

EDITORIAL

Revisiting the NAB law

Some laws are bad. Not only are such laws bad in application, they are also found to be militating against fundamentals of jurisprudence. The National Accountability Ordinance (NAO) is one such law. It presupposes that everybody is guilty unless he proves to be innocent. Then it is also in breach of concept of fair trial, to which everybody is entitled under Article 10A of the Constitution. Under this law, a suspect can be held in detention for 90 days, as against the normal 15 days. And his or her trial may take months and years, with National Accountability Bureau (NAB) presenting him as a criminal in the eyes of public through a vilification campaign even before the court finds him guilty. Not only this, the NAB activists won't hesitate even for a moment to offend the socio-cultural values cherished by the people. What else is it when you drag a woman out of her hospital bed on the eve of Eid and take her to prison in violation of jail regulations under which no person can be admitted to prison after 5 p.m. Or, you arrest the daughter of a person (thrice elected prime minister of Pakistan) before his eyes. The end result of this seemingly 'inquisitorial' exercise is that out of the 200 billion dollars said to be stashed in foreign banks not a cent could be repatriated, and the much ballyhooed billions of rupees recovered by the NAB, courtesy the so-called plea bargain, is nothing more than sharing the bounty. Resultantly, this hyper accountability has stifled the national economy, hampered foreign investment and allowed the files to gather dust in high offices of the government. Perhaps, this laissez-faire would have gone on and on if the very quarters who played the accountability card against political adversaries felt the heat and found itself mired in thick economic marshes and the dawn reluctant to shine on its 'Naya Pakistan'.

Taking a U-turn on its denial that the harsh accountability was in line with its policy, the PTI-led government has come to terms with realities on the ground. The federal cabinet has decided to amend the accountability law, but again in a way that it may lose a part of its sting as businesses and bureaucrats are concerned, but not for the comfort of its political opponents. The proposed amendments bar beneficiaries of plea bargain from continuing their jobs; people arrested under the NAB laws would be able to get bail from trial courts; laws scaring away and threatening investors would be modified and tax evading charges would be looked into by the FIA and FBR instead of NAB. To quote a minister, since the NAB was established to deal with mega corruption it would focus only on such cases. The opposition says it will welcome amending the NAB law but only if it is all-embracing and not discriminatory. In a prompt reaction to the government move, the former Senate chairman Raza Rabbani said the cabinet decision to review NAB law and procedure was "discriminatory, mala fide and tainted with victimization of the political class". According to him, "If each segment of society is to be treated by their peers then the members of parliament should be treated by a Parliamentary Committee on Accountability." Presently, the laws provide for accountability of judges, military men and civil bureaucracy by their peers. The solution, he said, lied in a Federal Commission wherein there was only one law.

Should this dissimilarity of views between the government and political opposition persist, and which is likely to be the case, then the cabinet decision to amend the NAB laws is clearly a still-born proposition. The reality on the ground is that the government is just in no position to legislate a law in the absence of opposition's support. Here in this case they don't seem to be on the same page, as they are not on many others, earning the national parliament a stigma of being nothing more than a debating forum. Even if one may disagree with Rabbani's take on the cabinet decision one cannot help arguing that the government move is nothing more than a propaganda gimmick. In a functional democracy, the opposition is the government-in-waiting. It is said to be a party to any law enacted by the elected house even when it had stoutly argued against it. Let this Ordinance – which has undermined the national unity like no other issue – be converted into an act of parliament. Barring an exceptional exigency warranting immediate law-making, governance through ordinances is an insult to a parliament. Not the parts of it, but the entire accountability process should be looked into and if indispensable it should be sanctified by the parliament.