.

When it was pointed out to the Agency that the complainant/consumer had paid the electricity bill in UBL, Bhakkar before the last date, the Agency took the plea that this branch is outside the jurisdiction of Kaloor Kot Sub-Division. When the Agency was asked about the unusual haste in taking this drastic action, it could not give a satisfactory answer, which indicated that the Agency's action smacked of partiality, and vindictiveness as was alleged by the complainant.

During the hearing that was held, the complainant denied that his son had himself asked that the equipment may be removed. He vehemently argued that he is not a fool, nor anyone on his behalf, to invite the damages voluntarily.

It was concluded that there was no justification for the disconnection of electricity and removal of equipment including the transformer on 29th November, 2002, and the action of the Agency thus amounts to maladministration. It was accordingly recommended that electricity of the complainant be restored without payment of any reconnection charges.

(46) ***Complaint No. Reg-P/567/2003***
Unjust Billing

Mr. Barkat Khan of Masho Khel, Peshawar, a domestic electricity consumer of Pesco, Dehbadhar Sub-Division stated that he was charged a bill of Rs. 12043/- in the billing month of 11/2002, Rs. 13245/- in 12/2002 and Rs. 6494/- in 1/2003 in excess of his meter consumption. The complainant called the charges as unjustified and requested that the same be withdrawn.

The Agency stated in its report that the complainant had taken a direct connection through hooks from the power lines, and hence he was charged a detection bill for the period of 8/2002 to 10/2002 on the basis of 5.5 K.W. connected load and 20% load factor. The consumption for these months was accordingly assessed as 2409 units.

A copy of the meter reading leaf for the period 1/2001 to 7/2003 and billing data from 1/2002 to 5/2003 was provided by the Agency. First of all, the readings and consumption indicated in the two were different. Reliance had therefore essentially to be placed on the meter reading leaf. The same indicated that recorded consumption during the period of 8/2002 to 10/2002 was 342 units. During the corresponding months of the previous year when the meter was accurate, the consumption was 360 units. The levy of a detection bill for this period on the basis of an assessed consumption of 2409 units was thus established to be unfair.

A comparison of the billing data and meter reading leaf indicated that the complainant was duly billed upto the actual reading of 13946 as of 1/2003, and hence no units of actual consumption are pending against him.

The billing data also indicated another oddity, that the complainant was billed for 2000, 3000 and 1100 units for the months of 11/2002 to 1/2003, which was totally at variance with his consumption pattern.

Maladministration having been established against the Agency as above, it was recommended that:

- (i) the detection bill being without any justification, be withdrawn and cancelled;
- (ii) the excessive billing for the period of 11/2002 to 1/2003, not having any basis, be withdrawn and instead, the complainant be charged for his actual consumption as recorded in the meter reading leaf; and
- (iii) any payment the complainant may have made in this regard be credited to his account and adjusted against his future bills.

(47) **Complaint No. Reg.M/1185/2003**
Wrong Billing

Rana Muhammad Afsar of Tehsil Jalalpur, District Multan complained against Multan Electric Power Supply Company (MEPCO) for unjust charges demanded for reconnection of his tubewell, which had been disconnected. The complainant was sanctioned a tubewell connection under the subsidy scheme on flat rate basis. On his request the connection was converted into non-flat rate and a new meter was installed for him on 10th January, 1998. However, the Agency did not amend its record for change of tariff and continued issuing wrong bills. Due to non-payment the supply of electricity was disconnected and equipment was removed on 23rd June, 1998.

The complainant got partial relief consequent to his earlier complaint No.M/247/2001 with this Secretariat, consequent to which arrear bills for the period of 04/98 to 06/98 were recommended to be withdrawn. However, by this complaint the complainant requested for full justice.

The Agency admitted in its report that after installation of the meter in 1998 the benefit of non-flat rate was not given, the complainant remained billed on flat rate and the supply was disconnected as aforementioned due to non-payment of the consequent electricity bills.

Investigation of the complaint also revealed that an unfair debit of Rs.33511/- was raised against the complainant due to an unfair audit note No.257 dated 21st December, 1999. Consequent to the foregoing, the complainant was required to pay a total bill of Rs.176,213/- for reconnection of his supply.

Maladministration having been proved against the Agency, it was recommended that:

- (i) the complainant be charged on non-flat rate basis w.e.f 10th January, 1998 instead of flat rate and the arrear bill be withdrawn;
- (ii) the debit of Rs.33511/- raised vide audit note No.257 dated 21st December, 1999 be withdrawn and cancelled as being unfair;
- (iii) the account of the complainant be overhauled and necessary credits/debits made; and
- (iv) after payment of the arrear bills, the electricity supply be reconnected free of charge without payment of RCO fee, depreciation charges etc., as there was no fault on the part of the complainant to warrant the disconnection.

(48) ***Complaint No. Reg.M/895/2002***
Agency Directed to Complete Electrification of Villages Ignored for Eight Years

Mr. Khan Muhammad lodged a complaint on behalf of the residents of four villages which were to be electrified consequent to a scheme sanctioned in 1993-94 for Rs.3.8 million. It was stated that the poles had been erected, the lines had been laid and the transformers had been mounted, but a few poles fell down due to windstorm and the old scheme could not be completed. It was stated that since then WAPDA abandoned the scheme despite the fact that the whole amount sanctioned for the scheme had been utilized and payments made to the contractors.

Investigation of the complaint indicated that the following four villages were included in the IBRD Rural Electrification Project Group-A, Multan:

- (i) Basti Dhegan Wala
- (ii) Basti Chuttay Khan
- (iii) Basti Haji Shera
- (iv) Basti Qadir Bakhsh Khokhar

The position stated by the complainant was acknowledged by the Agency. This Secretariat took cognizance of the alleged maladministration, consequent to which the Agency prepared the estimate for restoration of the work and provided extra funds to the tune of Rs.1,319,162/-.

It was observed that inhabitants of the village had been denied the facility of electricity and no one in the Agency appeared to have bothered seriously about it even after the elapse of eight years. The Agency was thus held responsible for gross maladministration and it was recommended that the Chief Executive MEPCO should complete the electrification scheme within four months.

(49) ***Complaint No. Reg.L/2454/2001***
Electricity to be Provided to Villages After Removal of Defects and Discrepancies

Mr. Allah Wasaya complained on behalf of the inhabitants of Basti Raja Wali, Basti Baqir Wala, Basti Sheikh Ibrahim and Mouza Babi, Tehsil Taunsa, District D.G Khan that after great deal of efforts the contractors of WAPDA and Pak. PWD had managed to erect electricity poles in 1997. It was stated that after about three years the contractors laid the wires and affixed the transformer and poles, but the lines were not energized.

Investigation of the complaint indicated that the Bastis were electrified by Pak. PWD in 1997 through some private contractors without observing the formalities. The work was carried out without the prior approval of WAPDA and in violation of their Policy for electrification. Also, Pak. PWD was obliged to get the material tested from Material Inspection Department (MID), WAPDA before installation, which was not done. Consequently, WAPDA/MEPCO were not prepared to take over the scheme.

During a hearing attended by representatives of MEPCO, Multan (WAPDA) as well as Pak. PWD, Islamabad, it was mutually decided that a joint inspection be carried out by both the Agencies, consequent to which the WAPDA Authorities should intimate in writing the defects concerning material and installation; Pak PWD should ensure removal of these defects through contractors; and after the same, WAPDA should take over the scheme in writing, energize the lines and give connections to the public.

It was after a great deal of efforts and correspondence that this Secretariat succeeded in bringing the two Agencies together and to arrive at a mutual agreement, the main feature of which were as below:

- (i) WAPDA would make a realistic assessment of the expenditure to be incurred on the repair of defects and discrepancies pointed out in the joint report.
- (ii) A demand note be issued to Pak. PWD accordingly.

- (iii) Pak. PWD should deposit the amount of demand note within one month.
- (iv) WAPDA would take over the scheme immediately after the amount of demand note is deposited.
- (v) WAPDA would energize the line and distribute the connections to the public on urgent basis consequently.

It was recommended that Chief Executive, MEPCO as well as Pak. PWD should implement the above 'Recommendations'.

(50) ***Complaint No. Reg.L/6139/2001***
Rightful Dues Relating to Deceased Husband to be Paid to the Widow

Mst. Shaheen Kauser, stated that her late husband Syed Mumtaz Hussain Shah, retired as Commercial Superintendent under FESCO in July, 1997. The complainant stated that dues are liable to be paid to her for the service of her late husband on account of the following:

- (i) Pay less paid to the deceased between 1993 to 1995.
- (ii) Refund of recovered amount on account of subsistence allowance.
- (iii) Grant of Commutation.
- (iv) Leave encashment for 180 days.
- (v) Move-over from BPS-16 to BPS-17 w.e.f 1st December, 1995.

Investigation of the complaint indicated the position in respect of each of the above items as follows. While the complainant had claimed that the deceased was paid less pay during the period of 1993 to 1996, the fact was that the deceased was originally in BPS-15, was granted Selection Grade BPS-16 vide order dated 26th April, 1993, but the same was withdrawn by another Office Order of Chairman, AEB, Faisalabad dated 3rd October, 1993. Hence, the complainant's stance in this respect was not valid.

The deceased remained suspended w.e.f 13th April, 1995 to 6th July, 1997 and on finalization of disciplinary action, it was decided that the period be treated as leave due/admissible. The Agency had recovered Rs.56,907/- as subsistence allowance paid during this period from the retirement dues. In accordance with FR 54 it could not do so.

As regard grant of commutation, the complainant provided photocopy of a medical certificate consequent to the deceased having appeared before the

Standing Medical Board, DHQ, Sargodha on 18th December, 2000. The same was forwarded to the XEN, now the Deputy Manager, Fesco, Mianwali for obtaining countersignatures of Director General (Medical Service) (WAPDA), Lahore, but the same was not traceable. The commutation could have been granted on completing the required formalities.

As regards leave encashment for 180 days in lieu of LPR, it was revealed that the complainant could not avail of this benefit, as there was no leave at his credit.

As regards move-over from BPS-16 to BPS-17, claimed by the complainant to be due w.e.f 1st December, 1995, it was found that the same was not due, as the Selection Grade BPS-16 granted to the complainant in 1993 had been withdrawn.

On the basis of the above it was recommended that:

- (i) the complainant be refunded the subsistence allowance of Rs.56,907/- paid to the deceased during the period of his suspension, i.e. 13th April, 1995 to 6th July, 1997 and recovered in contravention of FR-54;
- (ii) all efforts be made to retrieve the medical certificate consequent to the medical examination of the deceased on 18th December, 2000 in the Office of the Deputy Manager, FESCO, Mianwali, and the same be got countersigned by the Director General (Medical Services), WAPDA, Lahore. Consequently, the complainant be paid the amount of Commutation accordingly; and
- (iii) in case of inability to locate the medical certificate, any authentic evidence of the same, such as the photocopy supplied by the complainant be accepted for the purpose. Consequently, the complainant be paid the Commutation and her family pension be revised.

(51) ***Complaint No. Reg.M/823/2003***
Agency to Adopt a Uniform Policy Regarding Tubewell Connections Taken from Scarp

Mr. Muhammad Ramzan Shah of Tehsil and District Muzaffargarh complained against disconnection of his supply and removal of electricity meter, despite of his having paid the electricity bills regularly. He requested for restoration of his supply.

Report of the Agency indicated that electricity connection of the complainant was installed from a SCARP tubewell without the prior approval of that organization, and in violation of rules and procedure. The same being irregular, the Agency served him a demand notice of Rs.99,897/- for giving him the electricity connection from a distribution transformer instead, disconnected the electricity supply from the SCARP tubewell and removed the meter. Action was also initiated against the delinquent WAPDA officials for allowing the connection from a SCARP tubewell.

A similar complaint No.M/824/2003 of Mr. Zawar Hussain Shah was also pending. Both, the complainant as well as Mr. Zawar Hussain Shah had been served a demand note, the amount of which they deposited, they kept on paying the electricity bills regularly, and their electricity was disconnected for the aforementioned reasons.

During a hearing, that was held, the complainant informed that other nine connections which have been given from the same SCARP tubewell, had been running for quite some time and their supply had not been disconnected. However, it was found that for the last one year they had not been working due to mechanical fault

Examination of the matter indicated that in the case of two connections, i.e. the complainant and Mr. Zawar Hussain Shah, the Agency had violated its instructions dated 28th July, 1992, prohibiting it from issuing a revised demand note on any ground, after a connection had been energized, as they had been regularly paying their electricity bills. The disconnection was also in violation of Section 24 of the Electricity Act, 1910.

It was further observed that although the prior approval of the SCARP was necessary, the Agency had itself acted irregularly in issuing the demand notes, and energizing the connections, it, therefore, cannot turn back and penalize the complainant declaring the connections already sanctioned as irregular.

It was consequently recommended that:

- (i) the Agency should adopt a uniform policy for continuance or otherwise, in respect of all the eleven connections taken from the SCARP tubewell transformer. In case of continuance of the nine connections, the supply of the two complainants should be restored; and

- (ii) in the event of disconnection of all connections, the cost of an additional serviceable transformer be recovered in 24 equal instalments, i.e. Rs.115/- per month per consumer.

(52) ***Complaint No. Reg.H/9514/2003***
Need for Approaching the Provincial Government for Exemption from Rule 48(1) of Electricity Rules, 1937

Mr. Muhammad Ibrahim Bhatti, President of the Government Electric Wiring Contractors Association, Bhakkar stated that officials of Fesco Jhang Circle were not complying with the mandatory provisions of rule 48 of Electricity Rules, 1937. According to the same, no electrical installation could be provided energy connection, except on a certificate of the electrical contractor licensed by the Provincial Government. A letter of the Electric Inspector Faisalabad Region, wherein he had written to the Chief Executive, Fesco, asking him to direct his lower formations to ensure compliance of the aforementioned rule, was also referred to.

Investigations of the complaint indicated that the Secretary, WAPDA Head Office, Lahore had issued a Circular dated 9.6.2003, stating that it had been decided in the Chairman's monthly conference that instead of a certificate of the authorized person, a certificate of the prospective consumer of single phase domestic, single phase commercial connection and agriculture tubewell connection would be enough. The Agency's instructions had been issued consequent to receipt of complaints from the public about exploitation of consumers by the contractors and were intended to safeguard the interests of consumers.

Examination of the matter indicated that an exemption from the operation of sub-rule 1 of rule 48 *ibid* could be granted only by the Provincial Government through a Notification to be published in the official Gazette. Consequently, it was recommended that the Agency should have the matter examined legally and, if need be, take it up with the concerned Provincial Government for such further necessary action as may be called for.

(53) ***Complaint No. Reg.H/14679/2001***
Refusal to Issue Commercial Procedure Code of WAPDA

Mr. Saeed Ahmed Ghouri, Advocate of Bahawalnagar complained that he had requested the Press Manager, WAPDA House, Lahore to provide him a copy of WAPDA Commercial Procedure Code, but he had refused to supply the same, stating that it could not be provided to any private person as it was only for the

use of the WAPDA employees. The complainant stated that he, being an Advocate, was in need to know the law and rules, and also such knowledge is the basic right of every citizen of Pakistan.

The Agency stated in its report that the aforementioned document is only issued to WAPDA formations for the purposes of dealing with commercial matters, as laid down by the Authority, and it cannot be issued to any private person.

During the pendency of this case the Freedom of Information Ordinance, 2002 was promulgated. It was thus considered necessary to re-examine the complaint afresh treating it to be an application under section 12 of the Ordinance and determine the legality of the demand in the light of sections 7 and 8 of the Ordinance. The Agency was then directed to re-examine the case and specifically declare if the Commercial Procedure Code was a classified document or fell within the definition of 'public record'.

Consequently, in its reply, the Agency informed that the document could be issued to the complainant on payment of Rs.169/- and Rs.221/- for Commercial Procedure (Computer Billing) formats and Commercial Procedure respectively.

While closing the case with the above indicated relief, the Agency was advised to create a website on the internet which should, inter alia, incorporate vital information relating to its functioning particularly that which was of direct concern to the citizens as consumers of electricity, such as the Electricity Act, 1910, the Rules framed thereunder and the Commercial Procedure Code.

(54) ***Complaint No. Reg.S/525/2002***
Inattention To Rectify A Genuine Complaint Of Excessive/Wrong Billing.

Mr. Amir Ali of Mubarak Burrio, District Naushahro Feroze stated that the meter reader of his area had never physically taken the readings of his domestic electricity meter and bills of wrong and excessive units were invariably sent to him. When he finally complained to the Agency, it declared the meter as defective, which the complainant thought was a lame excuse. He requested for initiating an inquiry for correction of the bogus bills. He supplied a copy of the bill for May, 2002 wherein it had been stated that the bill for May, 2002 was issued on 'estimated defective' basis.

The complaint was forwarded to the Agency on 20th December, 2002 for its report, but the same was not received despite a number of reminders. A copy of

the final reminder was even endorsed to the Chairman, WAPDA, Lahore, requesting for compliance regarding furnishing of the report.

Consequently, the Agency informed that after an inquiry, the grievance of the complainant had been redressed to his full satisfaction. In acknowledgment thereof, a copy of complainant's written statement, confirming the same was enclosed.

While closing the case, it was observed that it is a pity that the Agency wasted more than two years in attending to a complaint which could otherwise have been resolved even at the preliminary stage by simply contacting the complainant for on the spot resolution of the matter.

(55) ***Complaint No. Reg.S/964/2003***
Bogus Billing Against Closed Premises to be Rectified

Mr. Anwar Ali Wagan of District Naushahro Feroze stated that he had shifted his residence to another village in April, 2002 and before leaving the old house he had removed his electricity meter and delivered it personally to the SDO, Moro-II in his office under receipt. After more than a year, he was sent a bill of Rs.676/- in August, 2003, which he thought was unjust and raised due to the mischief of the meter reader.

A report was furnished by the Agency only after three reminders. In the meantime another bill for Rs.1,430/- relating to October, 2003 was sent to the complainant. The same was also controverted by the complainant. In view of the contradictory statements of the parties, the case was fixed for hearing on 17th June, 2004, but before the due date, the XEN initiated remedial action, by crediting an amount of Rs.2,007/- in favour of the complainant, and issuing a revised corrected bill. No arrears were left outstanding against him upto May, 2004.

While closing the case, it was observed that the complainant had shifted to another village after disconnection of electricity and no charges could be raised against the closed premises. It was observed that the Agency could have rectified the matter immediately when the complaint was lodged with them by the complainant. However, many months were unnecessarily wasted in initiating the remedial action, and that too, after several reminders and notices from this Secretariat. The Agency was advised to ensure that delays like this should not occur in the future.

(56) ***Complaint No. Reg-S/1347/2003-N-635***
Unfairly Disconnected Electricity Supply to be Restored

Mr. Sadaruddin Chandio and others of village Late Nangar Khan Chandio, Taluka Moro, District Naushahro Feroze stated that due to default of some consumers the Hyderabad Electricity Supply Company(HESCO) authorities started punishing the whole village by resorting to frequent power cuts, and there was no one to check their excesses. The villagers had also collectively protested, but instead, the electricity of the whole village was disconnected permanently. The complainants therefore, requested for an inquiry against the officials responsible for this injustice and restoration of electricity to their village.

2. Investigation of the complaint indicated that there were seventy account holders in the village, of whom thirty five had signed the complaint. First of all, the Agency defaulted in submitting even its first report, which was given by it only after a warning of stern action under the relevant provisions of President's Order No. 1 of 1983 was issued to the Chief Executive Officer of HESCO, Hyderabad. In its reply the Agency stated that the electricity supply to the village was disconnected due to long outstanding arrears and it was restored subsequently on humanitarian grounds, and there was no suspension of electricity now in the village.

In fact the Agency provided the above relief only consequent to the intervention of this Secretariat.

(57) ***Complaint No. Reg.H/12341/2003***
Delay in Sending the Meter to Laboratory for M&T Test and Levy of Detection Bill for the Period the Meter was Not at Site Held as Unjustified

Mr. Gul Zaman of Peshawar City, a commercial consumer (Tariff A-II) complained against the detection bill of Rs.1,884/- served on him in November, 2003, which he called as unfair and requested for its withdrawal.

In its report the Agency stated that the complainant was found stealing energy through tampering seals with scratches on dial and a detection bill was therefore levied on him for the period of February to July, 2003 on the basis of 30% load factor. During a hearing it transpired that because of non-payment of dues of Rs.1815/- pending against the complainant an ERO dated 6th November, 2002 was issued against the complainant, which was implemented on 29th January, 2003 and the electricity was disconnected. The meter was taken away by PESCO, but was not sent to Laboratory for M&T test as required and instead, was retained in the Sub Division for a long time. Ultimately, the meter was sent to M&T Laboratory for test on 4th September, 2003, i.e. after eight months. The

result of the M&T laboratory indicated that the seals were tampered with scratches on the dial, and therefore it was ruled that the complainant was stealing energy through the meter.

It was observed that retention of the meter for eight months and not sending it to the Laboratory, was in violation of Circular No. 1468-99/M(P)/GMCS/DD(R&CP)/ 56217 dated 26th October, 1999 issued by the Member (Power), WAPDA House, Lahore, in as much as the meter was not replaced or secured without delay and a check meter was not installed before levelling the allegation of unauthorized abstraction of energy. More-over the matter was not referred to Electric Inspector for an independent verdict under Section 26 of the Electricity Act, 1910.

Above all, it was observed that the levy of detection bill for the period of 2 to 7/2003 had no basis, as the meter had been taken away during that period. The imposition of the detection bill was therefore held to be un-justified and it was recommended that:

- (i) the detection bill, being without justification, be withdrawn and cancelled and excess amount paid by the complainant, if any, be credited to his account and adjusted against future billing; and
- (ii) the power supply of the complainant should be restored as per rules after clearance of outstanding dues of Rs.1815/- which stood against him prior to the issuance of ERO.

(58) ***Complaint No. Reg.P/1100/2004***
Unfair Billing to be Rectified

Haji Rizwan of Kohat City, a domestic consumer complained against over-billing by Fesco Kohat from time to time. Consequent to 'Recommendations' of this Secretariat dated 21st November, 2001, he was allowed a credit of 1447 units. However, the Agency did not implement the "Recommendations" and the over-billing continued, with the result that several complications cropped up. He stated that he had been billed for a reading much beyond the actual one on the meter. The complainant requested for waiver of the unjustified, over-billed units and implementation of the earlier decision of this Secretariat.

In its report the Agency admitted the delay in implementing the earlier 'Recommendations' of this Secretariat and assured the same urgently. According to the meter reading leaf the complainant had consumed units upto 11944 till the month of June, 2004, while he had been billed upto the reading of 19623 for the

same month. As such, he had been billed for 7679 units in excess of the actual consumption, which were totally unjustified. It was accordingly recommended that:

- (i) the bill of the complainant be revised as per actual meter reading of 11949 in the month of June, 2004; and
- (ii) disciplinary action be taken against the defaulting officials and the complainant be billed in accordance with his actual meter readings in future.

(59) ***Complaint No. Reg.H/2507/2004***
Unfair Detection Bill to be Withdrawn with Restoration of Electricity Supply

Mr. Akbar Khan of Utmanzai, Tehsil and District Charsadda, a domestic consumer of electricity complained against the aggressive attitude of Fesco, stating that he was unjustly penalized, was over-billed and his electricity was disconnected without any solid reasons.

The Agency stated in its report that the complainant was caught stealing energy through direct hooks and was consequently served with detection bills on 20% load factor as below:

- (i) 2190 units, on the basis of 5 kw connected load for the period from March to May, 2003.
- (ii) 1971 units on the basis of 4.5 kw connected load for the period from June to August, 2003.

Scrutiny of the record indicated that electricity was disconnected in May, 2001 and no details of consumption for the period thereafter were available. The meter reading leaf was also consulted. It did not indicate any readings during the above periods. Moreover, the Agency failed to give any answer to the following:

- (i) What device and method were used for stealing energy by direct hooks?
- (ii) Why no FIR was lodged against the complainant as required under sections 39 & 39-A of the Electricity Act, 1910?
- (iii) Why no statement on Oath of the employee of the Agency claiming to have caught the complainant was available?
- (iv) Why the complainant was not served with a notice as required under section 26-A of the Electricity Act, 1910?

It was concluded that imposition of the detection bills was not justified. It was recommend that:

- (i) both the detection bills being without any justification be withdrawn and cancelled; and
- (ii) the electricity should be restored as per rules after the clearance of outstanding dues.

(60) ***Complaint No. Reg.S/635/2003***
Unjustly Disconnected Electricity Supply of the Village to be Restored

Mr. Abdul Majeed Marri complained on behalf of residents of village Baqar Khan Marri, stating that energy supply of all the residents was disconnected on 13.6.2003 without intimation or notice and without any exception. On their protest, the concerned officials took the plea that the action was taken to punish some of the defaulters amongst them. The complainant stated that the collective punishment was extended to even those who had never been defaulters, who represented 80% of the consumers. The complainant stated that the Agency refused to restore the electricity unless and until every consumer agreed to pay an illegal gratification of Rs. 200/- each month.

The complainant stated that the meter readings had been never checked by any official of the Agency by visiting the village. As a sample, the actual readings on the meter dials, as against the readings shown in the bills in the case of 10 consumers, were cited. The same indicated that the bills were served for much higher readings than the actual ones on the meter dials. In its report the Agency justified its action, stating that heavy arrears were outstanding against consumers of the village. Investigation of the complaint also indicated that many illegal connections had been provided to unauthorized persons and when the transformer of the village was burnt due to repeated disconnection of electricity, it was repaired at the cost of the consumers by extracting Rs.15,000/- from them.

A hearing held on 27.8.2004, was attended by both the parties. The complainant reiterated the grievances and it was agreed that the XEN would take immediate action to redress the same. An agreement was duly signed by the parties.

It was established that the Agency had unreasonably resorted to collective punishment for a default of a few consumers. During the investigation of the complaint the Agency also failed to give a report based on a proper inquiry.

Therefore, maladministration was established against the Agency in many ways. Consequently, it was recommended that:

- i) the XEN, Naushahro Feroze should refrain from disconnecting energy supply of the entire village Baqar Khan Marri due to the non-payment of dues by a few defaulters. Every case of non-payment of dues must be dealt with separately on its merit, instead of imposing collective punishment upon all consumers;
- ii) immediately adjust the excessive units posted in the accounts of the consumers and investigate the circumstances under which the wrong posting of electricity utilization had occurred;
- iii) immediately inquire into the reasons for which the consumers were forced to pay Rs. 15,000/- for the repairs of a burnt transformer and intimate the manner in which this amount was eventually accounted for; and
- iv) issue a strict warning to the XEN, Naushahro Feroze for disregarding the implementation of the agreement signed by him during hearing of the case on 27.8.2004.

(61) ***Complaint No. Reg.S/280/2002***
Family Pension Recommended for Widow

Mst. Shanti widow of Hari Singh of Sukkur stated that her husband was Sanitary Jamadar in Pakistan Railways, Sukkur and remained in service from 20th February, 1949 till his death on 21st July, 1976, consequent to sickness. She applied for payment of service dues, gratuity and other retirement benefits relating to her late husband and completed all the required formalities. To her dismay she was told that her husband was a 'non-pension optee' and hence she was only paid a small amount and was refused any other benefits. The complainant stated that the stance of the Agency was incorrect and her husband was a 'pension optee', and the pension option form should be available on the record of the Agency, which had been totally ignored.

In its report the Agency stated that the widow was correctly paid Rs.1930.50 as Special Contribution and Rs.731.10 as SRPI, i.e. Rs.2661.60 in all, and these are all the benefits entitled to her. The complainant had produced G.P.F Slip No.2120105 for the year 1979 relating to her late husband. However, the Agency took the stance that this number had been actually assigned to Hari Singh s/o Nawab and not Hari Singh s/o Nanan, the complainant's husband. During investigation of the complaint, the Agency could not establish its stance, whereas

the fact remained that the GPF slip had been duly delivered to her in the year 1979, three years after the demise of the deceased in 1976.

During the hearing, the Agency could not produce the Service Book of the deceased and stated that it cannot be traced as the complainant joined service in 1949. It was observed that under Clause e(ii) of Supplementary Instructions under the New Pension Rules, 'options exercised on plain paper instead of the prescribed form are to be held as valid'. This clause clearly explains that mere submission of an application to exercise the option was sufficient to allow the benefits. It was observed that the complainant was 65 years old, had 3 young sons who died one after the other prematurely, also being sweepers, leaving their widows and minor children for the weak and feeble ailing lady, the complainant, to look after.

It was held that inability of the Railway Administration to produce the service record of the complainant should be no reason to deprive her of the right of pension. The claim of the complainant was therefore recognized to be genuine and it was recommended that family pension and other retirement benefits be paid to her after carefully calculating the amount from the date of entry of the deceased in service.

(62) ***Complaint No. Reg.K/977/2002***
Complainant Not to be Penalised for Non-Production of Payment Receipt for Installation of Connection Working Eversince 1997

Mr. Muhammad Afzal Ali of Karachi stated that the electricity meter of his workshop was fake, which was regularized after a payment of fine of Rs.10,000/- as per rules of KESC. However, he was issued an estimate for regularization of the load on the basis of 100% charges and the relief of 60% in such charges, which is admissible under the KESC policy was denied to him.

The Agency stated in its report that during site inspection conducted by KESC officials on 29.5.2001, it was found that the complainant's meter was fake, having been installed without any payment to KESC, as the consumer could not produce any proof of payment of the estimated amount for its installation. The Agency also stated that the seals and security slips were doubtful and a connected load of 32.039 kw was found. The Agency stated that the complainant was liable to pay the following charges as per its policy:

| | |
|--|---------------------|
| Penalty for fake meter | Rs. 10,000/- |
| System development charges @ Rs.3500/00 per KW | Rs.112,000/- |
| Security deposit @ Rs.3000/- per KW | Rs. 96,000/- |
| Total: | <u>Rs,218,000/-</u> |

It was stated that 60% relief was meant for consumers who got their connections through proper procedure by making payment of the estimated amount for the connection to KESC, and the complainant was not entitled to that benefit.

The complainant stated in his rejoinder that he was being penalized simply for the reason that a copy of the receipt of payment actually made by him for installation of the connection in the year 1997 had not been kept by him, and for this fault his electricity was disconnected on 9th March, 2002. In order to avoid business loss, the complainant got the meter and load regularized on 19th March, 2002 after payment of Rs.52,000/-, but still his electricity supply was not restored.

It was concluded that the complainant had a proper Consumer Number and Account Number, on which he was being billed ever since 1997 and he had been regularly paying the bills. It was observed that if the complainant had lost his payment record, on the other hand, the Agency being a Government Organization was under legal obligation to keep all such record. It appeared that in this case, due to negligence of the concerned officials to keep such record, the complainant was being penalized. The Agency was thus held guilty of gross maladministration.

Accordingly it was recommended that:

- (i) the Agency should refund the amount of Rs.10,000/- recovered from the complainant on account of regularization of alleged fake meter;
- (ii) the amount of Rs.52,000/- paid by the complainant should be adjusted towards regularization of enhanced load and the relief of 60% as admissible under the rules should be extended to him;
- (iii) if his electricity supply be still lying disconnected, it should be restored without any reconnection charges; and
- (iv) Managing Director, KESC should institute a departmental inquiry against the officials found responsible for the corrupt tactics.

CHAPTER 17

Some Important Policy Decisions of the President on Representations

Commerce Division

State Life Insurance Corporation

No. 949/2003-Rep(WM)Law
Government of Pakistan
Law, Justice and Human Rights Division

Islamabad, the 20th April, 2004

From: Raja Qamar Sultan,
Section Officer

To: The Chairman,
State Life Insurance Corp. of Pakistan,
State Life Building, P.O. Box 5725,
KARACHI-75530

Subject: REPRESENTATION UNDER ARTICLE 32 OF P.O. I OF 1983 AGAINST THE 'FINDINGS' OF THE WAFAQI MOHTASIB DATED 08.09.2003 IN COMPLAINT NO. H/9996/02/3950 [MST. RUKHSANA FIRDOUS VS. SLIC]

Dear Sir,

I am directed to refer to your representation No. PHS/PO/WM/REP/ 9996/2002, dated 13.10.2003, on the above subject and to say that the President has been pleased to pass the following order:

2. The assured purchased policy on 20.11.1994. Its term was 20 years. Mode of premium payment was yearly. Premiums were paid upto 11/1997. Further payments were discontinued. Resultantly the policy stood paid upto 20.11.1999. The policy was however

reinstated on payment of unpaid premiums and the assured's personal statement of good health dated 29.11.1999. The assured died on 6.8.2001. The medical certificate issued by the medical doctor who last attended the assured showed that the deceased had been suffering from liver disease for the last three years before his death. Thus, in the Agency's (SLIC) view the assured was guilty of non-disclosure of material fact relating to his state of health when she got the policy revived in November 1999 and on account of the non-disclosure repudiated the policy and refused to pay the claim. The Wafaqi Mohtasib found that since the Agency had reinstated the policy it could not deny its revival and has recommended that the Agency shall pay the claim to the complainant along with liquidated damages as contemplated under section 118 of the Insurance Ordinance 2000.

3. The Agency has represented against the 'Recommendations' of the Wafaqi Mohtasib on the ground that since the assured was guilty of non-disclosure of material fact it was entitled to repudiate the claim.

4. The complainant was asked to offer her comments on the representation. Her comments do not touch any of the points raised in the representation.

5. The Wafaqi Mohtasib has found that since the Agency had accepted the premium it cannot deny the subsistence of the policy and has sought support from the President's order in complaint No. L/4229/01 (PLI v Muhammad Hameed). The Wafaqi Mohtasib's approach misses the real point. The point is not whether at the death of the assured the policy subsisted or not. The real point is whether the Agency can or cannot repudiate the claim if it was found that the assured was guilty of non-disclosure of material fact. President's order in PLI v Muhammad Hameed only related to the question of revival of policy and not to repudiation of claim on account of non-disclosure of material fact. Law is firm that insurer may avoid the policy if the assured knowingly misrepresents his state of health. The assured is bound to disclose a serious disease of which he is aware (Colinvaux's Law of Insurance (7th ed) p.342-343). The Agency's decision is based on relevant ground supported by relevant evidence. In such a case the question of maladministration does not arise. Whether the evidence relied upon by the insurer should or should not be accepted is the function of court. The 'Findings'/'Recommendations' of Mohtasib cannot be sustained.

6. Accordingly, the President has been pleased to accept the representation of the Agency and set aside the Mohtasib's 'Findings' dated 8.9.2003 in complaint No. H/9996/02/3950."

Yours faithfully,

(Raja Qamar Sultan)
Section Officer

No. 1048/2003-Rep(WM)Law
Government of Pakistan
Law, Justice and Human Rights Division

Islamabad, the 22nd April, 2004

From: Raja Qamar Sultan,
Section Officer

To: Mst. Assma Allmas,
Wd/o Allmas Shafiq,
House No. 239, St. No. 4,
Mohallah Nuggar P.O. Box P.P. Colony No.2,
Chak No. 214, R.B. Distt. Faisalabad.

Subject: REPRESENTATION UNDER ARTICLE 32 OF P.O. I OF 1983 AGAINST
THE 'FINDINGS' OF THE WAFaqI MOHTASIB DATED 10.10.2003 IN
COMPLAINT NO. F/493/2002 [MST. ASSMA ALLMAS VS. SLIC]

Dear Sir,

I am directed to refer to your representation No. nil, dated 09.11.2003, on the above subject and to say that the President has been pleased to pass the following order:

“The insurant’s policy commenced on 31.12.1997. He failed to make payment of the second yearly instalment payable on or before 31.12.1998. Resultantly the policy lapsed. The Mohtasib has so found. The complainant has failed to furnish any proof to show that the premium due on 31.12.1998 was paid. The fact relating to payment of premium is the fact especially within the knowledge of the insurant/claimant. It is for her to prove that the payment was made. Tendering of payment through bank cheque does not amount to payment until the amount is received in the payee’s bank (Agency/SLIC). The Mohtasib has rightly found that the policy had lapsed on 31.12.1998 due to non-payment of the premium.

2. Accordingly, the President has been pleased to reject the representation of the complainant.”

Yours faithfully,

(Raja Qamar Sultan)
Section Officer

Communications Division*Karachi Port Trust*

No. 499/2002-Rep(WM)Law
Government of Pakistan
Law, Justice and Human Rights Division

Islamabad, the 29th March, 2004

From: Raja Qamar Sultan
Section Officer

To: The Secretary,
Karachi Port Trust,
Post Box 4725,
KARACHI.

Subject: REPRESENTATION UNDER ARTICLE 32 OF P.O. 1 OF 1983 AGAINST THE 'FINDINGS' OF THE Wafaqi Mohtasib DATED 31.08.1997 IN COMPLAINT NO. K/425/97-Z-741 (MST. SHAMIM AKHTAR VS KPT).

Dear Sir,

I am directed to refer to your representation No. SL/WM-MP/97/(186)/2941, dated 12.08.2002 on the above subject and to say that the President has been pleased to pass the following order:

2. The complainant's husband who was in the service of the Agency (KPT) died on 21.11.1979. In 1997, the complainant requested the Agency that her son may be appointed to a post against the quota for ex-employees' children. The Agency vide its letter dated 18.2.1997 informed the complainant that "in pursuance of the agreement with CBA only sons/daughters of those employees are appointed who have or will expire on or after 11.7.1989. In view of the above your request cannot be acceded to". The complainant complained to the Wafaqi Mohtasib that the Agency was guilty of maladministration in not appointing her son. After investigating the complaint the Wafaqi Mohtasib vide his "order" dated 31.8.1997 directed the Agency that "the complainant's son be appointed under sons' quota and compliance be reported within a period of thirty days after the receipt of these 'Findings' as per Article 11(2) of the President's Order No. 1 of 1983". It appears that neither the Agency complied with the order nor the Mohtasib referred the matter to the President for giving directions to the Agency to implement the Mohtasib's order.

3. The Wafaqi Mohtasib cannot deliver binding judgment... His 'Findings' are of recommendatory nature and not a binding judgment or decision. A recommendation becomes decision only if it has been perfected by the direction of the President under Article 12 of the P.O. 1 of 1983 (*Shafatullah v Federation of Pakistan* PLD 2001 SC 142). The Mohtasib's 'Recommendations' that have not been perfected into order may, at any time, be withdrawn or modified by the Mohtasib or interfered with by the President. The question regarding the entitlement of the children of ex-employees who expired before 11.7.1989 for job has already been decided by the President vide his order dated 14.1.2003 in case *Mr. Shakeel v KPT*. The said order reads as under:—

“In 1996 the complainant whose father retired from the Agency's service on 1.2.1989 applied for a job against ex-employees' children quota. He was not provided the job because according to the current agreement between the Agency and CBA job could be provided only to a child of an employee who would retire, or expire while in service, on or after 14.7.1989. The Wafaqi Mohtasib vide his 'Findings'/' Recommendations' dated 20.9.1997 found and recommended that since under the old agreement 30% of the posts were reserved for the retired/expired employees, therefore the complainant was entitled to a job. Since at the time (1996) when the complainant applied for the job the reservation for the employees' children who retired or expired before 11.7.1989 had been abolished therefore the Agency was justified not to provide job to the complainant. A similar view was taken by the Wafaqi Mohtasib in his 'Findings' dated 26.6.1994 in complaint No. K/378/94. The 'Findings'/' Recommendations' of the Wafaqi Mohtasib are not executable order unless they are perfected by the President's direction under Article 12(2) of the Establishment of the Office of Wafaqi Mohtasib Order 1983.”

4. In view of the said decision the Mohtasib's order dated 31.8.1997 cannot be sustained.

5. Accordingly, the President has been pleased to accept the representation of the Agency and set aside the Mohtasib's 'Findings' dated 31.8.1997 in complaint No. K/425/97-Z-741.

Yours faithfully,

(RAJA QAMAR SULTAN)
Section Officer

Finance Division*National Bank of Pakistan*

No. 550/2003-Rep(WM)Law
Government of Pakistan
Law, Justice and Human Rights Division

Islamabad, the 22nd April, 2004

From: Raja Qamar Sultan,
Section Officer

To: Mr. Manzoor Hussain,
R/o Gahura,
Tehsil Pind Dadan Khan,
Distt. JHELUM

Subject: REPRESENTATION UNDER ARTICLE 32 OF P.O. I OF 1983 AGAINST THE 'FINDINGS' OF THE WFAQI MOHTASIB DATED 05.07.2003 IN COMPLAINT NO. H/7258/01 (MR. MANZOOR HUSSAIN VS. NBP).

Dear Sir,

I am directed to refer to your representation No. nil, dated 28.7.2003, on the above subject and to say that the President has been pleased to pass the following order:

“The Zakat has been deducted from the complainant’s account according to law. If he was misled by the local manager of the bank he may consider pursuing civil law remedy against the individual. The Agency (NBP) cannot be compelled to act against law.

2. Accordingly, the President has been pleased to reject the representation of the complainant.”

Yours faithfully,

(Raja Qamar Sultan)
Section Officer

No. 760/2003-Rep(WM)Law
Government of Pakistan
Law, Justice and Human Rights Division

Islamabad, the 29th July, 2004

From: Raja Qamar Sultan
Section Officer

To: Mr. Najib Ullah Khan c/o Ijaz Ahmad Khan, Advocate,
008-Lawyers Chamber, District Courts, LAHORE.

Subject: REPRESENTATION UNDER ARTICLE 32 OF P.O. 1 OF 1983 AGAINST THE
'FINDINGS' OF THE WAFaqi MOHTASIB DATED 23.07.2003 IN
COMPLAINT NO. H/13195/2001 & F/55/2003 [NAJIB ULLAH KHAN VS NBP].

Dear Sir,

I am directed to refer to your representation No. nil, dated 21.08.2003 on the above subject and to say that the President has been pleased to pass the following order:

“The complainant complained to the Wafaqi Mohtasib that someone has fraudulently withdrawn DM 66,000 from his account with the Agency (National Bank of Pakistan). The Agency’s case is that the amount was paid to the holders of the cheques issued to, and signed by, the complainant. The complainant’s case is that he neither applied to the Agency for the issuance of cheque book nor any cheques were issued to him. Rather he was not in Pakistan when the cheques/cheque book is alleged to have been issued to him and any signatures on the cheques were not his. The Mohtasib has rejected the complaint for the reason that the matter relates to contentious question of facts and for the determination of such facts appropriate forum is court and not his (Mohtasib’s) office. The Agency as a corporate person is incapable to commit fraud. The fraudster must be an individual even if he is an employee of the Agency. If a fraudster withdraws an amount from the account of a customer of the bank the bank is liable to the customer if it is proved that the cheque was not signed by the customer or the bank was negligent to prevent the fraudulent withdrawal. But all such questions are questions of facts determinable after hearing evidence. The Mohtasib has rightly observed that proper forum for the decision of such matter is court of law.

2. Accordingly, the President has been pleased to reject the complainant’s representation.”

Yours faithfully,

(RAJA QAMAR SULTAN)

Zarai Taraqiati Bank Limited (ZTBL)

No. 972/2003-Rep(WM)Law
Government of Pakistan
Law, Justice and Human Rights Division

Islamabad, the 4th August, 2004

From: Raja Qamar Sultan
Section Officer

To: Mrs. Naseem Nawaz,
W/o Muhammad Nawaz,
R/o Muhallah Harian Wala Noor Shah,
Tehsil & District SAHIWAL.

Subject: REPRESENTATION UNDER ARTICLE 32 OF P.O. 1 OF 1983 AGAINST THE 'FINDINGS' OF THE WAFaqI MOHTASIB DATED 04.09.2003 IN COMPLAINT NO. F/985/02.

Madam,

I am directed to refer to your representation No. Nil, dated 03.10.2003 on the above noted subject and to say that the President has been pleased to pass the following order:

2. The complainant requested the Mohtasib that the Agency (ZTBL) may be directed to write off his loan which he is unable to pay on account of his poverty. The Mohtasib investigated the request and rejected it for the reason that there was no provision which authorised the Agency to waive the loan. In his representation the complainant does not contest the 'Findings'. He only prays for help on account of his poverty. The Agency cannot be ordered to act in the manner not permitted by its charter.

3. Accordingly, the President has been pleased to reject the representation of the complainant."

Yours faithfully,

(RAJA QAMAR SULTAN)
Section Officer

Housing & Works Division*Estate Office*

Government of Pakistan
Law, Justice and Human Rights Division

No. 482/2003-Rep(WM)Law

Islamabad, the 1st April, 2004OFFICE MEMORANDUM

Subject: REPRESENTATION UNDER ARTICLE 32 OF P.O. I. OF 1983 AGAINST THE 'FINDINGS' OF THE WAFAQI MOHTASIB DATED 28.05.2003 IN COMPLAINT NO. H/8520/2002 [MR. ALLAH DITTA KHAN VS. ESTATE OFFICE]

The undersigned is directed to refer to Ministry of Housing and Works U.O. No. 23/2-C, G-7/1-EV, dated 30.06.2003, on the above subject and to say that the President has been pleased to pass the following order:

“It has already been decided by the President (order No. 665/WM/2003 dated 13.11.2003 on the representation of the Agency (Ministry of Housing and Works) against the Mohtasib’s recommendation in complaint No. H/6012/2002 Mr. Muhammad Zarif v Ministry of Housing and Works/Estate Office Islamabad) that a Govt employee working in a subordinate office and not in a Ministry or a Division or its attached department is not entitled to get accommodation under the allocation Rules. The expression “attached department” is a term of art as defined in the Rules of Business and only the departments mentioned in Schedule III to the Rules of Business are attached departments. The Directorate General of Inspection (Direct Taxes) of which the complainant’s son is the employee is not listed as an attached department in Schedule III.

2. Accordingly, the President has been pleased to accept the representation of the Agency and set aside the Mohtasib’s recommendation dated 28.05.2003 in complaint No. Reg.H/8520/2002”.

(RAJA QAMAR SULTAN)
SECTION OFFICER

Information Technology and Telecom Division*PTCL*

No. 698/2003-Rep(WM)Law
Government of Pakistan
Law, Justice and Human Rights Division

Islamabad, the 22nd April, 2004

From: Raja Qamar Sultan,
Section Officer

To: Mst. Shaukat Jehan,
R/o 432/18 F.B. Area,
KARACHI

Subject: REPRESENTATION UNDER ARTICLE 32 OF P.O. I OF 1983 AGAINST
'FINDINGS' OF THE WAFaqI MOHTASIB DATED 10.06.2003 IN
COMPLAINT NO. K/01879/2001-SM-896 (MST. SHAUKAT JEHAN VS.
PTCL)

Madam,

I am directed to refer to your representation No. nil, dated 02.8.2003, on the above subject and to say that the President has been pleased to pass the following order:

“It has already been decided by the President (President’s Order No. 741/WM/2003 dated 2.1.2004 that telephone connectivity is a personal contract between the provider and subscriber of the service. The landlord’s N.O.C. does not oblige him/her to pay the bill for the telephone subscribed by the tenant.

2. Accordingly, the President has been pleased to accept the representation of the complainant.”

Yours faithfully,

(Raja Qamar Sultan)
Section Officer

No. 740/2003-Rep(WM)Law
Government of Pakistan
Law, Justice and Human Rights Division

Islamabad, the 22nd April, 2004

From: Raja Qamar Sultan,
Section Officer

To: Mr. Rauf Azam,
S/o Inayat Ali,
R/o Pirkot Road,
Gakhri Mandi,
Tehsil Wazirabad,
Distt. Gujranwala

Subject: REPRESENTATION UNDER ARTICLE 32 OF P.O. I OF 1983 AGAINST
'FINDINGS' OF THE WAFaqI MOHTASIB DATED 17.07.2003 IN
COMPLAINT NO. L/03158/02 [MR. RAUF AZAM VS. PTCL]

Dear Sir,

I am directed to refer to your representation No. nil, dated 4.08.2003, on the above subject and to say that the President has been pleased to pass the following order:

“The Wafaqi Mohtasib’s ‘Findings’ show that the complainant’s case was considered by the Agency’s (PTCL) Divisional Vigilance Committee. Where the Agency has considered a case as per its rules there is no question of maladministration.

2. Accordingly, the President has been pleased to reject the representation of the complainant.”

Yours faithfully,

(Raja Qamar Sultan)
Section Officer

Interior Division*NADRA*

No. 899/2003-Rep(WM)Law
Government of Pakistan
Law, Justice and Human Rights Division

Islamabad, the 3rd August, 2004

From: Raja Qamar Sultan
Section Officer

To: Mr. Inayatullah Afridi,
Resident of Fort Slop Bara,
KHYBER AGENCY

Subject: REPRESENTATION UNDER ARTICLE 32 OF P.O. 1 OF 1983 AGAINST
THE 'FINDINGS' OF THE WAFAQI MOHTASIB DATED 25.3.2003 IN
COMPLAINT NO. P/1783/2002.

Dear Sir,

I am directed to refer to your representation No. nil, dated 22.09.2003 on the above noted subject and to say that the President has been pleased to pass the following order:

- “2. The Agency has prescribed that application form for obtaining national identity card by resident of tribal areas shall be attested/verified by Political Agent of the area. The complainant’s grievance is that the residents of tribal area are being discriminated against with regard to verification of the application form because in other parts of the country the form can be attested by various authorities including gazetted officers. The right of “equality before law” is not violated if citizens are reasonably classified. There is no allegation that the complainant is being discriminated against with reference to others residing in his area.
3. Accordingly, the President has been pleased to reject the representation of the complainant.”

Yours faithfully,

(RAJA QAMAR SULTAN)
Section Officer

Labour, Manpower Division*EOBI*

No. 1016/2003-Rep(WM)Law
Government of Pakistan
Law, Justice and Human Rights Division

Islamabad, the 17th August, 2004

From: Raja Qamar Sultan
Section Officer

To: Mr. Karaim Bux Nizamani,
R/o Jehandad Pathan, Cabin Holder,
Talhar Town, Taluka Talhar,
Distt: BADIN

Subject: REPRESENTATION UNDER ARTICLE 32 OF P.O. 1 OF 1983 AGAINST
THE 'FINDINGS' OF THE WAFaqI MOHTASIB DATED 25.08.2003 IN
COMPLAINT NO. K/2127/02

Dear Sir,

I am directed to refer to your representation No. Nil, dated 28.10.2003, on the above subject and to say that the President has been pleased to pass the following order:

2. The complainant contends that contrary to law the Agency (Employees Old Age Benefits Institution) is not giving him pension. After investigating the complaint the Mohtasib has found that the complainant is not entitled to pension. The complainant has failed to show that he is entitled to pension. Further, the adjudicating authority established under the EOBI Act 1976 has also decided the matter against the complainant. Statutory authorities' decision cannot be contested before the Wafaqi Mohtasib and in the representation under Article 32 of the P.O. 1 of 1983.

3. Accordingly, the President has been pleased to reject the representation of the complainant."

Yours faithfully,

(RAJA QAMAR SULTAN)
Section Officer

Petroleum and Natural Resources Division*SNGPL*

No. 811/2003-Rep(WM)Law
Government of Pakistan
Law, Justice and Human Rights Division

Islamabad, the 22nd April, 2004

From: Raja Qamar Sultan,
Section Officer

To: Mian Tariq Mehmood,
10-KM, Rana Town,
Shahdara, LAHORE

Subject: REPRESENTATION UNDER ARTICLE 32 OF P.O. I OF 1983 AGAINST THE 'FINDINGS' OF THE WAFAQI MOHTASIB DATED 01.08.2003 IN COMPLAINT NO. H/15451/00 (MIAN TARIQ MEHMOOD VS. SNGPL).

Dear Sir,

I am directed to refer to your representation No. nil, dated 06.09.2003, on the above subject and to say that the President has been pleased to pass the following order:

“Article 10(3) of the Establishment of the Office of Wafaqi Mohtasib Order 1983 provides that a complaint shall be made not later than three months from the day on which the person aggrieved first had the notice of the matter alleged in the complaint. The complainant had the notice of the matter alleged in the complaint in 1998. The Mohtasib has found that the complaint filed on 5.10.2000 was time-barred. The complainant does not contest the above finding in his representation. When the Mohtasib found that the representation was time-barred he was not required to give 'Findings' on merits. The complaint declared by the Mohtasib time-barred is not reviewable by the President.

2. Accordingly, the President has been pleased to reject the representation as time-barred.”

Yours faithfully,

(RAJA QAMAR SULTAN)
Section Officer

No. 844/2003-Rep(WM)Law
Government of Pakistan
Law, Justice and Human Rights Division

Islamabad, the 4th August, 2004

From: Raja Qamar Sultan
Section Officer

To: Mr. Muhammad Anwar,
C/o Askari College, 7-A, Sarwar Road,
RAWALPINDI

Subject: REPRESENTATION UNDER ARTICLE 32 OF P.O. 1 OF 1983 AGAINST
THE 'FINDINGS' OF THE WAFAQI MOHTASIB DATED 01.08.2003 IN
COMPLAINT NO. H/02138/02.

Dear Sir,

I am directed to refer to your representation No. nil, dated 11.09.2003 on the above noted subject and to say that the President has been pleased to pass the following order:

“The complainant’s complaint is that compensation has not been paid to him for his land acquired by the Collector for the purposes of the Agency (SNGPL). The Mohtasib found that land acquisition proceedings were pending before the Collector, accordingly, he has recommended that payment of account of acquisition of land be made to the complainant in accordance with the relevant laws/rules without further loss of time. The complainant represents that certain amounts are admissible to him under the Land Acquisition Act 1894 but the same have not been considered by the Mohtasib. The Mohtasib has not decided what amount shall be paid to the complainant and what not? What amount is payable as compensation is determinable by the Collector, and if the complainant is not satisfied with the Collector’s award he is required to seek legal remedy under the Land Acquisition Act, 1894. It has already been decided that land acquisition proceedings even where the land is being acquired by the Collector for the Federal Govt. or a Federal Organization is a Provincial matter.

3. Accordingly, the President has been pleased to reject the representation of the complainant.”

Yours faithfully,

(RAJA QAMAR SULTAN)
Section Officer

SSGPL

No. 361/2003-Rep(WM)Law
Government of Pakistan
Law, Justice and Human Rights Division

Islamabad, the 31st March, 2004

From: Raja Qamar Sultan
Section Officer

To: Dr. S. Masud Ali,
Medical Director,
M/s City Hospital Malir (Pvt) Ltd.
45-A/423, Shahra-e-Faisal,
KARACHI-37

Subject: REPRESENTATION UNDER ARTICLE 32 OF P.O. I OF 1983 AGAINST
THE 'FINDINGS' OF THE WAFaqI MOHTASIB DATED 09.04.2003 IN
COMPLAINT NO. K/2366/2002 [MR. MASUD ALI VS. SSGP]

Dear Sir,

I am directed to refer to your representation No. CHM/APPEAL, dated 23.04.2003, on the above subject and to say that the President has been pleased to pass the following order:

“The complainant’s representation cannot be entertained for two reasons. Firstly, that he withdrew his complaint before the Mohtasib and no appeal lies against dismissal of action based on withdrawal and secondly, that the Agency (SSGC) has sued the complaint for the restitution of the overcharged bills.

2. Accordingly, the President has been pleased to reject the representation of the complainant.”

Yours faithfully,

(RAJA QAMAR SULTAN)
SECTION OFFICER

No. 622/2003-Rep(WM)Law
Government of Pakistan
Law, Justice and Human Rights Division

Islamabad, the 10th August, 2004

From: Raja Qamar Sultan
Section Officer

To: Mr. Muhammad Akram,
C/o Kala Milk Shop,
Inside Sheranwala Gate, LAHORE

Subject: REPRESENTATION AGAINST THE 'FINDINGS' OF THE WAFAQI
MOHTASIB DATED 17.05.2003 IN COMPLAINT NO. L/07867/2001

Dear Sir,

I am directed to refer to your representation No. Nil, dated 21.07.2003 on the above subject and to say that the President has been pleased to pass the following order:

The Agency (SNGPL) replaced the complainant's meter on 9.6.2001. The old meter was tested by its metering workshop. The workshop reported that the meter has been tampered as under:—

- (i) Index seals tampered.
- (ii) A hole had been drilled in the outlet port.

On the basis of the above report the Agency has charged the complainant as per its policy relating to pilferage.

2. The Mohtasib scrutinising the billing consumption data has found that there was significant variation in the consumption in the post replacement period and has rejected the complaint.
3. The complainant has made representation against the Mohtasib's decision. The complainant contends that he was not orally heard by the Mohtasib. Article 10(5) of P. O. 1 of 1983 provides that all investigations shall be conducted in private. The Mohtasib may or may not hear orally a complaint. It is his discretion which ought not to be interfered. The Agency has decided the matter on the basis of relevant evidence (report of workshop), and where the decision of an Agency is based on relevant evidence there shall be no question of maladministration. A bona fide decision even if it is against established

practice does not amount to maladministration (Article 2(2) of P. O. 1 of 1983 the complainant has referred to Article 2(2) but has not quoted it full).

4. Accordingly, the President has been pleased to reject the representation of the complainant.”

Yours faithfully,

(RAJA QAMAR SULTAN)
Section Officer

Water and Power Division*WAPDA*

No. 1005/2003-Rep(WM)Law
Government of Pakistan
Law, Justice and Human Rights Division

Islamabad, the 15th June, 2004

From: Raja Qamar Sultan,
Section Officer

To: The Chief Executive,
LESCO/WAPDA, LAHORE

Subject: REPRESENTATION UNDER ARTICLE 32 OF P.O. I OF 1983 AGAINST
THE 'FINDINGS' OF THE WAFAQI MOHTASIB DATED 04.10.2003 IN
COMPLAINT NO. L/1048/2003 [SHAHID NASIM VS. WAPDA/LESCO]

Dear Sir,

I am directed to refer to your representation No. nil, dated 29.10.2003, on the above subject and to say that the President has been pleased to pass the following order:

“In 2003 the Agency (LESCO) required the complainant to pay 80% further of the consumption registered by the meter during the period from 9/96 to 9/97 on the ground that his meter had been slow. It appears that on inspection in 8/1996 the meter was found slow and on that account 80% further charge was made for the period from 3/1996 to 8/1996. The disputed charge has been made on the ground that the slow meter could not be replaced before 9/1997. The ‘Recommendations’ of the Mohtasib are based on three grounds. One, the charge is belated (seven years old), two, it was the Agency’s failure not to replace the meter, and three, there was change of position on account of the complainant’s liability to recover the charge from his tenants who actually consumed the electricity. The Agency does not contest the above reasons. Its case is based on the sole ground that the consumer has paid less for the electricity consumed. The grounds on which the Mohtasib has recommended that the Agency shall withdraw the charge are valid but remain uncontested.

2. Accordingly, the President has been pleased to reject the representation of the Agency.”

Yours faithfully,

(RAJA QAMAR SULTAN)
Section Officer

No. 351/2003-Rep(WM)Law
Government of Pakistan
Law, Justice and Human Rights Division

Islamabad, the 17th August, 2004

From: Raja Qamar Sultan
Section Officer

To: Mr. Shaukat Hayat,
S/o Sardar Ali Bhatti (late),
House No. 5/713, Munawar Shaheed Road,
Muhallah Pir Islam, Havaili LAKHA

Subject: REPRESENTATION UNDER ARTICLE 32 OF P.O. 1 OF 1983 AGAINST
THE 'FINDINGS' OF THE WFAQI MOHTASIB DATED 08.09.2001 IN
COMPLAINT NO. L/8693/2000 [SHAUKAT HAYAT VS. WAPDA/ LESCO]

Dear Sir,

I am directed to refer to your representation No. nil, dated nil, on the above subject and to say that the President has been pleased to pass the following order:

“The Mohtasib decided the complaint on 8.9.2001. The complainant did not make representation against the decision within the prescribed time. It appears that the complainant made a reference to the Electric Inspector appointed by the Provincial Government for the settlement of his dispute with the Agency (LESCO) under section 26 of Electricity Act 1910. The Electric Inspector vide his decision dated 18.11.2002 has decided the matter. Through this petition (wrongly termed as representation (against Mohtasib's decision) the complainant seeks enforcement and execution of the decision made by the Electric Inspector. The petition does not point out any infirmity in the Mohtasib's decision. The President's office does not act as executing Agency for the enforcement of Electric Inspector's decisions.

2. Accordingly, the President has been pleased to reject the petition. The petitioner may seek his remedy from appropriate forum.”

Yours faithfully,

(RAJA QAMAR SULTAN)
Section Officer

No. 739/2003-Rep(WM)Law
Government of Pakistan
Law, Justice and Human Rights Division

Islamabad, the 18th August, 2004

From: Raja Qamar Sultan
Section Officer

To: Mr. Muhammad Asad Mujtaba,
House No. A/159, Sikanderabad, Liaqatabad,
KARACHI

Subject: REPRESENTATION UNDER ARTICLE 32 OF P.O. 1 OF 1983 AGAINST
THE 'FINDINGS' OF THE WAFaqI MOHTASIB DATED 10.06.2003 IN
COMPLAINT NO. K/71/2002 [MR. MUHAMMAD ASAD MUJTABA VS
KESC]

I am directed to refer to your representation No. Nil, dated 15.08.2003, on the
above subject and to say that the President has been pleased to pass the following order:

“This is not a representation against the Mohtasib’s decision. This is a
petition for waiver of un-contorted charges which the petitioner is unable
to pay on account of his poverty. No direction can be given to the Agency
for waiver of recoverable charges. Law Division may file the petition.

Yours faithfully,

(RAJA QAMAR SULTAN)
Section Officer

No. 1049/2003-Rep(WM)Law
Government of Pakistan
Law, Justice and Human Rights Division

Islamabad, the 23rd August, 2004

From: Raja Qamar Sultan
Section Officer

To: Al-Haj Nazar Muhammad Bhatti,
Muhallah Chah Ghohana Nawala
Noshera Road,
GUJRANWALA

Subject: REPRESENTATION UNDER ARTICLE 32 OF P.O. 1 OF 1983 AGAINST THE 'FINDINGS' OF THE WAFaqI MOHTASIB DATED 16.09.2003 IN COMPLAINT NO. H/10105/2002 [AL-HAJ NAZAR MUHAMMAD BHATTI VS. WAPDA/GEPCO]

I am directed to refer to your representation No. nil, dated nil, on the above subject and to say that the President has been pleased to pass the following order:

“The Agency (GEPCO) has charged the complainant on 20% load factor for the period from 6/1999 to 11/1999 on the ground that certain discrepancies were found in the matter. The complainant applied to the Electric Inspector for the resolution of the dispute regarding the charge under section 26(6) of the Electricity Act 1910. But, on 9.5.2001 withdrew the application, and in 9/2002 made complaint to the Wafaqi Mohtasib. The Mohtasib has rejected the complaint. Where a person withdraws his suit/petition etc. he cannot bring new suit/petition on same cause of action. The Mohtasib has rightly rejected the complaint.

2. Accordingly, the President has been pleased to reject the representation of the complainant.”

Yours faithfully,

(RAJA QAMAR SULTAN)
Section Officer

No. 1139/2003-Rep(WM)Law
Government of Pakistan
Law, Justice and Human Rights Division

Islamabad, the 31st August, 2004

From: Raja Qamar Sultan
Section Officer

To: Al-Haj Nazar Muhammad Bhatti,
Muhallah Chah Ghohana Nawala
Noshera Road,
GUJRANWALA

Subject: REPRESENTATION UNDER ARTICLE 32 OF P.O.1 OF 1983 AGAINST THE 'FINDINGS' OF THE WAFaqI MOHTASIB DATED 19.11.2003 IN COMPLAINT NO. H/12721/2002 [MR. MUHAMMAD IQBAL & FOUR OTHERS VS. WAPADA/FESCO]

I am directed to refer to your representation No. 16781, dated 22.11.2003, on the above subject and to say that the President has been pleased to pass the following order:

“The supply of electric power is regulated under the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997. All questions relating to the Agency’s obligations to supply electric power to the complainants and their (complainants) right to get supply are determinable under the above Act, and if the Agency (FESCO) is failing in its obligation the matter is exclusively determinable by the National Electric Power Regulatory Authority (NEPRA) under section 39 of the Act.

2. Accordingly, the President has been pleased to set aside the Wafaqi Mohtasib’s finding/recommendation dated 19.11.2003 in complaint No. H/12721/02. The Wafaqi Mohtasib may refer the complaint to the NEPRA for decision.”

Yours faithfully,

(RAJA QAMAR SULTAN)
Section Officer

CHAPTER 18

Activities of the Asian Ombudsman Association (AOA) and the International Ombudsman Institute (IOI)

International Contribution

With the world-wide growth and development of the Ombudsman Institution, it has become imperative to exchange and share information about the working of this institution. Presently, there are 22 Associations, Centres for studies, Councils and institutions working to further the concept of Ombudsmanship. At the international level, the International Ombudsman Institute is the most important, whereas, at the Asian level the Asian Ombudsman Association is the only forum available for the purpose. Pakistan is an active member of both the forums and takes part in the conferences/meetings of the two organizations held from time to time.

International Ombudsman Institute (IOI)

2. International Ombudsman Institute was established in 1978 with its Headquarter at Alberta, Edmonton Canada. It is a non-Governmental and non-profitable organization. Its main objectives are:

- (a) To promote the concept and institution of Ombudsman and to encourage its development throughout the world.
- (b) To develop and operate programs enabling an exchange of information and experience between Ombudsmen throughout the world.
- (c) To develop and operate educational programs for Ombudsmen, their staff, and other interested people.

- (d) To encourage and support research and study into the office of the Ombudsman.
- (e) To collect, store, disseminate information and research data about the institution of Ombudsman.
- (f) To provide scholarships, fellowships, grants and other types of financial support to individuals throughout the world to encourage the development of the Ombudsman concept and to encourage study and research into the institution of Ombudsman.
- (g) To plan, arrange and supervise International Ombudsman Conferences.
- (h) To undertake such other matters as are necessary to further the above objects.

3. Presently, there are 275 Ombudsman and like institutions working in 129 countries. Out of these 129 are Voting members of the IOI and 40 are listed as Non-Voting members. The Institute is governed by a Board of Directors, which consists of 20 members. Pakistan maintains its membership on the Board since its joining. The meeting of the Board of Directors is held every year, while the General Conference is held after every four years.

8th Conference of the IOI, held at Quebec City, Quebec, Canada, from 7-10 September, 2004

4. The 8th General Conference of the IOI was held at Quebec City, Canada, from 7-10 September, 2004.. Due to official exigencies at home, the Hon'ble Wafaqi Mohtasib could not participate in the Conference. The general theme of the Conference was "Balancing the Obligations of Citizenship with the Recognition of Individual Rights and Responsibilities – The Role of the Ombudsman". The aim of this Conference was to promote new ideas and facilitate debates focusing on the existing concerns of ombudsman. The Conference was successful since it achieved its objectives by providing the participants an excellent opportunity of insights into the following aspects of Ombudsmanship in the light of their personal experiences.

- i) "Respecting Human Diversity and Generally Understood Democratic Values" with respect to Cultural Diversity, Social Condition and (iii) Marginalized Groups.
- ii) "The Responsibility of the Ombudsman in Developing a Public Service Ethic in the Face of Socio-political and Economic Change" in the light of Public Services and Globalisation – The Role of the Ombudsman in the Face of Government De-commitment, Protecting Vulnerable People from the Scientific and Economic Powers-That-Be, The Ombudsman and Today's Demographic Realities, The Ombudsman – Meeting Today's Changing Needs, The Ombudsman

- A Difficult Role to Fill, Sharing Strategies and The Role of the International Ombudsman Institute: Situation and Outlook.
- iii) “Can the Recognition of Individual Rights and Freedom Survive the Pressure to Enhance Security?” with respect to Protecting Rights and Freedoms and Group Stigmatisation.

5. Election of the Board of Directors of the IOI was also held during the 8th Conference of the IOI. Mr. Imtiaz Ahmad Sahibzada, Wafaqi Mohtasib (Ombudsman), was re-elected as the Director on the Board from the Asian Region.

Asian Ombudsman Association (AOA)

6. Asian Ombudsman Association was formed in 1996. Pakistan, having floated the idea of the Association and also having organised the Conference for the purpose, the Headquarter of the Association is established at Islamabad, Pakistan. The idea of the establishment of the Association was to promote the concept of Ombudsman and to encourage its development in Asia. The Asian Ombudsman Association is an independent, non-political, democratic and professional body. Its aims are to develop professionalism in the discharge of the functions of an Ombudsman and to encourage and support study and research regarding the institution of Ombudsman. Presently, there are 21 members of the Association.

7. The objectives of the Association include promotion of the concept of Ombudsmanship and to encourage its development throughout Asia, to encourage and support research; to develop and operate educational programmes associated with Ombudsmanship and to collect, store and disseminate information about the Ombudsman institutions.

8. The Board of Directors of the Association meets every year, whereas, its General Conference is held biennially.

Meeting of the Board of Directors of the AOA held on 26th April, 2004, at Seoul, Republic of Korea

9. The meeting of the Board of Directors of the Association was held on 26th April, 2004, in Seoul, Republic of Korea.

10. The Board made the following important decisions and ‘Recommendations’:

- (i) While considering the report of the Sub-Committee of the Board of Directors of the AOA on grant of scholarships and financial support to individuals who intend to carryout research/study in the field of Ombudsmanship in member countries, the Board approved the report and emphasized that there is a need for research in the

existing systems so that best practices could be identified to be replicated in member countries' systems considering their respective environments. Consequently, members needed to identify the subjects of research, which could prove beneficial for most of the members. There was also a need to explore avenues for generating funds for such research.

- (ii) While considering the working paper prepared by the AOA Headquarters Office on making the Ombudsman/ like Institutions more independent and autonomous in their working for greater efficiency and credibility, the Board unanimously agreed that those members of the Board who wished to send their papers could do so now. After the papers have been received, the AOA Secretariat should make a gist of these papers and circulate it to all the members to make use of it in the manner they want.
- (iii) While considering the working paper prepared by the AOA Headquarters on creating awareness among the general public about the effectiveness and usefulness of the office of Ombudsman in the society, the Board unanimously decided to circulate the paper to all the members to benefit from it in the manner they like.
- (iv) It was unanimously decided that the 9th Conference of the Association will be held at Hong Kong, SAR, People's Republic of China, in 2005.
- (v) The Board accorded its approval for incorporating a new Bye-law 5(11), authorising the General Assembly to suspend the membership of those members who are in default of payment of their membership fee.

8th Conference of the AOA from 26-29 April, 2004, at Seoul, Republic of Korea

11. The 8th Conference of the Association was held at Seoul, Republic of Korea from 26-29 April, 2004. The Conference was attended by 68 delegates from 25 countries. The main theme of the Conference was "The Ombudsman and the Strengthening of Civil Rights in Asia". The Hon'ble Wafaqi Mohtasib, Mr. Imtiaz Ahmad Sahibzada, as the President of the AOA while welcoming the delegates to the Conference expressed his confidence that both the formal deliberations of the Conference and the 'Country Papers' of the many delegates, and, just as importantly, the informal inter-action and exchange of views between them, will lead to a better mutual understanding of the problems confronting our countries in this regard and the measures being adopted to cope with them. Full text of the address is placed at Annex-II. The participants of the Conference

deliberated upon the following issues relating to Ombudsmanship in the context of their personal experiences:

- i. “The Government – Citizen Relationship: What do citizens expect from the Government? What do citizens expect of the Ombudsman?”
 - ii. “The Role of the Ombudsman in safeguarding Civil Rights” and
 - iii. “The Ombudsman and Citizen Participation”
12. Hon’ble Wafaqi Mohtasib, Mr. Imtiaz Ahmad Sahibzada, also read his Country Paper in the Conference on “The Role of the Ombudsman in Safeguarding Civil Rights”. In his paper he highlighted the different aspects of the Ombudsman’s role in safeguarding civil rights in the context of his own experience in Pakistan. While summarizing the Paper he stated that in so far as the Ombudsman of Pakistan is concerned the role that he plays in the safeguarding of ‘civil rights’, is to the extent of protection and promotion of the ‘right to good-governance’ by protecting individual citizens against abuse and ‘maladministration’ by public authorities. The safeguarding of ‘civil rights’ as such in the traditional sense is essentially a function assigned to the judiciary by the Constitution in the context of ‘Fundamental Rights’. Full text of the Paper is placed at Annex-III.
13. The session of the General Assembly of the AOA was held on 29th April, 2004, during which the formal election of the Board of Directors of the Association was held and the following were elected as the new members of the Board:
- | | |
|-----------------|---|
| President: | Mr. Imtiaz Ahmad Sahibzada, Wafaqi Mohtasib (Ombudsman), Pakistan. |
| Vice President: | Mr. Simeon Macelo, National Ombudsman, Philippines. |
| Secretary: | Ms. TAI Yuen-ying, Alice, Ombudsman, Hong Kong, SAR, People’s Republic of China. |
| Treasurer: | Mr. Cho Young-Hoang, Chief Ombudsman, South Korea. |
| Members: | Mr. Li Zhilun, Minister, Ministry of Supervision, People’s Republic of China. Sayyid Ebrahim Ra’isee, Head, General Inspection Organization, Islamic Republic of Iran. Mr. Masashi Tamura, Director-General, Administrative Evaluation Bureau, Ministry of Public Management, Home Affairs, Posts & Telecommunications, Japan. Mr. Cheong U, Commissioner Against Corruption, Macau, SAR, People’s Republic of China. Datuk Haji Mahadi bin Haji Arshad, Director-General, Public Complaints Bureau, Prime Minister’s Department, Malaysia. |

14. The General Assembly also endorsed and ratified the ‘Recommendations’ made by the Board. The applications for the Commissioner for Human Rights of the Republic of Azerbaijan and Provincial Mohtasib (Ombudsman) Baluchistan, Pakistan, for the Full membership of the AOA, were accepted. The Conference concluded with a note of thanks and gratitude to the Chief Ombudsman of Republic of Korea, for hosting the Conference and for the excellent arrangements made for it.

International Ombudsperson Conference

15. International Conference of Ombudspersons was held at Baku, Republic of Azerbaijan from 29-30 November, 2004. The theme of the Conference was “Human Rights Education in collaboration with the Civil Society - Key of Democratisation”. The aim of the Conference was to improve the working of the Ombudsman institutions in Commonwealth of Independent States (CIS) countries. The Hon’ble Wafaqi Mohtasib was also invited to attend the Conference which he, unfortunately, could not. A thread bare discussion on the following issues was held and the participants of the Conference benefited from each others experiences:

- Human Rights diversity and democratic values: the new concepts, attitudes and challenges.
- The role of government in the safeguarding of Human Rights.
- Ombudsman as a new tool for democratization through Human Rights education and implementation.
- Collaboration with the civil Society in promotion and protection for Human Rights.
- Human Rights issues in the UNESCO education.
- The International treaties and National Legislation — the main sources on Human Rights education.
- The role of International collaboration in appropriate Human Rights promotion and protection.
- Ombudsman and democratic realities: bridging and coordinating all actions (governmental bodies, academicians, universities, civil society, NGOs, mass media, etc.) capacities for public awareness and ensuring Human Rights in the democratic state ruled by Law.
- Tolerance key of survival, coexistence, collaboration, and sustainable development.
- Human Rights education for prevention of violence, trafficking, drug abuse, HIV/AIDS.
- Human Rights education for all, despite differences of nationality, ethnicity, faith, gender, age without any discrimination.

Annexes

Annex-I

ROLL OF INVESTIGATING OFFICERS

(As of 31st December 2004)

| APPOINTED UNDER ARTICLE 8 of P.O.1. of 1983 ¹ | APPOINTED UNDER ARTICLE 20 of P.O.1. of 1983 ² |
|--|--|
| | Headquarters |
| Mr. Zaheer ud Din Babar, Secretary Mr. M. Amjad Sheikh, Director General Mr. Abdur Rauf, Director | Advisers Mr. Ehsanul Haq - Brig. Zulfiqar A. Khan (Rtd) Mr. Naveed Asghar Qureshi - Mr. Mohammad Aslam Mr. Shaukat Hussain - Mr. Mohammad Bashir Mr. Mansoor Ahmad Consultant Brig. (Retd) Ahmed Salim |
| | Regional Office, Lahore |
| Mr. Asif Mahmood Malik, Member / Addl. Secretary Mr. G.M. Javed Jah, Director General Mr. Salim Sultan Durrani, Director General Mr. Nadeem Ashraf, Director General Mrs. Fozia Zaki, Director | Advisers Mr. Rahatullah Khan Jarral - Syed Fazal Hussain Mr. Shaukat Ali Consultants Mr. Inayat Illahi Malik - Mr. Zafar Sahi Brig. (Retd) Nisar Ali - Brig. Rtd. Shamshad Ali |
| | Regional Office, Karachi |
| Miss Sabiha Mirza, Member / Addl. Secretary Mr. Muhammad Salim Butt, Director General Dr. Manzoor Ahmad Memon, Director Mr. M. Fazil Sheikh, Deputy Director | Advisers Mr. Saiyed Ahmed Siddiqui - Mr. Iftikhar A. Khan Consultant Mr. Nazir Ahmad Khan Swati |
| | Regional Office, Peshawar |
| Mr. Javed Iqbal, Director General Mr. Muhammad Arshad Khan, Director General Mr. Saleem Khan, Director | Adviser Mr. Muhammad Amin Consultants Qazi Inayatullah - Mr. Mairaj ud Din Syed Abid Hussain Bukhari - Mr. Azizur Rehman Malik Mr. Sherzaman - Mr. Fawad Hanif |
| | Regional Office, Quetta |
| Mr. Khalique uz Zaman Gharsheen, Director | Regional Office, Sukkur |
| Mr. Ghulam Rasool Aahpan, Director General Mr. Ali Murad Chachar, Director | Adviser Mr. Nusratullah Khan Consultant Mr. Anwar Ali Khokhar |
| | Regional Office, Multan |
| Mr Pervez Sultan, Director—Mr Saleem Raza Asif, Director | Consultant Mr. Muhammad Aslam Khan |
| | Regional Office, Faisalabad |
| Mr. Qurban Ali, Director General | Adviser Mr. Maqsood Khawaja Consultant Syed Badar-e-Munir |
| | Regional Office, D.I. Khan |
| | Consultant Mr. Fayyaz H. Zaidi |

1. These are persons recruited through the normal process specifically for the Office of the Wafaqi Mohtasib or are on deputation to it from the Federal or Provincial Governments or the Judiciary.
2. These are persons who have been appointed on contracts of a year in terms of Article 20 of P. O. 1 of 1983.

Annex-II

**Welcome Speech of Mr. Imtiaz Ahmad Sahibzada,
President, Asian Ombudsman Association
at the 8th Asian Ombudsman Association Conference
(26-29th April 2004) at Seoul, Republic of Korea**

Your Excellency Mr. Cho Young – Hoang, Chief Ombudsman of Korea, Members of the Asian Ombudsman Association, distinguished delegates, ladies and gentlemen.

2. At the outset of what I have to say I wish to acknowledge with great gratitude the decision of the Republic of Korea to host the 8th biennial Conference of the Asian Ombudsman Association and of giving me this opportunity to address you at the inaugural session.
3. As the incumbent President of the Asian Ombudsman Association, it is indeed an honour and a pleasure for me to extend a warm welcome to the Members of the Association and the other distinguished delegates present here today. I am grateful to them for making it convenient to attend the proceedings of this the 8th Asian Ombudsman Association Conference in this delightful and ancient city of Seoul, the capital of the Republic of Korea.
4. This Conference, as you know, involves, *inter-alia*, a meeting of the Board of Directors and of the General Assembly of the Association at which a number of significant issues, including election of the Board of Directors for the next term, will be finalized. This, I am sure will be done, as always in the past, in a spirit of mutual respect, tolerance and understanding.
5. The theme of this year's Conference has been chosen by the hosts as "The Ombudsman and Strengthening of Civil Rights in Asia" with its component elements being: "The Government – Citizen Relationship: what do citizens expect from the Government? What do citizens expect from the Ombudsman?". "The role of the Ombudsman in safe-guarding civil rights"; and, "The Ombudsman and citizen's participation". A number of papers on each of these topics will be presented during the proceedings.
6. It is well acknowledged that 'governance issues' lie at the heart of the problems confronting the countries of our region. Good governance, as it were, essentially relates to curbing "maladministration" and safeguarding the 'civil rights' of the citizens. In the resolution of governance issues lies the key to the political and socio-economic development of a nation and the establishment of a just and equitable society. As I said at Beijing during the 7th Conference,

“by curbing maladministration and corruption from the discharge of functions and responsibilities by public sector organizations in a cost-effective and expeditious manner through comparatively simple and uncomplicated procedures and, in quite a number of cases also playing a lead role in the safeguarding of civil rights, the Office of the Ombudsman has established itself as perhaps the most important institution for the redress of individual grievances arising from the interface of the Government and the citizens.”

7. The institution of the Ombudsman worldwide can functionally be divided basically into two categories. Those which are by and large exclusively concerned with protecting individual citizens against abuse and maladministration by public authorities and those whose primary focus is often on the more fundamental human rights/civil rights problems. Where the Ombudsman’s primary focus of responsibility and mandate is the investigation of complaints against public administration, the promotion and safeguarding of human or fundamental rights, or civil rights as such, is left to other institutions, primarily the judicial system of the country.

8. The institution of the Ombudsman the world-over is a response to, and determined by, the stage of political, legal and administrative development that a country finds itself in at a particular period of its history and, of course, of its political and socio-economic milieu. It is this milieu that determines the basic law or constitution and it is the Constitution, in turn, which gives shape to and enshrines, not only the human or fundamental rights that are sought to be protected in the process of governance, but also the essential features of the governance of each country and the basic institutional infrastructure for the purpose. That is, the structure and functioning of the Legislature, Executive and the Judiciary and the related institutions, among which the institution of the Ombudsman, variously styled, structured and designated, takes pride of place. This institution is, therefore, the out-come of each country’s own historical past, its present circumstances and its vision of the future shape that society and governance in a democratic context should take in a world that is increasingly being affected by cross-country influences and international experience. Though a lot can be fruitfully gained from this experience, no system or institution can, however, be transplanted in toto in an alien or substantially different environment to the one which gave it birth and expected to function with the same degree of efficiency and effectiveness. Though this is a well-acknowledged fact, it is equally well-recognized that the principles and essential underlying features of successful institutions elsewhere can, with great benefit, be adopted or adapted to serve as the foundations on which a ‘country – specific’ edifice, with differing design parameters suited to the local environment, can be raised. The international and regional experience, viewed in this context, is, therefore, of immense importance both for the establishment of new functionally-related institutions and for

their evolution over periods of time as they seek to cope with, and respond to, newly emerging challenges, both nationally and internationally.

9. In this context the point of the Chief Ombudsman of Korea, His Excellency, Mr. Cho Young – Hoang, is extremely well taken when he says that:

“...the Ombudsman System is evolving from its past universal model and is becoming diversified so as to fully reflect the inherent characteristics of each nation. Such phenomena are the natural result of each nation’s efforts to appropriately respond to the demands and expectations of its people. Nonetheless finding the answer to the question of how we should go about organizing and operating ombudsman systems that are tailored to each nation has become an urgent matter. As a result, it has become ever more important for each nation’s ombudsman to exchange information and human resources with one another and so, we have gathered here today to discuss this issue”.

10. I am confident that both the formal deliberations of the Conference and the ‘Country Papers’ of the many delegates, and, just as importantly, the informal inter-action and exchange of views between them, will lead to a better mutual understanding of the problems confronting our countries in this regard and the measures being adopted to cope with them. It is this productive inter-action and fruitful exchange of views between delegates that we particularly look forward to in the Conference.

11. Ladies and Gentlemen: As I said during the inaugural session of the Board of Directors meeting in Macao last year (October 2003):

“Today injustice, inequality and economic imbalance has assumed dangerous proportions and is threatening society, as the common man comes to be marginalized in gaining access to the administration for redress of his grievances. To bridge this inequality, minimise the inaccessibility, inform and educate the citizen and alleviate his sufferings at the hands of the administration, and to make it more humane and responsive to the needs and grievances of the common citizens, institutions of the Ombudsman are a dire necessity. While it is a matter of great satisfaction that quite a number of the countries of Asia have such an institution there are, regrettably, some which continue to be deprived of its benefits. We not only exhort, and recommend to, these countries, with all the emphasis at our command, to create them, but also invite them warm-heartedly to join our ranks as members of the Asian Ombudsman Association.”

12. The concept of Ombudsmanship is on the advance worldwide. In this context it is a matter of great satisfaction to note that Institutions of the Ombudsmen have been established in the Republic of Azerbaijan and Kyrgyz in the Central Asian Region. We extend to them a warm welcome into the flock, as it were. The request for membership of the AOA of the Republic of Azerbaijan is being put up for ratification in the General Assembly. It is hoped that the Kyrgyz Republic and other Central Asians Republic would follow suit to further fortify this Association and make it truly representative of Asia.

13. Ladies & Gentlemen! The Asian Ombudsman Association which is in the eighth year of its establishment, has, I feel, come of age to more actively pursue its role of meeting the objectives set out for it in its charter. Even at the cost of repetition, these justify a mention:

- “(a) to promote the concepts of Ombudsmanship and to encourage its development in Asia;
- (b) to develop professionalism in the discharge of the functions of an Ombudsman;
- (c) to encourage and support study and research regarding the institution of the Ombudsman;
- (d) to sponsor training and educational programmes for the institutions of the Ombudsman in the region;
- (e) to provide scholarships, fellowships, grants and other types of financial support to individuals for study relating to the institution of the Ombudsman;
- (f) to collect, store and disseminate information and research data about the institution of the Ombudsman;
- (g) to facilitate exchange of information and experiences among the Ombudsman in the region;
- (h) to plan, arrange and supervise periodic conferences of the Ombudsmen of the Asian countries/regions;
- (i) to undertake such other matters necessary to further the above objectives of the Association.”

14. These objectives now need to be progressively actualised and consequently some items on the Agenda have specifically been focussed on a number of these. It is hoped that, when approved and implemented, they will go a long way towards the attainment of these objectives.

15. Ladies and gentlemen! one of the underlying principles of nature and the affairs of man is change and regeneration. Since we met in Beijing in May, 2002 a number of changes have taken place amongst the ranks of the Ombudsman of member Asian countries of the Association. Some have retired while others have moved on to other

occupations. We wish them success and happiness in their new roles and welcome those who have taken their places.

16. In conclusion allow me, on behalf of all the members of the Board and on my own behalf, to reiterate our immense gratitude to all the dignitaries present here, and to the other guests, for taking time out of their extremely busy schedules to be amongst us and grace this inaugural ceremony. While doing so I would be failing in my duty if I were not to acknowledge with great gratitude the excellent work done by his Excellency, Mr. Cho Young – Hoang, the Chief Ombudsman of Korea and his predecessor for the convening of this meeting and of the hard, and excellent work put in by members of the staff of the Chief Ombudsman's Office in this regard. We are being looked after extremely well and shall remember and cherish for long the hospitality and care showered on us.

Thank you and thank you very much.

Annex-III**The Role of the Ombudsman in Safeguarding Civil Rights**

**Country Paper Presented by Mr. Imtiaz Ahmad Sahibzada,
the Wafaqi Mohtasib (Ombudsman) of Pakistan
at the 8th Asian Ombudsman Association Conference
at Seoul, Republic of Korea 26-29 April, 2004**

Introduction

The subject of the topic i.e. the role of the Ombudsman in safeguarding civil rights is best approached from a country – specific perspective. Before this can be attempted in the case of Pakistan, however it is necessary to set the context in which the term “civil rights” is used. This in turn cannot be addressed without reference to “human rights” as it is these that in the traditional definition of the term comprise “civil” and “political” rights. Included amongst these, inter-alia, are: the right to life, liberty and security; the right not to be discriminated against on the basis of race, colour, sex, language, religion, social class or political opinion; the right to vote, freedom of thought, speech and freedom to express; the right to be free from arbitrary invasion of privacy, family or home; and legal rights such as the right to due process of law and the presumption of innocence until proven guilty. Some of these are also termed ‘fundamental rights’ enshrined in constitutions of many countries.

2. There is a wide area of over-lap between these terms in so far as ‘rights’ listed under each is concerned. While there is a substantial commonality in how these are seen and interpreted in different countries, there are, understandably, differences too. These are determined by the stage of political, legal and administrative development that a country finds itself in at a particular period of its history and, of course, of its political and socio-economic milieu. It is this milieu that determines the basic law or constitution and it is the Constitution, in turn, which gives shape to and enshrines, not only the human or fundamental rights that are sought to be protected in the process of governance, but also the essential features of the governance of each country and the basic institutional infrastructure for the purpose. That is, the structure and functioning of the Legislature, Executive and the Judiciary and the related institutions, among which the Institution of the Ombudsman, variously styled, structured and designated, takes pride of place.

3. The institution of the Ombudsman worldwide can functionally be divided basically into two categories. Those which are by and large exclusively concerned with protecting individual citizens against abuse and maladministration by public authorities and those whose primary focus is often on the more fundamental human rights/civil rights problems. Where the Ombudsman's primary focus of responsibility and mandate is the investigation of complaints against public administration, the promotion and safeguarding of human or fundamental rights or civil rights as such is left to other institutions, primarily the judicial system of the country.

4. Although the traditional view of 'human rights', 'civil rights' and 'fundamental rights' is generally accepted, what was not so universally acclaimed but is now coming to the forefront is the right to 'good governance' as an important constituent element of 'civil rights'. Good governance has a number of equally important aspects from the standpoint of the functioning of the political, executive, judicial and administrative institutions, structures and processes. However, taking 'good governance' as a 'civil right' and acknowledging the centrality of good administration for its realization, the role of the Ombudsman in safeguarding and promoting it, becomes apparent.

5. Before this is attempted in respect of the Ombudsman in Pakistan, it would be appropriate to set the context by an over-view of the Republic, the political structure of the Federation, the Judiciary, the distribution of legislative powers between the Federation and the Provinces, the administrative structure of the Federal Government, followed by a somewhat more detailed discussion of the establishment of the Office of the Ombudsman, its powers and functions and finally an evaluation of the functioning of the Office since its inception with particular reference to the outgoing calendar year i.e. 2003.

The Republic and its Territories

6. According to the Constitution, 1973, Pakistan is a Federal Republic known as the Islamic Republic of Pakistan. Its territories comprise the Provinces of the Punjab, Sindh, North-West Frontier and Balochistan; the Islamabad Capital Territory (ICT) or the Federal Capital; the Federally Administered Tribal Areas (FATA); and such states and territories as are, or may be, included in Pakistan, whether by accession or otherwise.¹ Each of the Provinces, for purposes of territorial administration and Local Government, is divided into a number of Districts of varying sizes and population not necessarily

1 Article-1 of the Constitution of the Islamic Republic of Pakistan, 1973.

connected with the over all size of the Province in terms of area or population. The Punjab has 34 Districts, Sindh has 16, NWFP 24 and Balochistan 22.²

Population

7. The latest census of 1998 shows that Pakistan has a population of 132,352,279 with the following distribution: Punjab: 73,621,290; Sindh: 30,439,893; NWFP: 17,743,645; Balochistan: 6,565,885; FATA: 3,176,331; and Islamabad Capital Territory: 805,235.3.

The Political Structure of the Federation

8. The essential components of the political structure of the Federation are the President; the Majlis-e-Shoora (Parliament) consisting of the National Assembly and the Senate; the Attorney General; the Chief Election Commissioner; and a Cabinet of Ministers with a Prime Minister at its head.

9. The President, who is the head of the State, is elected by members of an Electoral College consisting of Members of both Houses of Parliament and Members of the Provincial Assemblies.⁴ He holds office for a term of five years.⁵ This mode of election has, on critical occasions in the political circumstances of the country, been dispensed with in favour of a resort to a National Referendum under the provisions of a specific Article of the Constitution.⁶ The Executive authority of the Federation vests in the President and is exercised by him directly, or through officers subordinate to him, in accordance with the Constitution.⁷

10. The National Assembly is elected for a term of five years on the basis of universal adult suffrage through a direct and free vote.⁸ Each Province, FATA and ICT have been divided for the purpose into a number of single-member territorial constituencies on the basis of population.

11. The number of Seats in the National Assembly have been fixed at 357 of which the General Seats are 272, the Seats reserved for Women are 60 and the Seats reserved for

2 The Gazette of Pakistan, Election Commission of Pakistan, Notification No.F.10(2)/2002-SMW, dated 26th March 2002, pp 227-230.

3 Population and Housing Census of Pakistan, 1998; Census Bulletin – I (Final Results) Table-I; Population Census Organisation, Statistics Division, Government of Pakistan, February, 2002

4 Article 41 (3) *ibid*

5 Article 44 (1) *ibid*

6 Article 48 (6) *ibid*

7 Article 90 of the Constitution of the Islamic Republic of Pakistan 1973.

8 Article 51 (1) *ibid*

Technocrats are 25. The distribution of these over the Provinces, FATA and the Federal Capital are contained in the table below:⁹

| Province/Area | Number of General Seats | Seats Reserved for Women | Seats Reserved for Technocrats | Total Seats |
|-----------------|-------------------------|--------------------------|--------------------------------|-------------|
| NWFP | 35 | 8 | 3 | 46 |
| FATA | 12 | - | - | 12 |
| Federal Capital | 2 | - | - | 2 |
| Punjab | 148 | 35 | 15 | 198 |
| Sindh | 61 | 14 | 6 | 81 |
| Balochistan | 14 | 3 | 1 | 18 |
| Total: | 272 | 60 | 25 | 357 |

12. The Senate consists of 87 seats of which 14 are elected from each Province by the Members of each Provincial Assembly; 8 are elected from FATA by the Members of the National Assembly from the Federally Administered Tribal Areas; 3 are elected from the Federal Capital; and 5 are elected by the Members of each Provincial Assembly to represent Ulema, Technocrats and other professionals. The election to the seats allocated to each Province is held in accordance with the system of proportional representation by means of the single transferable vote.¹⁰

13. The Cabinet of Ministers, with the Prime Minister at its head, aids and advises the President in the exercise of his functions.¹¹ The Prime Minister is appointed by the President from amongst Members of the National Assembly who commands the confidence of the majority of the Members of the National Assembly.¹² The Federal Ministers are appointed from amongst the Members of both Houses of the Parliament by the President on the advice of the Prime Minister.¹³

The Judiciary

14. The judicial structure of Pakistan consists of a Supreme Court at the Federal level, a High Court for each Province¹⁴ and the Court of the District and Sessions Judge for each District. There are a number of Additional District and Sessions Judges in each

9 The Gazette of Pakistan, Election Commission of Pakistan, Notification No.F.10 (2)/2002-SMW, dated 26th March 2002, page 219.

10 Article 59 of the Constitution of the Islamic Republic of Pakistan.

11 Article 91 *ibid*

12 Article 91 (2) *ibid*

13 Article 92 (1) *ibid*

14 Article 175 *ibid*

District complemented by a number of Courts of the subordinate judiciary and Judicial Magistrates at the Tehsil level.

15. At the Federal level there is also a Federal Shariat Court for the hearing of cases relating to the Shari‘a – the Islamic Religious Code.

Distribution of Legislative powers between the Federation and the Provinces

16. Legislative powers between the Federation and the Provinces have been distributed on the basis of two lists– the Federal Legislative List and the Concurrent List. The Federation has exclusive power to make laws with respect to any matter in the Federal Legislative List while both the Federation and the Provinces have powers to make laws with respect to any matter in the Concurrent Legislative List. The Provinces have been entrusted with the residuary powers to make laws with respect to any matter not enumerated in either the Federal Legislative List or the Concurrent Legislative List. For Areas not included in any Province these residuary powers rest with the Federation.¹⁵

Federally Administered Tribal Areas

17. The Federally Administered Tribal Areas include the Tribal Areas adjoining the Districts of Peshawar, Kohat, Bannu and Dera Ismail Khan of the North-West Frontier Province and the Political Agencies of Bajaur, Orakzai, Mohmand, Khyber, Kurram, North Waziristan and South Waziristan.¹⁶

18. A Political Agency is the name of the geographic unit into which FATA is divided for purposes of Administration. Each of these Agencies is administered by an officer called the Political Agent who is directly responsible to the Governor of the NWFP for its good governance. Only a few of the laws operative in the rest of Pakistan have been extended to the Tribal Areas. The tribes inhabiting these areas administer themselves, as it were, in accordance with the customs prevailing in each Agency from times immemorial under the supervision of the Political Agent.

19. As its name implies, the FATA is Federally administered. The Executive authority of the Federation extends to it through the Governor of the North-West Frontier Province. No act of the Parliament applies to any of the Tribal Areas of FATA unless the Governor, with the approval of the President, so directs.¹⁷ Neither the Supreme Court nor the High

15 Article 142 *ibid*

16 Article 246 (c) *ibid*

17 Article 247 (3) *ibid*

Court exercise any jurisdiction in relation to a Tribal Area unless Parliament by law otherwise provides.¹⁸

Administrative Structure of the Federal Government

20. The Federal Government is, for administrative purposes, structured on the basis of 'Divisions. A Division is a self-contained administrative unit responsible for the conduct of business of the Federal Government in a distinct and specified sphere and declared as such by the Federal Government.¹⁹

21. These Divisions have a number of 'Attached Departments' linked to them. An Attached Department means a Department which has a direct relation with a Division and has been declared as such by the Federal Government.²⁰ A Division or group of Divisions constitute a Ministry.²¹ In addition to these there are a number of Autonomous and Semi Autonomous organizations in the public sector. These, in accordance with the subject dealt with are administered by Boards of Directors on which the subject-specific Ministry is represented through the Secretary or Additional Secretary of the Ministry or Division.

22. Each Ministry is headed by a Federal Minister-in-Charge of the Ministry.²² The Administrative head of a Division or a Ministry is a permanent Civil Servant who is called a Secretary or Acting Secretary to the Government of Pakistan. Where there is no Secretary, the Additional Secretary or Joint Secretary is placed in charge.²³ The Secretary, being the official head of the Division or Ministry, is responsible for its efficient administration, discipline, the proper conduct of business assigned to it and for the due execution of sanctioned policy.²⁴

23. There are presently twenty-six Ministries in the Government of Pakistan and thirty-five Divisions.²⁵

24. The Cabinet Secretary heads the Cabinet Division and is, invariably, the senior most Civil Servant. He is responsible, *inter-alia*, for the processing of all Summaries meant for consideration by the Federal Cabinet and for the authentication and issue of minutes of Cabinet meetings. Being the senior most Civil Servant he is the Convener of

18 Article 247 (7) *ibid*

19 Rule 2 (6) of The Rules of Business, 1973.

20 Rule 2 (ii) *ibid*

21 Rule 2 (xiv) *ibid*

22 Rule 2 (xiii) *ibid*

23 Rule 2 (xviii) *ibid*

24 Rule 4 (2) *ibid*

25 Schedule 1 *ibid*

the Secretaries Committee which meets periodically to consider matters of policy on which the collective advice of the Secretaries is required.

The Wafaqi Mohtasib

Establishment, Powers and Functions

Establishment of Office

25. In 1983 the Office of the Wafaqi Mohtasib, the meaning of which is ‘Federal Ombudsman’ was established through a Presidential Order²⁶ as the subject falls within the purview of the Federal Legislative List.²⁷ Although not specifically mentioned under any article of the Constitution of the Islamic Republic of Pakistan, 1973, the institution of the Wafaqi Mohtasib now has Constitutional protection in as much as the Order under which it was established, has been protected²⁸ under the Constitution and can only be amended in the manner provided for amendment of the Constitution.²⁹

Objectives

26. The Order in question provides for the Mohtasib to diagnose, investigate, and rectify any injustice done to a person through maladministration.³⁰ ‘Maladministration’ is defined as—

“(i) a decision, process, recommendation, act of omission or commission which (a) is contrary to law, rules or regulations or is a departure from established practice or procedure, unless it is *bona fide* and for valid reasons; or (b) is perverse, arbitrary or unreasonable, unjust, biased, oppressive, or discriminatory; or (c) is based on irrelevant grounds; or (d) involves the exercise of powers or the failure or refusal to do so, for corrupt or improper motives, such as, bribery, jobbery, favouritism, nepotism and administrative excesses; and (ii) neglect, inattention, delay, incompetence, inefficiency and ineptitude, in the administration or discharge of duties and responsibilities.”³¹

26 Establishment of the Office of the Wafaqi Mohtasib (Ombudsman) Order, 1983, President’s Order No. 1 of 1983.

27 Fourth Schedule, Federal Legislative List, Part-I, item-13 of the Constitution of the Islamic Republic of Pakistan, 1973.

28 Article 270-A *ibid*

29 Article 270-A (6), *ibid*, read with entry number 5 of the Seventh Schedule, thereof.

30 Preamble of the Establishment of the Office of the Wafaqi Mohtasib (Ombudsman) Order, 1983, President’s Order No. 1 of 1983.

31 Article 2 (2) *ibid*

Appointment and Removal

27. The Mohtasib is appointed by the President for a four year term.³² He is independent of the Executive and all executive authorities throughout Pakistan are required to act in aid of him.³³ To ensure his impartiality he is prohibited from holding of any office of profit in the service of Pakistan before the expiration of two years after his term of office nor is he eligible for election as a member of Parliament or a Provincial Assembly or any local body or for taking part in any political activity until a period of two years after his term of office has expired.³⁴ Further more as a measure to support his independence the Mohtasib can be removed from office only by the President on the ground of misconduct or of being incapable of properly performing the duties of his office by reasons of physical or mental incapacity. The Mohtasib however can in this regard, if he deems fit, refute any charges and request an open public evidentiary hearing before the Supreme Judicial Council.³⁵

Definition of Agency

28. The Mohtasib may undertake an investigation into any allegation of maladministration on the part of any Agency or its Officers or Employees on a complaint by any aggrieved person or on a reference by the President, the National Assembly or on a motion of the Supreme Court or a High Court. He can also initiate an investigation of his own motion.³⁶ By an Agency is meant–

“a Ministry, Division, Department, Commission or office of the Federal Government or statutory corporation or other institution established or controlled by the Federal Government but does not include the Supreme Court, the Supreme Judicial Council, the Federal Shariat Court or a High Court.”³⁷

Restrictions on Investigative Powers

29. However certain restrictions have been imposed on the investigative powers of the Mohtasib. He does not have any jurisdiction to investigate or inquire into any matters which–

“(a) are *sub-judice* before a court of competent jurisdiction or tribunal or board in Pakistan on the date of the receipt of a complaint, reference or

32 Article 4 *ibid*

33 Article 3 (3) *ibid*

34 Article 5 *ibid*

35 Article 6 *ibid*

36 Article 9 (1) *ibid*

37 Article 2 (1) *ibid*

motion by him; or (b) relate to external affairs of Pakistan or the relations or dealing of Pakistan with any foreign state or government; or (c) relate to, or are connected with the defence of Pakistan or any part thereof, the military, naval and air forces of Pakistan, or the matters covered by the laws relating to those forces.”³⁸

Ouster of Jurisdiction

30. The President is empowered to exclude specified matters, public functionaries or any Agency from the operation and purview of all or any of the provisions of the Establishment of the Office of the Wafaqi Mohtasib (Ombudsman) Order, 1983.³⁹ As a consequence the Federally Administered Tribal Areas or any matter relating thereto, or connected directly with them, was excluded from the purview of all the provisions of the Order.⁴⁰

Undertaking of Studies

31. For carrying out the objectives of his Office, and in particular for ascertaining the root causes of corrupt practices and injustice, the Mohtasib can arrange for studies to be made or research to be conducted and may recommend appropriate steps for their eradication.⁴¹

‘Findings’ and ‘Recommendations’

32. If the Mohtasib, during the course of an investigation into a case, is of the opinion that the matter considered amounts to maladministration, he is required to communicate his ‘Findings’ to the Agency concerned—

“(a) to consider the matter further; (b) to modify or cancel the decision, process, recommendation, act or omission; (c) to explain more carefully the act or decision in question; (d) to take disciplinary action against any public servant of any Agency under the relevant law applicable to him; (e) to dispose of the matter or case within a specified time; (f) to take action on his ‘Findings’ and ‘Recommendations’ to improve the working and efficiency of the Agency within a specified time; or (g) to take any other step specified by the Mohtasib.”⁴²

38 Article 9 *ibid*

39 Article 31 *ibid*

40 Notification No.57/104(15)/ML-IB/CMLA dated 13th August, 1984.

41 Article (9) (3) *ibid*

42 Article 11 (1) *ibid*

Defiance of 'Recommendations'

33. The Agency on its part is required to inform the Mohtasib about the action taken on his 'Recommendations' or the reasons for not complying with them.⁴³ If, however, the Agency does not comply with the 'Recommendations' of the Mohtasib and nor gives reasons to his satisfaction for non-compliance, the lapse is to be treated as 'defiance of 'Recommendations'',⁴⁴ in which case the Mohtasib may refer the matter to the President who may, in his discretion, direct the Agency to implement the recommendation.⁴⁵ The Mohtasib also has powers to recommend the taking of appropriate corrective or disciplinary action or both against any person found guilty of maladministration. In such cases the Agency is required to inform the Mohtasib within thirty days of the receipt of the reference of the action taken. If no information in this regard is received, the matter can be brought to the notice of the President for such action as he may deem fit.⁴⁶

Informal Resolution of Grievances

34. The Mohtasib is also empowered to—⁴⁷

“...informally conciliate, amicably resolve, stipulate, settle or ameliorate any grievance without written memorandum and without the necessity of docketing any complaint or issuing any official notice.”

Representation to the President

35. Any person aggrieved by a decision or order of the Mohtasib may, within thirty days of the decision or order, make a representation to the President, who may pass order thereon as he may deem fit.⁴⁸

Bar of Jurisdiction

36. No court or other authority has jurisdiction to question the validity of any action taken by the Ombudsman or to grant an injunction or stay against any proceedings before him.⁴⁹ However, the writ jurisdiction of the High Courts under Article 199 of the Constitution has been occasionally invoked.

43 Article 11 (3) *ibid*

44 Article 11 (5) *ibid*

45 Article 12 (1) *ibid*

46 Article 13 *ibid*

47 Article 33 *ibid*

48 Article 32 *ibid*

49 Article 29 *ibid*

Powers of the Mohtasib

37. The Mohtasib has, for the purposes of the functioning of his office, the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 in respect of the following matters–

“(a) summoning and enforcing the attendance of any person and examining him on oath; (b) compelling the production of documents; (c) receiving evidence on affidavits; and (d) issuing commission for the examination of witness.”⁵⁰

38. Similarly he, or any member of his staff authorized in this behalf, has the powers to enter and search any premises for the purpose of making any inspection or investigation into the subject matter of any complaint before him.⁵¹ He has also been empowered with the same powers as the Supreme Court to punish any person for contempt who–

“(a) abuses, interferes with, impedes, imperils, or obstructs the process of the Mohtasib in any way or disobeys any order of the Mohtasib; (b) scandalizes the Mohtasib or otherwise does anything which tends to bring the Mohtasib, his staff or nominees or any person authorized by the Mohtasib in relation to his office, into hatred, ridicule or contempt; (c) does anything which tends to prejudice the determination of a matter pending before the Mohtasib; or (d) does any other thing which, by any other law, constitutes contempt of court.”

Appointment of Staff

39. With regard to the appointment of his staff, Mohtasib has the powers to appoint advisers, consultant, fellows, bailiffs, interns, commissioners and experts or ministerial staff to assist him in the discharge of his duties⁵² and fix their remuneration.⁵³ This of course is subject to the provisions of the budget for the office which is approved by the National Assembly as part of the Budget of Pakistan. The Budget of the Mohtasib’s Secretariat for the current financial year, i.e. 2003-2004 (July – June) is Rs. 87.5 million or US\$ 1.51 million at the current conversion rate.

50 Article 14 ibid

51 Article 15 ibid

52 Article 20 ibid

53 Article 26 ibid

40. The Mohtasib, the employees officers and all other staff of the office are deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860.⁵⁴

Establishment of Regional Offices

41. For the convenience of the public, Regional Offices of the Ombudsman's Secretariat have been established at each Provincial Headquarter i.e. Lahore, Karachi, Peshawar and Quetta for the Provinces of Punjab, Sindh, NWFP and Balochistan respectively. Furthermore offices have also been established in some of the other major towns i.e. Sukkur (Sindh), Multan, Faisalabad (Punjab) and Dera Ismail Khan (NWFP).

Time-frame of Disposal of Cases

42. The process of complaints to the Wafaqi Mohtasib involves no cost as such to the complainant and the disposal of cases is fairly expeditious. The position in respect of the calendar year 2003 is tabulated below:

Time Taken in Disposal of Cases

| Period | Year 2003 |
|--------------------|------------------|
| Within days | 0% |
| Within 3 months | 2% |
| Within 4 months | 8% |
| Within 5 months | 16% |
| Within 6 months | 20% |
| Within One year | 54% |
| More than One Year | - |

Implementation of 'Recommendations'

43. The implementation of the 'Recommendations' in each case, if not represented against, is required to be undertaken within the specific period indicated in the 'Findings' and 'Recommendations' of each case. While most of these get to be implemented within the indicated time-frame, some remain un-attended to by the Agencies until 'implementation petitions' are put in by the concerned complainants with the Secretariat and consequential pressure for implementation is exercised on the Agencies.

54 Article 27 ibid

Evaluation of the Functioning of Ombudsman's Office in Pakistan

Wafaqi Mohtasib or Federal Ombudsman

44. An evaluation of the functioning of the Office of the Federal Ombudsman can be undertaken in a variety of contexts. Here, however, the framework of analysis adopted is focused essentially on (i) the nature and extent of redress of individual grievances against maladministration of the Agencies of the Federal Government; (ii) contribution to the evolution of Administrative Law through interpretation of laws, rules and regulations in the context of recording 'Findings' and 'Recommendations' in complaints of individuals against maladministration; (iii) specific directions to Agencies for change of laws and amendments in rules and regulations to meet the needs of equity and justice; and (iv) specific 'Recommendations' to the Agencies for changes in administrative structure, procedures and mode of performance of functions to keep pace with the requirements of a fast changing administrative environment. These 'Recommendations' are invariably the outcome of subject and organization-specific studies.

45. In so far as (i) is concerned the office of the Federal Ombudsman has achieved a remarkable success. The total number of complaints received since inception and till 31st December 2003 were 793,165 of which 428,234 (54%) were disposed of after initial examination on account of – (i) no maladministration being involved; being 'Service' matters and excluded from the jurisdictional purview of the Ombudsman; being anonymous/ pseudonymous; being 'sub-judice' and, therefore, beyond jurisdiction. Of the balance 364,931 (46%) relief was provided to 277,231 (79%) whereas 72,602 or 21% were rejected bringing the total disposal to 349,833 (96%). The carry over of pending cases from the calendar year 2003 is 15,617 or 1.96% of the total (793,165).

46. The analysis of the data in respect of complaints brought forward, instituted, disposed of and carried over for the calendar year 2003 is as follows:

| Brought forward | Institution | Disposal | Carry over |
|------------------------|--------------------|-----------------|-------------------|
| 22,219 | 25,761 | 32,363 | 15,617 |

This shows an excess of disposal over the institution and therefore a reduction in the carry over to the next calendar year.

47. The volume of receipt of complaints during the calendar year 2003 has decreased by 22.83% over the year 2001 indicating a positive trend of greater

observance of the law, rules and regulations by the public sector Agencies of the federal government.

| Year | Receipts | Decrease | Percentage |
|------|----------|----------|------------|
| 2001 | 33,385 | – | – |
| 2002 | 31,613 | 1,811 | 5% |
| 2003 | 25,761 | 5,556 | 22.83% |

48. The cases disposed of on the basis of the nature of their alleged maladministration for the entire period are tabulated below–

| Maladministration involved | Number | Percentage |
|----------------------------|--------|------------|
| Delay | 71,048 | 20% |
| Inattention | 38,166 | 11% |
| Neglect | 12,458 | 4% |
| Inefficiency | 6,221 | 2% |
| Bias | 78,823 | 23% |
| Action Contrary to Law | 9,417 | 3% |
| Corrupt Motives | 3,189 | 1% |
| Administrative excess | 13,859 | 4% |
| Discrimination | 6,380 | 2% |
| Arbitrary Decisions | 78,307 | 22% |
| Other causes | 31,965 | 9% |

49. The cost to the public exchequer for each decided case since the inception of the Office works out to Rs. 1,061 or US\$ 18.36 at the current conversion rate.

50. As to item (iv) of the analytical framework, again a number of studies have been undertaken and ‘Recommendations’ relating to structural changes, and modification of procedures, of some public sector organizations have been recommended for adoption. Some of these have been taken up and implemented with consequential improvement being effected in the efficiency of delivery of services. An indicative list of such studies is at Annex-A and B.

51. It will be seen from the above analysis that the forte of the Mohtasib’s functioning since inception has been the redress of individual grievances. Although this is as it should be, greater emphasis now needs to be accorded to the other items of the analytical framework if the optimal impact of the Office is to be felt.

52. Since the role of the Ombudsman in Pakistan, as can be seen from the foregoing discussion, is exclusively focused on addressing issues of maladministration and redress of individual grievances against state Agencies in the context of safeguarding the ‘civil right’ as it were of ‘good governance’, the role of safeguarding ‘fundamental rights’ is entrusted to the judiciary of Pakistan.

Safeguarding of Fundamental Rights/Civil Rights

53. The fundamental rights of the citizens of Pakistan are contained in Articles 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28 of the Constitution of the Islamic Republic of Pakistan. These rights relate to: security of person; safeguards as to arrest and detention; prohibition of slavery, forced labour; protection against retrospective punishment; protection against double punishment and self-incrimination; inviolability of the dignity of man; freedom of movement; freedom of assembly; freedom of association; freedom of trade, business or profession; freedom of speech; freedom to profess religion and to manage religious institutions; safeguard against taxation for purposes of any particular religion; safeguards as to educational institutions in respect of religion; right to property; protection of property rights; equality of citizens before law; non-discrimination in respect of access to public places; safeguard against discrimination in services; preservation of language, script and culture.

54. In addition to the Fundamental Rights enshrined in the Constitution certain Principles of Policy have also been laid down which “it is the responsibility of each organ and authority of the State, and of each person performing functions on behalf of an organ or authority of the State, to act in accordance with those Principles in so far as they relate to the functions of the organ or authority”.⁵⁵

55. This, however, is dependent upon and subject to the availability of resources.⁵⁶ These Principles of Policy are: promotion of the Islamic way of life; promotion of local Government institutions; discouragement of parochial and other similar prejudices; taking steps to ensure full participation of women in all spheres of national life; protection of the family; protection of minorities; promotion of social justice and eradication of social evils; promotion of social and economic well-being of the people; strengthening bonds with the Muslim world and promoting international peace.

56. The principal custodian of the Fundamental Rights of the individual in Pakistan, as already stated, is the Judiciary i.e. the High Courts of the Provinces under Article 199

55 Article 29 (1) *ibid*

56 Article 29 (2) *ibid*

and the Supreme Court of the Federation, on the appellate side, under Article 185. Article 199 of the Constitution on the subject, inter alia, states:

“199. (1) Subject to the Constitution, a High Court may, if it is satisfied that no other adequate remedy is provided by law,—

- (a) on the application of any aggrieved party make an order—
 - (i) directing a person performing, within the territorial jurisdiction of the Court, functions in connection with the affairs of the Federation, a Province or a local authority, to refrain from doing anything he is not permitted by law to do, or to do anything he is required by law to do; or
 - (ii) declaring that any act done or proceeding taken within the territorial jurisdiction of the Court by a person performing functions in connection with the affairs of the Federation, a Province or a local authority has been done or taken without lawful authority and is of no legal effect; or
- (b) on the application of any person, make an order—
 - (i) directing that a person in custody within the territorial jurisdiction of the Court be brought before it so that the Court may satisfy itself that he is not being held in custody without lawful authority or in an unlawful manner; or
 - (ii) requiring a person within the territorial jurisdiction of the Court holding or purporting to hold a public office to show under what authority of law he claims to hold that office; or
- (c) on the application of any aggrieved person, make an order giving such directions to any person or authority, including any Government exercising any power or performing any function in, or in relation to, any territory within the jurisdiction of that Court as may be appropriate for the enforcement of any of the Fundamental Rights conferred by Chapter I of Part II.

(2) Subject to the Constitution, the right to move a High Court for the enforcement of any of the Fundamental Rights conferred by Chapter I of Part II shall not be abridged.

.....

- (5) In this Article, unless the context otherwise requires,—
- “person” includes any body politic or corporate, any authority of or under the control of the Federal Government or of a Provincial Government, and any Court or tribunal, other than the Supreme Court, a High Court or a Court or tribunal established under a law relating to the Armed Forces of Pakistan; and “prescribed law officer” means—
- (a) in relation to an application affecting the Federal Government or an authority of or under the control of the Federal Government, the Attorney-General, and
 - (b) in any other case, the Advocate-General for the Province in which the application is made.”

57. Article 185 of the Constitution, *inter alia*, states:

185. (1) Subject to this Article, the Supreme Court shall have jurisdiction to hear and determine appeals from judgements, decrees, final orders or sentences of a High Court.

58. In so far as the Executive is concerned, the safeguarding of human rights/civil rights lies within the mandate of the Ministry of Law, Justice and Human Rights. In addition to the efforts of this Ministry, the Human Rights Commission of Pakistan, a non-Government Organization (NGO) with branches in all the Provinces, is a citizens’ body which keeps a watch on the human rights/civil rights position in the country and undertakes not only advocacy functions but also focuses attention through its Annual Reports on the state of Human Rights/civil rights in the country in general and of particular lapses on the part of public functionaries and ordinary citizens in this regard. The press is another major institution which promotes and protects Human Rights/civil rights through its investigative reporting and its interaction with the Human Rights Commission of Pakistan.

Conclusion

59. To summarise it can be stated that in so far as the Ombudsman of Pakistan is concerned the role that he plays in the safeguarding of ‘civil rights’, is to the extent of protection and promotion of the ‘right to good-governance’ by protecting individual citizens against abuse and ‘maladministration’ by public authorities. The safeguarding of ‘civil rights’ as such in the traditional sense is essentially a function assigned to the judiciary by the Constitution in the context of ‘Fundamental Rights’.

Annex-A**Indicative List of Specific Directions to Agencies for Change of Laws, Amendments in Rules and Regulations**

1. It was recommended to the University Grants Commission to have their law amended so as to include a substantive provision for grant of equivalence to certificate/diplomas/ degrees granted by various Institutions at home and abroad.
2. The Government of Pakistan in Ministries of Education, Health and Railways was advised to procure affiliation of their respective technical training institutes, which had been established through notifications/ resolutions with recognized Universities/Boards so as to give legitimacy to degrees/diplomas/certificates being awarded by them to their graduates. The Government was also advised not to create such institutes in future without first arranging their affiliation with degree/diploma awarding Universities/ Boards.
3. In respect of pension matters following ‘Recommendations’ for change of rules/law were made to the Finance Division:
 - Unmarried daughters of deceased pensioners should continue to get family pension even after attaining the age of 21 years or till they are married.
 - Unmarried sister of a deceased pensioner without any other legal heir should continue to receive family pension of the deceased even after age of 21 years provided that she is still unmarried.
 - A second Medical Board for the purposes of commutation of pension should be done away with.
 - Widow of a pensioner should not be refused commutation of pension only because her deceased husband had not been able to sign Commutation Application before his death.
4. Pakistan Mineral Development Corporation was advised to amend their Corporation rule through which they had acquired powers to deduct from the pension of a retired officer of the Corporation an amount equal to the allowance/pension granted to him by the Benevolent Fund Organization as the latter was a grant under a Federal law.
5. Finance Division was advised not to limit the choice of the members of General Provident Fund to exercise their options for keeping an interest bearing or non-interest bearing account.

6. It was recommended to the Quaid-i-Azam University to allow at least two chances to the students of M.Sc./M.Phil., to qualify in the failed semesters before declaring them as having finally failed in the respective programs.
7. Recommendation to the Federal Government to amend the Services Tribunal Act so as to provide jurisdiction over the employees (about 0.7 million) of Public Sector Corporations to facilitate the resolution of grievances relating to their service like the other employees of the Federal Government. The amendment has been carried out.

Annex-B**Indicative List of Research Studies Carried Out**

- | | | |
|-------|---|------|
| 1. | Housing Problems in Islamabad | 1984 |
| 2. | Report on Enhancing Efficiency and Responsiveness of the Functioning of the Government Organizations– Control Mechanism and Interaction with the Public | 1984 |
| 3. | National Savings Organization – Special Report | 1987 |
| 4. | Report on Serious Accident to R C-73 up Rail Car | 1994 |
| 5. | Report on Banks/DFIs Loan scam since 1985 | 1994 |
| 6. | Reports of the Task Force constituted to carry out studies on the functioning of the following organizations and recommend measures to help provide satisfactory services to the public and check instances of maladministration. | 1999 |
| i. | WAPDA & KESC | |
| ii. | House Building Finance Corporation | |
| iii. | Pakistan Telecommunication Company Limited | |
| iv. | Office of the Auditor General of Pakistan | |
| v. | Ministry of Railways | |
| vi. | Sui Northern Gas Pipelines Limited | |
| vii. | Sui Southern Gas Pipelines Limited | |
| viii. | State Life Insurance Corporation | |
| ix. | Ministry of Housing & Works (Estate Office) | |
| 7. | WAPDA (Report of the Joint Diagnostic Committee of Wafaqi Mohtasib's Secretariat and WAPDA on Billing, Detection Billing and Internal Grievance Redress Systems) | 2003 |

Annex-IV**Addresses of Ombudsman Institutions/Offices in Pakistan****Headquarters**

Wafaqi Mohtasib (Ombudsman)'s Secretariat,
Benevolent Fund Building,
Zero Point, Islamabad.
Phone: 92-51-9201665-8, Fax: 92-51-9210487
Email: wmsHQ@isb.paknet.com.pk

Regional Offices**Regional Office, Lahore**

State Life Building,
3rd Floor, 15-A, Davis Road, Lahore.
Phone: 92-42-9201017-20, Fax: 92-42-9201021
E-mail: wmsrol@paknet4.ptc.pk

Regional Office, Karachi

4-B, Federal Government Secretariat,
Saddar, Karachi.
Phone: 92-21-9202115, Fax: 92-21-9202121
E-mail: wmsrok@khi.ptc.com.pk

Regional Office, Peshawar,

1st Floor, Benevolent Fund Building,
Peshawar Cantt.
Phone: 92-91-9211574, Fax: 92-91-9211571
E-mail: wafaqi@psh.paknet.com.pk

Regional Office, Quetta,

Barganza Villas, Qaddafi St.,
Link Zarghoon Road, Quetta.
Phone: 92-81-9202679, Fax: 92-81-9202691
E-mail: wmohtsib@qta.paknet.com.pk

Regional Office, Sukkur

38-A, Friends Cooperative Housing Scheme,
Shikarpur Road, Sukkur.
Phone: 92-71-32390, Fax: 92-71-32392
E-mail: wmsrok@hyd.paknet.com.pk

Regional Office, Multan

23-G, Shah Rukn-e-Alam Colony,
Near Underpass, Multan.
Phone: 92-61-9220183, Fax: 92-61-9220182
E-mail wmsrom@mul.ptc.com.pk

Regional Office, Faisalabad,

Opp. GOR-II, Akbarabad Chowk
Jail Road, Faisalabad.
Phone: 92-41-9200551,
Fax: 92-41-9200501
E-mail: wms@isd.paknet.com.pk

Regional Office, Dera Ismail Khan,

H. No. 31/4, Quaid-e-Azam Road,
Dera Ismail Khan.
Phone: 92-961-9280095,
Fax: 92-961-9280096
E-mail: wmsrodik@brain.net.pk

Federal Tax Ombudsman

Federal Tax Ombudsman,
State Enterprises Complex,
5-A, Constitution Avenue, Islamabad.
Phone: 92-51-9211382, Fax: 92-51-9205553
E-mail: ftoisb@mail.com

Provincial Ombudsman

Provincial Ombudsman, Punjab,
2-Bank Road, Lahore.
Phone: 9211773, Fax: 9212069

Provincial Ombudsman Sindh,
Shahrah-e-Kamal Ataturk,
Opp: Sindh Secretariat, Karachi
Phone: 92-21-9211026,
Fax: 92-21-9211051.

Provincial Ombudsman,
Block No. 10, Civil Secretariat,
Quetta, Balochistan.

Ombudsman of Azad Jammu & Kashmir,
Mohtasib (Ombudsman)'s Secretariat,
Muzaffarabad.
(Azad Jammu & Kashmir)
Phone: 92-58810-42142,
Fax: 92-58810-39108, 9206288.

HOW TO PUT IN YOUR COMPLAINT?

- You may complain in writing and dispatch your complaint by mail, email or hand-deliver it.
- Write legibly in Urdu or English language a brief description of your complaint. DO NOT forget to attach a copy of your National Identity Card. You must clearly write your mailing address, telephone number and email address if any.
- Your complaint should be based on facts and couched in decent language.
- You must attach the prescribed affidavit with the complaint.
- You will be informed whether your complaint has been admitted for investigation and also the complaint number allotted to your complaint.
- On receipt of a reply from the Agency complained against you will be provided a copy of the same for your rejoinder. On receipt of your rejoinder, if it transpires that the case can be decided without further proceedings, the Wafaqi Mohtasib will finalize the Findings and recommendations for implementation and issue the same with a copy to you and the Agency.
- If it is felt that the parties should be heard in person before making a decision, a hearing will be held in which you will be invited to participate. You must avail yourself of this opportunity to express your viewpoint and produce documentary evidence if any.
- In case a recommendation is made in your favour the Ministry/Division/ attached department will be called upon to provide relief to you within a specified period of time.
- In case it is found that there is no mal-administration in the Agency your complaint will be rejected.
- If you are not satisfied with the Findings of the Wafaqi Mohtasib you may file a representation to the President of Islamic Republic of Pakistan within 30 days of receipt of the Mohtasib's Findings.

WHAT WILL NOT BE ENTERTAINED?

- Complaints filed after three months or more of the cause of grievance, unless the reasons, to the satisfaction of the Wafaqi Mohtasib, for the delay can be advanced.
- Complaints relating to external affairs or dealings of Pakistan with any foreign state or government.
- Complaints relating to or connected with the defence of Pakistan or its armed forces.
- Complaints against non-Federal Agencies.
- Anything, which can be adjudicated through arbitration if so provided in the documents on which you are placing reliance.
- Complaints against private persons or organizations.
- Complaints against Government policy, unless a legal flaw is shown.
- Cases, which are in the courts of law on the date of making a complaint to the Wafaqi Mohtasib or pending adjudication in a Tribunal or Board of Competent jurisdiction.