Knowledge Product

The Role of Ombudsman in Improving Public Service Delivery in Pakistan

by

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This paper is scheduled for presentation in the session on Decentralized Approaches and Ombudsman Services in Asia at the conference planned to be held in Manila on August 24-25, 2010, at the conclusion of this Regional Technical Assistance Project.
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## Abbreviations and Acronyms

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<tr>
<td>ADB</td>
<td>Asian Development Bank</td>
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<td>AOA</td>
<td>Asian Ombudsman Association</td>
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<td>BIOA</td>
<td>British and Irish Ombudsman Association</td>
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<td>CCO</td>
<td>Children’s Complaints Office</td>
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<td>CMIS</td>
<td>Complaint Management Information System</td>
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<td>CSO</td>
<td>Civil Society Organization</td>
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<td>DISCO</td>
<td>Distribution Company (electricity)</td>
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<td>DTCE</td>
<td>Devolution Trust for Community Empowerment</td>
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<td>IFAD</td>
<td>International Fund for Agricultural Development</td>
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<td>IFI</td>
<td>International Financial Institution</td>
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<td>IT</td>
<td>Information Technology</td>
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<td>MDG</td>
<td>Millennium Development Goal</td>
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<td>NADRA</td>
<td>National Database and Registration Authority</td>
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<td>NEPRA</td>
<td>National Electric Power Regulatory Authority</td>
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<tr>
<td>OECD-DAC</td>
<td>Organization for Economic Cooperation and Development, Development Assistance Committee (DAC) Working Party on Aid Evaluation</td>
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<td>OGRA</td>
<td>Oil and Gas Regulatory Authority</td>
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<td>PGRM</td>
<td>Public Grievance Redress Mechanism</td>
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<td>PTA</td>
<td>Pakistan Telecommunication Authority</td>
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<td>PTCL</td>
<td>Pakistan Telecommunications Limited</td>
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<td>REACH</td>
<td>Responsive, Enabling and Accountable Systems for Children’s Rights (Project)</td>
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<td>RETA</td>
<td>Regional Technical Assistance (Project)</td>
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<td>SLIC</td>
<td>State Life Insurance Corporation</td>
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<td>SNGPL</td>
<td>Sui Northern Gas Pipelines Limited</td>
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<td>SPGRM</td>
<td>Strengthening Public Grievance Redress Mechanisms (Project)</td>
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<td>SSGCL</td>
<td>Sui Southern Gas Company Limited</td>
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<td>UNCRC</td>
<td>United Nations Convention on the Rights of the Child</td>
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<td>UNDP</td>
<td>United Nations Development Program</td>
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<td>UNICEF</td>
<td>United Nations Children’s Fund</td>
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<td>WAPDA</td>
<td>Water and Power Development Authority</td>
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Abstract

This paper introduces Pakistan’s seven ombudsman offices and analyzes the mandates, relevance, efficiency and effectiveness of the federal and (three) provincial ombudsmen. The context of service delivery is described with reference to user satisfaction with services, perceptions of corruption, and outcomes associated with the Millennium Development Goals (MDGs). Decentralized approaches to service delivery include decentralization from federal to provincial governments (which dominates currently), or devolution from provinces to local governments (as in the past, since 2001).

The ombudsman’s role in public service delivery is introduced as a contribution to the long route of accountability, through which citizens’ voice influences policy makers and politicians, who, in turn, shape the compact between service providers and clients. (The short route is that of clients holding service providers accountable directly for market-based services.) In cooperation with other institutions of accountability, including the media, legislatures and social coalitions, the ombudsman has the potential for enhancing voice and influencing compacts for service delivery.

The methodology is evaluative and focuses on three evaluation criteria—relevance, efficiency and effectiveness. The analysis also addresses a number of key questions. However, time, information and other resources were not available for analyzing impact-level issues (e.g., “Has the ombudsman helped improve public service delivery?”) or assessing the ombudsman in terms of intermediate and final outcomes.

The paper confirms the enduring relevance of ombudsman as an instrument of accountability and good governance in Pakistan. It elaborates ombudsmen’s achievement in terms of addressing maladministration, which is the primary objective of ombudsmen according to the statutes. And it points out the relative lack of attention to systemic issues, including the reluctance to recommend how to eradicate the root causes of corruption.

The paper suggests converting the ombudsman into a parliamentary institution, enhancing its independence, capacitating it further to promote systemic change, and removing areas of overlap in the statutes. New strategic and operational directions could include: adopting a rights-based approach, joining the mainstream with a mission to support MDG commitments, devising a realistic implementation approach to make an ombudsman much more accessible to the public than he is at present, and adopting service standards and key performance indicators.
Executive Summary

Scope and Methodology of Paper

1. **There are seven ombudsman institutions in Pakistan**, three provincial and four Federal\(^1\). The Federal ones are the Wafaqi Mohtasib (Federal Ombudsman), the Federal Tax Ombudsman, the Banking Mohtasib and the Insurance Mohtasib; the last three of these are referred to as single-mandate institutions. Provincial Ombudsmen\(^2\) exist in three provinces, namely, Balochistan, Punjab and Sindh. Only the province of Khyber Pakhtunkhwa (formerly the North West Frontier Province) does not have an ombudsman, but that may change in the near future.

2. The **central theme of this paper is the role of the ombudsman in improving public service delivery**. For the purposes of this paper services mean services provided by the line agencies, public sector utilities and other organizations that are within the purview of the Wafaqi Mohtasib and the three Provincial Ombudsmen\(^3\). The context of service delivery described in this paper includes user satisfaction with services, perceptions of corruption, and outcomes associated with the Millennium Development Goals (MDGs).

3. Decentralized approaches could mean decentralization from federal to provincial government or from provinces to local government. The process initiated by the military government in 2001 devolved authority from provinces to local government. By now, however, **attention is focused on enhancing the authority of provincial governments**, as envisaged in the Constitution of Pakistan. Local government was already a provincial subject. With the passage of the Eighteenth Constitutional Amendment recently, a much larger number of subjects have become the exclusive responsibility of provincial governments.

4. The **methodology of this paper is evaluative and focuses on three evaluation criteria, namely, relevance, efficiency and effectiveness**. The analysis also addresses key questions identified in consultation with the ADB. It should be emphasized that time, information and other resources were not available for answering impact-level questions ("Has the ombudsman helped improve public service delivery?") or assessing the ombudsman in terms of intermediate and final outcomes.

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\(^1\) This excludes the Ombudsman of Azad Jammu and Kashmir State, which is not a province of Pakistan and has its own constitutional status.

\(^2\) Ombudsmen is used as the plural of ombudsman in this paper. Following Field 2010, “Given their Swedish derivation, it is generally accepted that the words Ombudsman and Ombudsmen should be considered gender neutral.”

\(^3\) The three single-mandate ombudsmen are introduced but not analyzed in the paper because they are not concerned with the delivery of public services.
Trends in Service Delivery and Corruption

5. There is a common perception that public services have been deteriorating in Pakistan in the face of rapidly growing population (particularly in urban areas), pervasive resource constraints, institutional breakdown and other factors. An independent analysis (2008) concluded that the country was lagging on 25 of its 34 MDG targets. This analysis also pointed out that pervasive inequalities are manifested through powerful elite groups, which often use local government to serve their personal interests.

6. A somewhat different point of view comes from social audits commissioned by the Devolution Trust for Community Empowerment (DTCE), which suggest improvements in service delivery during the period of devolution. Based on a large country-wide sample of households, the 2010 social audit found that “In comparison to estimates obtained in 2001/02 and 2004/05, satisfaction levels in 2009/10 improved in roads, sewerage and sanitation, garbage disposal, water supply, health and education.”

7. The 2010 social audit also reported high levels of user dissatisfaction with all government services—60% for roads, 65% for health, 42% for education, 88% for garbage disposal, 75% for sewerage and sanitation, 61% for water supply, 96% for agricultural services, 67% for electricity and 79% for gas supply. The 2010 corruption perceptions survey by Transparency International reported that people considered the police and power supply companies to be the most corrupt services throughout the decade. In 2010, they are followed by land administration, education, local government and the judiciary.

Ombudsman, Accountability and Service Delivery—A Conceptual Framework

8. A framework for accountability in service delivery was presented in the World Development Report (WDR) 2004: Making Services Work for Poor People, published by the World Bank, which elaborates relationships of power between politicians/policy makers, service providers and clients/customers. In market-based services, people hold the service provider accountable by paying the provider directly. For services provided by the government, however, there is a long route of accountability: citizens try to use their voice to reach the policy makers and elected representatives who, in turn, can influence service providers through a compact that assigns responsibilities for outputs or outcomes to public organizations.

9. The ombudsman enters the picture as an actor in the long route of accountability, and in two important ways. First: by attending to complaints, the ombudsman gives voice to individual clients. This voice is aimed, in the first instance, at service providers, rather than policy makers and politicians. The second way in which the ombudsman matters is by influencing the compact between the state and the service providers. Clearly, the ombudsman’s potential to contribute to accountability is enhanced if he works in cooperation with other instruments of accountability, including
the legislatures, the judiciary, the mass media and social coalitions. As discussed later, these connections are not well developed for most of the ombudsman institutions in Pakistan, and the ombudsman is not a parliamentary institution.

Ombudsman Institutions of Pakistan

10. The seven ombudsman institutions in Pakistan were established between 1983 and 2000, four of them (including the Wafaqi Mohtasib, the first ombudsman of the country) by military governments. Except for the Banking Mohtasib, the stated rationale for the existence of all ombudsmen is to address maladministration, which is defined comprehensively in the statutes. The jurisdiction of single-mandate institutions is limited to a single government department (taxation) or economic sector (banking or insurance); there is no overlap between the single-mandate and other ombudsmen. The respective jurisdictions of the Wafaqi Mohtasib and Provincial Ombudsmen are also distinct from each other.

11. There is, however, overlap between the Wafaqi Mohtasib and certain regulatory bodies. Judging by the number of complaints, there is some overlap between the Mohtasib and Pakistan Telecommunication Authority (PTA), and much more with the National Electric Power Regulatory Authority (NEPRA), which regulates the nine power distribution companies (DISCOs) in the country, and the Oil and Gas Regulatory Authority (OGRA), which has responsibility inter alia for regulating the gas distribution companies. The regulatory bodies are not as well equipped as the Mohtasib to investigate and redress complaints. In addition, nobody has the authority to resolve conflicts between the decisions of the Mohtasib and a regulatory body, and citizens could be left in limbo while a disagreement persists. Moreover, regulatory bodies, in general, are not supposed to redress individual grievances.

12. The Supreme Court, the Supreme Judicial Council, the Federal Shariat Court and the High Courts are excluded from the jurisdiction of ombudsmen. Other than this, there are no apparent gaps in the ombudsman’s coverage at the provincial level. There is only one notable omission at the Federal level, and that concerns the telephone operator Pakistan Telecommunications Ltd. (PTCL), which is 74% owned by the Federal Government and 26% by a strategic investor. The President of Pakistan has recently decided that it should not be treated as a government corporation; thus, the Wafaqi Mohtasib no longer has jurisdiction over PTCL. This runs counter to the worldwide practice of bringing public services within the purview of the ombudsman.

13. There is no explicit reference in the law to the notion that the ombudsman may recommend systemic changes in relevant agencies. There is, however, a provision in the statutes that makes it clear that the ombudsman is obliged to address the root causes (including, presumably, systemic causes) of corruption and injustice. In practice, ombudsmen in Pakistan have adopted a number of ways, including the following, for addressing systemic issues:
(a) In addressing an individual complaint, the ombudsman may find that a particular rule of a certain agency amounts to maladministration and recommend that it should be changed.

(b) The ombudsman may find that a group of citizens is being treated unfairly by a number of agencies and ask the agencies to take steps to alleviate the situation of this group.

(c) The ombudsman may commission special studies focusing on certain agencies to analyze problems and work out solutions in consultation with them.

Main Findings

14. The country’s seven ombudsmen, including one for taxation and two for important economic sectors, signal Pakistan’s presence among countries committed to the pursuit of ombudsmanship as a wide-ranging instrument of good governance. The replication by successive civilian and military governments of an institution first established by a military government may be seen as a sign of continuing relevance. Attention to awareness-raising, efforts at institutionalization and strengthening, innovation, and healthy debate among stakeholders indicate an encouraging degree of rooted-ness in the public consciousness. It would be fair to conclude that the ombudsman is as an institution of enduring relevance in Pakistan.

15. As far as the relevance of mandates is concerned, it would be hard to argue that the definition of maladministration adopted in the country’s statutes could be made either more precise or significantly broader. At the same time, ombudsmen have been invited through their respective statutes to study the root causes of corruption and injustice, and propose how to eradicate them, even though they are not explicitly allowed to go beyond studies, research and recommendations in this direction. It may be timely to consider how to further capacitate Pakistan’s ombudsmen for addressing systemic change. Additional issues in relevance that need to be addressed by revisiting the mandates are the following: remove the overlap between the Wafaqi Mohtasib and the regulatory bodies and consider alternatives, including (specialized) industry ombudsmen; and consider options for imparting a greater degree of independence through the laws and practices governing ombudsmen.

16. An assessment of the relevance of implementation approaches adopted by ombudsmen suggests that outreach is being achieved largely through expansion of offices across the country, with Sindh leading this approach and seeking to establish an office in every district of the province. This familiar approach—bureaucratic expansion—cannot go far as a country-wide model, given the well-known limitations of budgets, motivation and trained human resources that afflict the public sector, more so if it is acknowledged that large numbers of people, particularly in villages and among the poor and illiterate, do not receive adequate services and cannot access and engage government offices even at the district level. Alternatives that have the potential for scaling up an efficient approach to outreach (such as networking with government
agencies and civil society organizations, CSOs) have not been pursued, except recently and to a limited extent by the Wafaqi Mohtasib.

17. In terms of effectiveness, the ombudsman institution has proved to be resilient and lived up to its brand name for a large number of people in the country. In addressing maladministration, which is the primary objective of ombudsmen in Pakistan according to the statutes, the Wafaqi Mohtasib and the Provincial Ombudsmen have established themselves as increasingly popular and vigorous institutions of accountability. There is also now, at the Federal and provincial levels, a special focus on children, although similar attention to women’s issues is not yet evident. Relatively little attention has been given to corruption compared to other aspects of maladministration, but this is understandable in view of the demands associated with proving corruption through due process.

18. The secondary objective of ombudsmen in Pakistan is to address the root causes of injustice and corruption, and this is an invitation to look into systemic issues. Available evidence suggests that there have been some highly-relevant initiatives very recently to address systemic issues, but the energy of ombudsmen institutions is directed at individual complaints rather than systemic change. Donor assistance has capacitated the Wafaqi Mohtasib to focus much more on systemic issues than its own resources would have allowed, and the Mohtasib as well as Provincial Ombudsmen to launch initiatives in support of children’s rights. It is surprising to find, however, that ombudsmen have been reluctant to recommend how to eradicate the root causes of corruption, even though research and recommendations for this purpose already exist in the literature.

19. There are a number of signs, particularly when comparing ombudsmen offices with each other, which illustrate that more could be done to achieve the potential of the institution. It is clear, first of all, that the Wafaqi Mohtasib has worked with a vision in recent years to improve the performance of his office. The Mohtasib’s methods and achievements may well provide food for thought to other ombudsmen, more so because the Mohtasib is an older institution and Provincial Ombudsmen have not found it possible to forge ahead equally rapidly. The following findings illustrate this statement:

(a) The number of complaints received by Provincial Ombudsmen each year has been more-or-less steady during 2000-2009. Moreover, fewer complaints are received by Provincial Ombudsmen as a group than the Wafaqi Ombudsman, even though the jurisdiction of the former extends to a much larger number of agencies.

(b) The implementation of ombudsman recommendations by government agencies has improved remarkably at the Wafaqi Mohtasib, and also (in 2009) the Punjab Ombudsman and (in 2008) in Balochistan, but has been problematic in the past and also in Sindh.

(c) Service standards and key performance indicators have not been articulated, except by the Wafaqi Mohtasib for some aspects of the business process.
(d) Problems with staffing and budgets have remained largely unresolved over time, except that progress has been made by the Wafaqi Mohtasib.

(e) The Wafaqi Mohtasib has started to institutionalize linkages to civil society. However, outreach through civil society does not appear to be of concern to other ombudsmen.

(f) Based on research, the Wafaqi Mohtasib has initiated collaboration with government organizations to understand and address the root causes of maladministration. The Punjab Ombudsman has also submitted general recommendations that focus on specific groups of citizens and apply to all agencies; other Provincial Ombudsmen have not yet moved in these directions. Moreover, the root causes of corruption have not yet been studied or addressed by any ombudsman.

(g) Only recently has attention been given to one of the most vulnerable groups in society (children). To date, however, nothing significant has been done to focus systematically on women (except for reporting on complaints made by women to the Wafaqi Mohtasib), the rural poor and other vulnerable groups (except the disabled, in Punjab).

(h) The statutes seem to have been revised in only two cases (Wafaqi Mohtasib and Punjab Ombudsman), and that too only in limited ways. Other than this, there has been no systematic attempt at reviewing and changing statutes that are based essentially on a 27-year old ordinance issued by a military government.

20. **The ombudsman institution in Pakistan is not a parliamentary institution but it operates within a legal framework that tends to encourage independence, except in the matter of budget, and the appointment of the ombudsman and his deputy.** Both of these are highly significant aspects of independence. The inability of the ombudsman to allocate resources within the budget and set adequate compensation levels for staff is a serious constraint on aligning human resources with the priorities of the ombudsman, and, therefore, on the effectiveness of the office. Moreover, the appointing authority for ombudsman is an individual who is not bound to follow any prescribed process or consult anyone, and is associated, in most cases, with a political party. Thus, opposition parties, the media, civil society and the general public cannot be assured that the ombudsman’s selection and performance will be conducted strictly in the public interest, and this is bound to affect the credibility and effectiveness of the institution. The absence of a fully-empowered deputy ombudsman who could head the office when the permanent position is vacant also impacts on the effectiveness and credibility of the institution.

**Food for Thought—Revisiting the Legal Framework**

21. **As matters stand, the ombudsman has no ownership among elected representatives.** Thus, it is not surprising that ministers do not take their agencies to task for ignoring the recommendations of the ombudsman, and that the National and Provincial Assemblies have shown little inclination to empower the ombudsman beyond the limits set by a military government, 27 years ago.
22. One option is to convert the ombudsman into a parliamentary institution, selected by and reporting either to an assembly or a bipartisan committee of the assembly. In terms of the political economy of service delivery, this would bring the ombudsman closer to elected representatives and policy makers, who shape the compact with service providers, and better integrated in the long route of accountability through which citizens hold service providers accountable. Selection of the ombudsman and deputy ombudsman through a transparent, credible and consultative process is integral to this proposal. Similar arrangements can be envisaged for appointing metropolitan ombudsmen in large population centers such as Karachi and Lahore, with jurisdiction over either provincial and local or provincial, local and Federal agencies.

23. Given its importance, the question of independence may be considered both within and outside the context of parliamentary ownership of the institution. For example, nothing would be gained by waiting for the parliamentary ombudsman, while important staffing and budget issues, particularly the demands for professional cadres and one-line budgets, remain unresolved. Whether it is these or issues concerning the ombudsman’s appointment process and appointment of deputy ombudsman, elements enhancing independence could be introduced in a step-by-step manner, while discussion continues on the matter of parliamentary ombudsman.

24. Systemic issues, including addressing the root causes of injustice and corruption, also deserve greater emphasis in the ombudsman’s legal framework. As matters stand, the ombudsman is limited in the statutes to conducting research and giving recommendations based on analyses of root causes. This may be taken to mean that instruments other than research and recommendation are not available to the ombudsman for interacting with government agencies. These instruments could include free access to an agency’s records, provision of technical assistance, coordinating IT-based solutions, authority to call meetings on subjects of common interest, and so on. More could be said in the statutes to allow the ombudsman a more effective role in addressing systemic issues and promoting reform.

25. In addition, the problematic overlap between the Wafaqi Mohtasib and regulatory bodies with authority over electricity and gas distribution companies needs to be resolved at the level of the respective legal frameworks. One option, justified by the expertise available to the Wafaqi Mohtasib and the need to avoid duplication, is to put these utilities exclusively under the jurisdiction of the Mohtasib, and remove individual grievance redress from the functions of NEPRA and OGRA. Another option, which would be costlier, is to establish a specialized industry ombudsman for one or both of these service sectors. Both options are consistent with the observation that regulatory bodies, in general, are not meant to address individual complaints. Widespread dissatisfaction with electricity and gas suppliers, and the large number of complaints aimed at these agencies, support the case for the second option.

Food for Thought—Strategic and Operational Directions
26. There are compelling reasons for Pakistan’s ombudsmen to consider new strategic and operational directions. These include the national experience with the institution, the good practices that are available, the Eighteenth Amendment to the constitution, urgency in improving the provision of services to a poor and rapidly expanding population, and ensuring the outcomes associated with Pakistan’s MDG commitments.

27. At the strategic level, one possibility for change is to further develop the twin focus on human rights and vulnerable groups that the ombudsmen have adopted recently in relation to children. Proceeding in this direction, the ombudsman strategy could:

   (a) Focus more emphatically on specific target groups, particularly specific groups of vulnerable people such as children, women, the rural poor, the disabled and so on, to whatever extent is considered feasible by an ombudsman office.

   (b) Adopt a rights-based approach that could provide a powerful internationally-accepted framework for the ombudsman to address injustice and corruption, and help improve service delivery.

28. In terms of the high-level elements of strategy, this could imply, for example, modifying the ombudsman's mission statement to include something along the following lines: To capacitate the ombudsman and his partners to eradicate injustice to women, children, the poor and vulnerable. It could also imply the articulation of some new objectives such as the following: support Pakistan’s human rights commitments as laid down in its international obligations and in its Constitution and law; and support Pakistan’s commitment to achieve the MDGs.

29. While the MDG targets are not as comprehensive as some of the rights-based agenda, they are actionable through specific development interventions in a wide range of key sectors. In addition, taken together the MDG targets represent probably the broadest commitment to development that the government has ever given to the citizens of this country (short of the rights and principles enshrined in the Constitution of Pakistan). Thus, the government’s commitment to the MDGs provides a strong foundation for ombudsmen to pursue a rights-based approach and, in the process, highlight the institution’s huge mainstream role and, consequently, raise its profile.

30. At the operational level, one of the most important issues is the need for a realistic implementation approach that could make an ombudsman much more accessible to the public than he is at present. While regional and district offices have an important role to play in extending the ombudsman’s outreach, networking with CSOs as well as local (district-level and smaller) organizations could also be useful. This may be different from engaging CSOs in an advisory capacity at the ombudsman's head office: it could mean engaging them to facilitate citizen’s access to the nearest ombudsman
office, or (after adequate training and testing) acting as a conciliator between complainants and government agencies (through their district or regional offices) on behalf of the ombudsman.

31. In addition to CSOs and local organizations, there is a large group of individuals who could also play the above-mentioned roles, especially where distances are large and CSO presence is weak. These are social workers and community activists who are present at the level of the district, the Union Council and even the village throughout the country. Communities trust them because of their proven integrity and impartiality. Not only CSOs but also government projects engage them for various purposes, related mainly to development activities and awareness-raising. Volunteers such as these at the Union Council level have also played a highly positive role in the area of governance, for example, in the UNDP-assisted program to help operationalize the alternative dispute resolution mechanism called Musalihat Anjuman in 20 districts across the country.

32. **Additional improvements that could help improve ombudsman operations and effectiveness include the following:**

   (a) the introduction and monitoring of service standards and key performance indicators, as initiated by the Wafaqi Mohtasib.

   (b) the introduction of a comprehensive Complaint Management Information System and creation of an Implementation Wing, along the lines of the Wafaqi Mohtasib; and,

   (c) analysis of systemic factors that generate widespread corruption, starting modestly, if need be, with the kind of resources and perspectives that are outlined in paragraph 95 of the paper.
I. INTRODUCTION AND METHODOLOGY

A. Scope of Paper

1. **There are seven ombudsman institutions in Pakistan, three provincial and four Federal**. The Federal ones are the Wafaqi Mohtasib (Federal Ombudsman), the Federal Tax Ombudsman, the Banking Mohtasib and the Insurance Mohtasib; the last three of these are referred to as single-mandate institutions. Provincial Ombudsmen exist in three provinces, namely, Balochistan, Punjab and Sindh. Only the province of Khyber Pakhtunkhwa (formerly the North West Frontier Province) does not have an ombudsman, but that may change in the near future. The seven institutions are introduced briefly in Chapter II.

2. **The institutional landscape is large, and so too is the possible scope of a paper that seeks to address service delivery as well as public grievance redress mechanisms in a decentralized environment.** Thus, a scoping exercise was undertaken as part of the Regional Technical Assistance (RETA) Project to define the scope of the paper in a manageable way. Three main points were clarified in the process. The first of these is about public services that should be included in the paper; this is associated directly with the institutions selected for inclusion in the paper. The second point revolves around what is understood by a decentralized environment in the context of Pakistan. The third is about methodology. These points are discussed below in turn.

3. The central theme of this paper is the role of the ombudsman in improving public service delivery. In a broad sense, much can be construed as service delivery, including utilities (such as electricity, gas and telephones) in the public or private sector, services provided by the state for security and justice, and services provided by the private sector for all the needs of life. **For the purposes of this paper, however, services mean services provided by the line agencies, public sector utilities and other organizations that are within the purview of the Wafaqi Mohtasib and the three Provincial Ombudsmen** (as elaborated in Chapter II). The three single-mandate ombudsmen are introduced but not analyzed in the paper, as these are concerned with taxation, which is not about service delivery, and banking and insurance, which are for-profit industries rather than public institutions for service delivery.

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1 This excludes the Ombudsman of Azad Jammu and Kashmir State, which is not a province of Pakistan and has its own constitutional status.

2 Ombudsmen is used as the plural of ombudsman in this paper. Following Field 2010, “Given their Swedish derivation, it is generally accepted that the words Ombudsman and Ombudsmen should be considered gender neutral.” [http://www.ombudsman.wa.gov.au/Publications/Documents/speeches/060510_Presentation_by_Chris_Field_to_ANZ_OA-2010.pdf](http://www.ombudsman.wa.gov.au/Publications/Documents/speeches/060510_Presentation_by_Chris_Field_to_ANZ_OA-2010.pdf).

3 It is reported that legislation is being prepared to establish an ombudsman in Khyber Pakhtunkhwa (information provided by Mr Ejaz Qureshi, Advisor/Head, Children’s Complaint Office, Wafaqi Mohtasib) in a meeting with the author on June 2, 2010.
4. In order to understand the context of service delivery in which the country’s ombudsmen operate, available data on user satisfaction with services, and outcomes associated with the Millennium Development Goals (MDGs), are summarized later in this chapter; additional information on specific services, including health and education, is provided in the annexes. At the same time, it is important to understand the role an ombudsman can play in improving service delivery. This is also outlined later in this chapter, with the help of a conceptual framework that describes the political economy of service delivery, and ways in which institutions of the state and institutions of accountability (including the ombudsman) enter the picture.

5. Next, it was considered that attention to decentralization could lead to at least two levels of analysis in Pakistan, noting that it is a federation constituted by its provinces, where three tiers of government (federal, provincial and local) exist. Thus, the term “decentralized approaches” could be construed to mean decentralization from federal to provincial government or decentralization from provinces to local government. The process of devolution initiated by the military government in 2001 focused on devolving authority from provincial to local government. For good or for bad, that process has run its course, and attention is now focused on enhancing the authority of provincial governments, as envisaged in the 1973 Constitution of Pakistan. While the constitution recognizes three tiers of government, local government, as in some other countries, is a provincial subject according to the constitution. How each province decides to deal with it in the future remains to be seen.

6. For the time being, the attention of the elected leaders of the country is concentrated on the division of responsibilities between the federal and provincial governments. The 1973 Constitution divided responsibilities between the federal and provincial governments by means of the Federal and Concurrent Legislative Lists, leaving the remaining subjects to the Federating Units. With the passage of the Eighteenth Constitutional Amendment recently, the Concurrent Legislative List has been omitted (which means deleted, for all practical purposes), and “the process of devolution of the matters mentioned in the said List to the Provinces shall be completed by the thirtieth day of June, two thousand and eleven” (source http://www.thenews.com.pk/daily_detail.asp?id=234379, which provides the full text of the amendment). The Concurrent List included more than 40 subjects. Its omission means that an even larger number of subjects of day-to-day interest for the public would soon be the responsibility of provincial governments.

7. Except for Chapter II, which is mainly descriptive, the analysis conducted in this paper is evaluative in terms of methodology. Thus, Chapters III and IV of the paper revolve around selected evaluation criteria that are used internationally in the evaluation of development assistance. Development agencies tend to use five main criteria for evaluation, namely, relevance, efficiency, effectiveness, impact and sustainability.

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Note that the term “devolution” used by the military government for devolving authority to local government has been used in the Eighteenth Amendment exclusively for referring to devolution from the federal to provincial governments: there is no mention here of devolution to local government.

Even before this change, the Sindh Ombudsman has been receiving complaints against 36 provincial departments, and the Punjab Ombudsman against 50 departments and sets of institutions, according to their annual reports.
These and related terms are defined in the evaluation guidelines adopted by bilateral and multilateral development organizations, as well as the Development Assistance Committee (DAC) Working Party on Aid Evaluation of the Organization for Economic Cooperation and Development (OECD).  

8. Due to limitations of time and resources relative to the number of institutions and sectors that had to be covered, this paper focuses on the first three of these evaluation criteria, namely, relevance, efficiency and effectiveness, as elaborated below in the methodology section. Wherever possible, however, an attempt is also made to discuss results in terms of key outputs and outcomes, noting that outcomes are the likely or achieved short-term and medium-term effects of outputs. It should be emphasized that time, information and other resources were not available for answering impact-level questions (“Has the ombudsman helped improve public service delivery?”) or assessing the ombudsman’s performance in terms of the intermediate and final outcomes illustrated in Figure 1.  

9. Finally, attention is also paid in the paper to a basic institutional mapping exercise in view of interests communicated by the Bank’s RETA Team. The aim of this, as reflected in the main body of the paper and an annex, is to better understand two sets of institutional relationships:  

(a) one between the Federal and Provincial Ombudsmen on the one hand and the single-mandate ombudsmen on the other. The latter group consists of the Federal Tax Ombudsman, the Banking Mohtasib and the Insurance Mohtasib; and,  

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7 The Federal and Provincial Ombudsmen in Pakistan deal with 150-200 public sector service providers. Thus, the question of impact is a question about a very large institutional landscape that obviously cannot be covered as part of this project. Even limiting the inquiry to a small number of service providers (e.g., the health and education departments of three provinces) does not help much: first, we have to agree the indicators of that reflect the access, affordability and quality of service delivery; next, we need time series data on the indicators and determinants of service delivery; and finally, we have to be able to attribute changes in indicators to the performance of ombudsmen.
Figure 1. Sample Ombudsman Logic Model for Results Based Management Accountability Framework (RMAF)

Ombudsman Objective

Ensure that the members of the community receive fair and equitable treatment

Key Functions

Independent reviewer of facts

Activities

- Receive and investigate complaints
- Make Referrals
- Use best practices
- Conducts Outreach to raise awareness
- Develops communication tools

Outputs

- Ombudsman Website
- Online Complaint forms
- Ombudsman Framework
- Ombudsman RMAF

Immediate Outcomes

Members of the community can make complaints

Intermediate Outcomes

- Raising of Fairness standards and expectations
- Increased level of trust

Final Outcome

Stable, fair provision of services

(b) the other between the Federal and Provincial Ombudsmen and other complaint-handling mechanisms. The latter are based in relevant regulatory bodies and also, at a lower level, in the service delivery (line) agencies.

B. Methodology and Limitations

10. The limitations of this paper need to be pointed out at the outset. The problem here is that each broad question that is tabled for analysis, whether it pertains to evaluation criteria or an insight about an institution, generates several additional questions. Indeed, a specialized guide to evaluation of ombudsman institutions proposes fifty questions for evaluation or self-evaluation\textsuperscript{11}, and this is not an exceptionally large number in the field of evaluation. Finding evidence-based answers to fifty questions for each of four institutions (as considered in this paper), and then aggregating them into defensible higher-level generalizations, is a substantial task even in more favorable circumstances.

11. Institutions that are prepared for self-evaluation make the task manageable in terms of time and resources. Preparation is based on some kind of framework (as in Figure 1, for example) that generates evaluation questions and is supported by performance indicators on an ongoing basis. The lack or absence of such an evaluation framework and corresponding preparation creates a challenging situation for an external desk reviewer\textsuperscript{12}. The result may be a variable degree of satisfaction, variable across questions and also across institutions, in arriving at robust conclusions. What helps in the process is to borrow and apply useful methods, when these are available, and use triangulation for evidence as much as possible. The following examples may illustrate these methods:

(a) A question about the strength of political will in support of ombudsmen could be answered, in a country such as Pakistan, in a number of ways, depending on the time frame for assessment, the government that is managing affairs at the federal or provincial level at a given time, and how the concept is defined for purposes of observation. It may be difficult to answer this question definitively for all relevant institutions.

(b) As in many other developing countries, good reasons can always be found in Pakistan for concluding that human resources, service standards, management systems and key aspects of capacity need greater attention and resources\textsuperscript{13}, and more so perhaps at lower rather than the federal level. In general, it would be hard to conclude that capacity in any significant sense is not a constraint.

\textsuperscript{11} A Partner’s Guide to Ombudsman Offices; Office of the Ombudsman, Internet Corporation for Assigned Names and Numbers (ICANN), 2007 (http://www.icannombudsman.org).

\textsuperscript{12} There is, however, a comprehensive framework for effective implementation, articulated by the Wafaqi Mohtasib (Malik 2007), and this is introduced in Chapter IV.

\textsuperscript{13} This is also indicated in RETA 2009 various ways.
Conclusions about the independence of an ombudsman can be generated by selecting and applying certain good practice standards proposed in the literature, while cross-checking them against standards developed by the Evaluation Coordination Group of Multilateral Development Banks, most of which have a high degree of relevance for ombudsman offices.

With this background, the descriptive part of the paper (Chapter II) introduces the seven ombudsman institutions mentioned above and then focuses on the four that are of main concern. This review is based on the foundation documents of the institutions, that is, the laws under which they were established, and some sections of the annual reports of the institutions that highlight how they work. Comparisons with other ombudsman institutions of Asia can be made with the help of information provided in a capacity assessment paper prepared for this RETA in October 2009 (Assessing the Capacity Development Needs of the Asian Ombudsman Association and its Members, or RETA 2009, for short). Issues such as the following, brought to the author’s attention by the RETA team, guide much of the discussion that is initiated in Chapter II:

(a) Is there strong political will in support of the ombudsman?
(b) How independent is the ombudsman relative to best practices in similar institutions? Independence may be assessed in terms of: how the ombudsman is appointed, removed and sanctioned; his/her reporting lines for administrative and other aspects of management; the financial autonomy of the ombudsman; his/her independence in managing human resources; freedom to obtain and disclose information; and other relevant factors present in best practice institutions.
(c) Does an ombudsman have service standards, performance indicators, standard formats and appropriate information technology?
(d) Is it supported by appropriate human resources and professional development?
(e) Is the ombudsman capacitated to address systemic issues that lead to widespread and recurring problems in service delivery?
(f) How effectively are the mass media engaged in creating awareness about the ombudsman?
(g) Is there effective engagement with civil society?

The analysis that follows in Chapters III and IV revolves mainly around two standard evaluation criteria, namely, relevance and effectiveness, and also, in limited ways, analyzes efficiency and results (outputs and outcomes). In most evaluations, relevance assesses “the extent to which the objectives of a development intervention are consistent with beneficiaries’ requirements, country needs, global priorities and partners’ and donors’ policies.” It is generally quite easy to establish the relevance of an institution’s objectives to the higher-level context, as evidenced mainly by intentions

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14 These standards also apply, more broadly, to independent evaluation offices of International Financial Institutions (IFIs).
15 Unless otherwise stated, the definitions in this section are taken from the OECD-DAC Glossary of Key Terms in Evaluation and Results Based Management, 2010 (http://www.oecd.org/dataoecd/29/21/2754804.pdf).
stated at various levels. The result is that almost all evaluations deem relevance to be exceptionally high.

14. An exception to this tendency is found in the recently-revised evaluation methodology of the International Fund for Agricultural Development (IFAD), in which attention is paid not only to stated intentions but also to specific features aimed at the achievement of intentions. Thus, in assessing relevance an evaluation is expected to “review whether appropriate interventions and financial allocations” have been put in place; “appropriate synergies were ensured across activities and services”; “implementation arrangements … were suitable,” and so on. This is a more meaningful way of proceeding, and it is in the same spirit that this paper approaches the issue of relevance.

15. Next, effectiveness may be defined as the extent to which the development intervention’s objectives were achieved, or are expected to be achieved, taking into account their relative importance. Efficiency, in general, is aimed at measuring how economically resources/inputs (funds, expertise, time, etc.) are converted to results. In this paper, however, the analysis of efficiency is limited to indicators such as the rate and timeliness of action on complaints, for which relevant data are available. Data for assessing effectiveness and efficiency have been obtained from the annual reports of the Federal and Provincial Ombudsmen.

16. Finally, an attempt is made to outline who does what in the area of complaint-handling in public service delivery institutions. This is simple to describe when the roles and responsibilities of the Wafaqi Mohtasib and Provincial Ombudsmen are compared with the single-mandate ombudsmen mentioned above. The picture is more complicated if a degree of duplication is found between one level of complaint-handling and another, or if gaps are found in terms of coverage of important sectors. Thus, the paper aims to answer the following key questions:

(a) What sectors and services are covered by the mandates of the ombudsmen institutions? Is there any overlap across these institutions?
(b) Are there any gaps in the coverage of public service delivery?
(c) Is there overlap/duplication between the ombudsmen institutions and the regulatory and service delivery institutions in terms of complaint-handling? Are there provisions for coordination or division of authority?

C. Trends in Service Delivery and Corruption in Pakistan

17. There is a common perception that public services have been deteriorating in Pakistan in the face of rapidly growing population (particularly in urban areas), pervasive resource constraints, institutional breakdown and a variety of other factors.

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17 The term “sectors” is used broadly and could include the line departments, utilities, police and local government.
The refrain is heard that large numbers of people are not covered by certain essential services, while others have experienced declining standards of service since the country’s independence in 1947. It would be fair to acknowledge that different perspectives have been presented on the state of services and important outcomes, particularly since the move to devolve additional authority to local government in 2001.

18. One point of departure is to track the country’s progress in terms of its targets for the MDGs. Pakistan has 34 MDG indicators on which the government reports annually. Pervez Tahir, a former Chief Economist of the Planning Commission of Pakistan and Mahbub ul Haq Professor of Economics, Government College University, Lahore, analyzed the situation independently for an international workshop on decentralization in 2008. His conclusion was that the country was lagging on 25 of its 34 MDG targets (Table 1)\(^1\).

<table>
<thead>
<tr>
<th>MDG Goal</th>
<th>No. of Indicators</th>
<th>Progress</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td>Ahead</td>
</tr>
<tr>
<td>1. Eradicate Extreme Poverty and Hunger</td>
<td>3</td>
<td>3</td>
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<tr>
<td>2. Achieve Universal Primary Education</td>
<td>3</td>
<td>1</td>
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<tr>
<td>3. Promote Gender Equality and Women’s Empowerment</td>
<td>4</td>
<td>1</td>
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<tr>
<td>4. Reduce Child Mortality</td>
<td>6</td>
<td>1</td>
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<tr>
<td>5. Improve Maternal Health</td>
<td>5</td>
<td></td>
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<tr>
<td>6. Combat HIV/AIDS, Malaria and Other Diseases</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>7. Ensure Environmental Sustainability</td>
<td>8</td>
<td>1</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>34</strong></td>
<td><strong>3</strong></td>
</tr>
</tbody>
</table>

19. According to the workshop report, “Dr Tahir asked whether the vehicle—decentralization—had failed to deliver, or there are serious barriers in achieving desired outcomes? He pointed out, first, that there was a large resource gap between what was needed for achieving MDG targets and what was available. Secondly, he drew attention to the inequalities that prevail in society, and how they undermine local institutions. In connection with the latter, he quoted the following conclusion from Human Development in South Asia 2007 published by the Mahbub ul Haq Center for Human Development:”

> [T]he main threat to the efficient working of [local government] institutions is the pervasive inequalities that persist in South Asian societies, manifested through powerful elite groups which often use these institutions to serve their personal interests.

\(^{18}\) Dr Tahir’s presentation at the workshop is summarized on pages 29-30 of the workshop report, which is available at [http://www.gjtmap.org/workshop19aug2008/index.php](http://www.gjtmap.org/workshop19aug2008/index.php).
20. A different point of view is projected by the three social audits commissioned during 2001-2010 by the Devolution Trust for Community Empowerment (DTCE), which was established in the early stages of devolution to support the community-oriented aspects of the devolution plan. The third social audit was finalized in 2010\textsuperscript{19}. These audits report public perceptions rather than government data, and include the general public as well as local elected representatives and local heads of service delivery agencies.

21. The DTCE Social Audit 2010 covered 12,000 households and officials from 21 districts across the country. Summaries of Focus Group Discussions held among the users of a number of services are reproduced in Annex II. Findings from user satisfaction reports on government health and education services are highlighted in Annex III. The Social Audit found that “In comparison to estimates obtained in 2001/02 and 2004/05, satisfaction levels in 2009/10 improved in roads, sewerage and sanitation, garbage disposal, water supply, health and education.” At the same time, however, the survey evidenced high levels of user dissatisfaction for all services. Information on user satisfaction over time is summarized in Table 2. Trends in perceptions of corruption over the same time frame, as reported by Transparency International (http://www.transparency.org.pk/report/ncps\%202010/ncps\%202010A5.pdf), are summarized in Table 3.

| Table 2. Time Trends in User Satisfaction with Services, from the DTCE Social Audit 2010 |
|-----------------------------------------------|-----------------------------------------------|
| Services                                      | Percentage of Households Satisfied |
|                                               | 2001/02 | 2004/05 | 2009/10 |
| Roads                                         | 31      | 38      | 40      |
| Sewerage and Sanitation                       | 12      | 20      | 25      |
| Garbage Disposal                              | 6       | 8       | 12      |
| Water Supply                                  | 18      | 19      | 39      |
| Agricultural Services                         | -       | 15      | 4       |
| Electricity                                   | 63      | 62      | 33      |
| Gas Supply                                    | 19      | 26      | 21      |
| Government Health Services                    | 23      | 27      | 35      |
| Government Education Services                 | 55      | 53      | 58      |
| Police (of people who came in contact with police) | 31      | 33      | 41      |

| Table 3. Time Trends in Perceptions of Corruption, from Transparency International Surveys, 2002-2010 |

\textsuperscript{19} Social Audit of Local Governance and Delivery of Public Services, Islamabad: April 2010; published by UNDP and referred to in this paper as DTCE Social Audit 2010.

\textsuperscript{20} The Social Audit differentiates among four main categories of services, namely, Basic Services, Health, Education, and Police and Courts. Under Basic Services, it lists roads, sewerage and sanitation, garbage disposal, public transport and water supply as services provided by tehsils (which, but for a few exceptions where districts and tehsils coincide, are units within a district); agricultural services as a service provided by districts; and electricity and gas as services provided by the Federal Government.
D. Ombudsman, Accountability and Service Delivery—A Conceptual Framework

22. A useful accountability framework for service delivery was articulated in the *World Development Report (WDR) 2004: Making Services Work for Poor People*, published by the World Bank. The sectoral focus of this WDR is on the social sectors, and it reviews experiences and alternatives in service delivery from all over the world. In addition to a wide range of empirical information, the report includes an elaboration of a conceptual framework relating policymakers, service providers and poor people. Although the primary focus of the WDR is on poor people, the framework it articulates is equally applicable to service users in general.

23. At the outset, the WDR differentiates between market-based services and public services. In market-based services, people hold the service provider accountable by paying the provider directly. If a user is dissatisfied, s/he has the power to take business elsewhere or, in case of fraud, to seek redress through social sanctions or legal means. For services provided by the government, however, accountability is not through the market but through the state, which takes responsibility for these services.

24. Even when the state is responsible for a particular service, the WDR notes that there is sometimes a short route to better service delivery, a market-oriented approach, and that is to “increase the client’s power over service providers.” The WDR mentions school voucher schemes, scholarships, grants based on outputs and so on as examples of client power in relation to service providers. These alternatives have not been explored in Pakistan, certainly not to the degree observed in some other countries.

25. The WDR explains that for public services clients can exercise accountability through a long route (Figure 2): citizens try to use their voice to reach the policy makers and elected representatives who, in turn, can influence the service providers through a
compact that assigns responsibilities for outputs or outcomes to public organizations. The WDR (page 1) observes, “There have been spectacular successes and miserable failures. Both point to the need to strengthen accountability in three key relationships in the service delivery chain: between poor people and providers, between poor people and policymakers, and between policymakers and providers.” It elaborates (WDR, pages 80-81) that voice will lead to greater accountability only if:

(a) Elections can lead to improved services if the promises politicians make before elections are credible.
(b) There is a framework of citizen rights, the right to information, service design, the mass media, and administrative procedures for redress and appeal that allows voice to be articulated effectively.
(c) There is effectiveness in the institutions of accountability, such as parliaments, courts, ombudsmen and anticorruption commissions.
(d) There are adequate stocks of social capital that help overcome the collective action problem underlying voice, particularly for poor people.

26. The WDR observes, however, “Even if poor people can reach the policy maker, services will not improve unless the policy maker can ensure that the service provider will deliver services to them.” Often, there are compact failures, when the state fails to communicate responsibilities for outputs or outcomes to public organizations and enforce responsibility, and management failures, when public sector organizations fail to motivate frontline workers. “When the relationships along this long route break down, service delivery fails (absentee teachers, leaking water pipes) and human development outcomes are poor.” This is the situation prevailing in Pakistan, as illustrated earlier in this chapter.

27. The ombudsman enters the picture as an actor in the long route of accountability, and in two important ways. First: by attending to complaints, the ombudsman gives voice to individual clients. This voice is aimed, in the first instance, at service providers, rather than policy makers and politicians. Thus, with reference to Figure 2, the ombudsman provides a short-cut in the long route of accountability that depends ordinarily on citizens’ voice reaching policy makers and politicians. This is an advantage associated with the ombudsman; the disadvantage here is that the ombudsman’s intervention is limited to individual cases, and this may not be good enough in a situation such as Pakistan’s where services are lacking among tens of millions of people.
28. Referring again to Figure 2, **the second way in which the ombudsman matters is by influencing the compact between the state and the service providers**. This would happen if the ombudsman had the capacity to influence how the state communicates responsibilities for outputs or outcomes to public organizations, enforces responsibility, and addresses management failures; all these may be included among systemic issues. As will be seen later in this paper, ombudsmen in Pakistan have the freedom to look into systemic issues, and recommend improvements, but this aspect of the ombudsman’s role has not been emphasized as much as attention to individual complaints.

29. Before concluding this chapter, it may be emphasized that the ombudsman is just one among a number of actors in the long route of accountability; others include the legislatures, the judiciary, the mass media and social coalitions. **The ombudsman’s potential to contribute to accountability is enhanced if he can work in cooperation with other instruments of accountability.** In other words, the ombudsman is more effective if he works not only directly, addressing individual complainants and agencies, but also indirectly, using the influence, for example, of the media and elected representatives. These connections are not well developed for most of the ombudsman institutions in Pakistan. Indeed, as explained later, the ombudsman in Pakistan is not a parliamentary institution, and this limits his ability to influence the compact for service delivery through elected representatives and policy makers.
II. OMBUDSMAN INSTITUTIONS OF PAKISTAN

A. Focus on Maladministration in Relevant Agencies

30. The Wafaqi Mohtasib (Federal Ombudsman) was the first ombudsman in Pakistan. It was established by a military government in 1983, when there were no elected governments at the federal and provincial levels, party-based political activity was banned, the judiciary was kept on a tight leash, and the mass media was stifled by censorship, self-censorship and other means of control. Evidently, the military government considered the ombudsman and local government as instruments for good governance in lieu of representative government and other elements of democracy and justice. Subsequently, three other ombudsman institutions—the Federal Tax Ombudsman, the Federal Insurance Ombudsman and the Provincial Ombudsman of Balochistan—were also established by a military government in 2000 and 2001. Thus, four of the seven ombudsman institutions of Pakistan were established by military governments that also emphasized devolution of authority to local government.

31. Five of the seven institutions were established through special stand-alone laws. However, the Banking Mohtasib was created by means of an amendment to an existing law (the Banking Companies Amendment Act of 1997), while the Federal Insurance Ombudsman was established through the Insurance Ordinance of 2000. Except for the Banking Mohtasib, the stated rationale for the existence of all ombudsmen is to address maladministration. Except in the case of the Federal Tax Ombudsman, where the definition of maladministration is more comprehensive (but includes the following), six of the statutes define maladministration in the following words:

(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, favoritism, nepotism and administrative excesses; and,

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

32. The jurisdiction of single-mandate institutions is limited to a single government department (taxation) or economic sector (banking or insurance). Laws establishing the
single-mandate ombudsmen institutions essentially do not allow the Wafaqi Mohtasib and Provincial Ombudsmen jurisdiction in the specialized matters handled by the single-mandate institutions. Thus, there is no overlap between the single-mandate and other ombudsmen.

33. Similarly, the respective jurisdictions of the Wafaqi Mohtasib and Provincial Ombudsmen are also distinct from each other. The Wafaqi Mohtasib’s jurisdiction extends to all such agencies that are classified as “a Ministry, Division, Department, Commission or office of the Federal Government or statutory body, corporation or other institution established or controlled by the Federal Government.” For a Provincial Ombudsman, “agency” means a Department, Commission or office of the Provincial Government or statutory corporation or other institution established or controlled by the Provincial Government. The problem of overlap arises between the Wafaqi Mohtasib and certain regulatory bodies with authority over utility companies; this is discussed later in this chapter.

34. The Supreme Court, the Supreme Judicial Council, the Federal Shariat Court and the High Courts are excluded from the jurisdiction of ombudsmen.21 Also excluded from their jurisdiction are 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 motion by the ombudsman; or
(b) relate to the 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 defense 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.

35. As far as public services are concerned, there are no apparent gaps in the ombudsman’s coverage at the provincial level. There is only one notable omission at the Federal level, and that concerns the telephone operator Pakistan Telecommunications Ltd. (PTCL), which is 74% owned by the Federal Government and 26% by a strategic investor, namely, Etisalat of the United Arab Emirates. There was disagreement about whether it should be considered a Federal Government corporation or a private company. The President of Pakistan has recently decided that it should not be treated as a government corporation; thus, the Wafaqi Mohtasib no longer has jurisdiction over PTCL. This runs counter to the worldwide practice of bringing public services within the purview of ombudsman. It may be noted, however, that complaints against PTCL can still be registered with the relevant regulatory authority, but that

21 According to RETA 2009, “The jurisdiction of ombudsman is traditionally limited to executive agencies and their officials and employees — thus, excluding those from the legislative, judiciary and the military service.” However, “the Philippines has a deputy ombudsman for the military and other law enforcement organizations. The Philippine Ombudsman can also pursue criminal, but not administrative, action against members of the judiciary and Congress;” and the mandate of the General Inspection Organization of Iran includes supervision and inspection of all organizations and institutions affiliated with to the judiciary branch, military and disciplinary forces.”
authority does not have the specialized staff and orientation that the Mohtasib has for addressing complaints. This issue is discussed further in Section II.D.

36. **Ombudsman institutions in Pakistan enjoy wide-ranging powers for discharging their functions.** For example, the Wafaqi Mohtasib, Provincial Ombudsmen and the Federal Tax Ombudsman have the powers of a Civil Court under the Code of Civil Procedure, 1908, and the power to conduct searches in accordance with the provisions of the Code of Criminal Procedure, 1898. All executive authorities are required by law to act in aid of these ombudsmen. These ombudsmen also have the powers of a court to give punishment for contempt.

37. The law also provides a *mechanism in case an agency does not comply with the recommendations of the Mohtasib* or does not give reasons to the satisfaction of the Mohtasib for noncompliance. This is treated as “Defiance of Recommendations.” In such cases, the Mohtasib may refer the matter to the President (or the Governor or Chief Minister of a province, as the case may be) who may, in his discretion, direct the agency to implement the recommendation and inform the Mohtasib accordingly. At the same time, an affected agency has the right to make a representation to the President (or the Governor or Chief Minister of a province) against the recommendations of the ombudsman.

38. There is no explicit reference in the law to the notion that the ombudsman may recommend systemic changes in relevant agencies. There is, however, a provision that may be construed to this effect, one that goes clearly and significantly beyond individual grievance redress. This makes it clear that *the ombudsman is obliged to address the root causes (including, presumably, systemic causes) of corruption and injustice.* More specifically, the 1983 President’s Order establishing the Wafaqi Mohtasib includes the following clause in the section on the jurisdiction, functions and powers of the Mohtasib: “For carrying out the objectives of this Order and, in particular, for ascertaining the root causes of corrupt practices and injustices, the Mohtasib may arrange for studies to be made or research to be conducted and may recommend appropriate steps for their eradication.” This clause is also present in the Balochistan, Punjab and Sindh statutes.

39. On the face of it, the scope for action by the ombudsman is limited to studies, research and recommendations, and does not admit of any other steps (for example, technical assistance by the ombudsman) for addressing systemic issues. In practice, as elaborated later in this paper, ombudsmen in Pakistan have adopted a number of ways, including the following, for addressing systemic issues:

   (d) As illustrated by the Wafaqi Mohtasib, in the course of addressing an individual complaint, the ombudsman may find that a particular rule of a certain agency amounts to maladministration and recommend that it should be changed.

   (e) As illustrated by the Punjab Ombudsman, the ombudsman may find that there has been a series of similar complaints that show that a particular
group of citizens is being treated unfairly by a number of agencies. He may recommend that all agencies take certain steps to alleviate the situation of this group.

(f) As illustrated by the Wafaqi Mohtasib, the ombudsman may find that most of the complaints are aimed at certain agencies and commission special studies to analyze the problem in depth and work out solutions in consultation with the agencies concerned.

B. Elements of Independence

40. According to a Canadian Ombudsman officer, “Independence is often referred to as a hallmark of Ombudsmanship” (Pettigrew 200322). At a recent conference of the Australian and New Zealand Ombudsman Association (ANZOA), the Western Australian Ombudsman (Field 201023) elaborated on the importance of independence in the following words:

Without independence there can be no confidence that our investigations, either their choice, conduct or conclusions, have not been tainted by influence. This confidence must extend to the Ombudsman being both actually independent and seen to be independent. A lack of confidence in those who exist to keep government to account ultimately results in a weakening of the rule of law and the very system of government that serves us so well.

[T]he institutionalization of the rule of law [is] characterized in part by the creation of, and respect for, independent accountability institutions such as the Ombudsman.

41. Various criteria for independence have been proposed by practitioners, and a comprehensive list of these, based on two sources (Pettigrew 2003 and Field 2010, from Canada and Australia, respectively), is reproduced in Annex IV. Similar as well as additional criteria have been proposed by the British and Irish Ombudsman Association (BIOA: http://www.bioa.org.uk/criteria.php) and by Gottehrer and Hostina 1998 (http://www.usombudsman.org/documents/PDF/References/Essential.PDF), whose paper includes a list of 12 essential characteristics of Ombudsman identified in 1969 by the American Bar Association (“eight of these either directly use the word independence or clearly suggest independence”—Field 2010).

42. There is no single internationally accepted approach to the application of independence. Parliamentary ombudsmen, who are “structurally independent of the political process and government administration” (Pettigrew 2003), are the norm in developed countries. These ombudsmen “must have a direct relationship with

parliament and be subject to their authority and their authority only” (Field 2010). In Pakistan, the ombudsman is not a parliamentary institution but enjoys a high degree of independence from the executive and the support of the President of the country or the Governor of the province, as the case may be. This does not, however, come up to the expectations associated with an independent parliamentary ombudsman. This is also recognized, for example, by the Provincial Ombudsman of Sindh in his 2008 annual report, in which he beseeched the authorities “to make the Ombudsman … truly independent of [the] executive as envisaged from the framers of the law.”

43. Parliamentary ombudsmen may be appointed or confirmed by legislatures; they may also be appointed by chief executives or governors of states or provinces, but they are generally chosen through an independent selection process. “A number of different processes have been successful. The successful result is an ombudsman appointment of a widely respected individual seen by diverse political groups as fair and impartial” (Gottehrer and Hostina 1998). The appointing authority for all ombudsmen in Pakistan lies essentially in the executive branch of the government (Table 4). Moreover, while individuals selected as ombudsmen may be highly respected among knowledgeable circles, the selection process is evidently neither bipartisan nor consultative in a broader sense. Indeed, the authority to appoint ombudsmen in Pakistan lies in the discretion of specific individuals, and the selection process is neither independent nor transparent.

44. The removal of an ombudsman for proven incapacity or misconduct is an internationally accepted practice that is also reflected in relevant laws in Pakistan. Generally speaking, a parliamentary ombudsman can be removed only with the agreement of the parliament (Field 2010). Good practice suggests that ombudsmen “will not be removed for political reasons or because the results of investigations have offended those in power” (Gottehrer and Hostina 1998). In Pakistan, an ombudsman can be ordered to be removed by the appointing authority (an individual) and has recourse in such case to an organ of the superior judiciary (Table 4), before removal can be effected.

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24 In a parliamentary democracy, which is what Pakistan is supposed to be by virtue of its constitution, the President of a country or Governor of a province is not generally associated with the executive branch of government. In Pakistan, however, there have been long periods of military rule during which Presidents and Governors have headed the cabinet. Even during civilian rule, most Presidents and Governors have been associated closely with a party in control of the Federal or provincial government. Moreover, the President and the Governor are expected to take decisions on the advice of the Prime Minister or the Chief Minister, as the case may be.

25 Balochistan represents the only example of requiring the ombudsman to be “a person who is or has been or is qualified to be a Judge of the High Court.” This means, for example, that individuals of known integrity who have served in the civil or military services are not eligible for consideration. This leads to an unduly restrictive condition in a province that is known to have the smallest pool of expertise among the provinces of the country. A similar qualification was in force in Punjab before its statute was amended in 2003.

26 In some provinces, the people and elected representatives expect balance in high-level appointments among ethno-linguistic groups, and this may also affect the selection of ombudsman.
## Table 4. Ombudsmen Institutions of Pakistan: Elements of Independence

<table>
<thead>
<tr>
<th>Ombudsman Institutions</th>
<th>Year Established</th>
<th>Appointment Authority</th>
<th>Term of Office</th>
<th>Authority for Disclosure of Annual Report</th>
<th>Source of Funding</th>
<th>Appointment and Terms of Personel</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Multi-sector Mandates:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wafaqi Mohtasib 1983</td>
<td>President of Pakistan</td>
<td>4 years</td>
<td>Supreme Judicial Council 3/</td>
<td>President of Pakistan</td>
<td>Federal Consolidated Fund</td>
<td>Decided by Ombudsman 4/</td>
</tr>
<tr>
<td>Sindh Ombudsman 1991</td>
<td>Governor of Province</td>
<td>4 years</td>
<td>Supreme Judicial Council 3/</td>
<td>Governor of Province</td>
<td>Provincial Consolidated Fund</td>
<td>Decided by Ombudsman</td>
</tr>
<tr>
<td>Punjab Ombudsman 1997</td>
<td>Chief Minister of Province</td>
<td>4 years</td>
<td>Division Bench of the High Court</td>
<td>Chief Minister of Province</td>
<td>Provincial Consolidated Fund</td>
<td>Decided by Ombudsman</td>
</tr>
<tr>
<td>Balochistan Ombudsman 2001</td>
<td>Governor of Province 5/</td>
<td>4 years</td>
<td>Supreme Judicial Council 3/</td>
<td>Governor of Province</td>
<td>Provincial Consolidated Fund</td>
<td>Decided by Ombudsman</td>
</tr>
<tr>
<td><strong>Single-mandate Ombudsmen:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Banking Mohtasib 1997</td>
<td>President of Pakistan 6/</td>
<td>3 years</td>
<td>Federal Service Tribunal</td>
<td>Governor, State Bank of Pakistan</td>
<td>Shared by banks 7/</td>
<td>On deputation 8/ or on basis of qualifications</td>
</tr>
<tr>
<td>Federal Tax Ombudsman 2000</td>
<td>President of Pakistan</td>
<td>4 years</td>
<td>Supreme Judicial Council 3/</td>
<td>President of Pakistan</td>
<td>Federal Consolidated Fund</td>
<td></td>
</tr>
<tr>
<td>Federal Insurance Ombudsman 2000</td>
<td>Federal Government</td>
<td>4 years</td>
<td>Federal Government</td>
<td>Shared by insurance companies 9/</td>
<td></td>
<td>On deputation 10/ or on basis of qualifications</td>
</tr>
</tbody>
</table>

**Notes:**

1/ All ombudsmen are appointed for a single non-renewable term.
2/ In all cases, an ombudsman can be removed only on the ground of misconduct or of being incapable of properly performing the duties of his office by reason of physical or mental incapacity.
3/ “The Supreme Judicial Council is chaired by the Chief Justice of Pakistan and includes the two most senior Judges of the Supreme Court and the two most senior Chief Justices of High Courts as members. On a reference received from the President or through *suo moto* action, the Supreme Judicial Council investigates the matter and presents its finding to the President. If the Council decides that a judge is incapable of performing the duties of office or is guilty of misconduct, and therefore should be removed from office, the President may order the removal of such judge.” Source: [http://www.supremecourt.gov.pk/web/page.asp?id=333](http://www.supremecourt.gov.pk/web/page.asp?id=333).
<table>
<thead>
<tr>
<th>4/</th>
<th>In practice, some of the senior officers are sent by the Government to the Wafaqi Mohtasib Secretariat on deputation, but subject to his agreement.</th>
</tr>
</thead>
<tbody>
<tr>
<td>5/</td>
<td>The requirement is that the Ombudsman shall be a person who is or has been or is qualified to be a Judge of the High Court.</td>
</tr>
<tr>
<td>6/</td>
<td>In consultation with the Governor of the State Bank of Pakistan.</td>
</tr>
<tr>
<td>7/</td>
<td>In proportions decided by the State Bank of Pakistan.</td>
</tr>
<tr>
<td>8/</td>
<td>From the State Bank of Pakistan or other banks.</td>
</tr>
<tr>
<td>9/</td>
<td>In proportions decided by the Securities and Exchange Commission of Pakistan.</td>
</tr>
<tr>
<td>10/</td>
<td>From the Securities and Exchange Commission of Pakistan or insurance companies.</td>
</tr>
</tbody>
</table>
45. A point of view put forward by the British and Irish Ombudsman Association is that the appointment of an ombudsman “should be either for a minimum of three years or until a specified retirement age; if the former, it may be renewable” (http://www.bioa.org.uk/criteria.php). Another view is that the term of office must be fixed but renewable (Gottehrer and Hostina 1998). However, the preference for parliamentary ombudsmen in Australia and Canada is appointment for an extended fixed term that should be at least longer than one full term of government (Pettigrew 2003 and Field 2010), that is, at least five years. In Pakistan, six of the seven ombudsmen are appointed for a non-renewable four-year term (and one for three years, Table 4), which is less than the full term of a government.

46. One of the least appreciated elements of independence is that someone should always be capable of exercising all the ombudsman’s powers. As explained by Gottehrer and Hostina 1998, “An office without someone to exercise the ombudsman’s powers is paralyzed. Ombudsmen have the authority to and name deputies or acting ombudsmen who can always exercise the powers of the office while the ombudsman is out of the country, ill or unable to service or when the office is vacant.” The situation in Pakistan is that when the appointing authority delays the appointment of a permanent or acting ombudsman, as happens from time to time, the ombudsman stops functioning, sometimes for months at a time. This would not happen if the appointing authority were to appoint a deputy ombudsman for a fixed tenure (not coinciding with the tenure of the ombudsman) to serve as acting ombudsman in the absence of a permanent ombudsman.

47. An ombudsman’s control over human resources is considered to be a key element of independence. “The ombudsman has the sole power to appoint and remove staff to ensure that staff will have the ombudsman’s full confidence and to ensure that the ombudsman has sole responsibility for administering the office. Legislative bodies do not appoint or confirm staff because that would politicize the office” (Gottehrer and Hostina 1998). In Pakistan (Table 4), the Wafaqi Mohtasib and Provincial Ombudsmen are free to recruit their own staff. There is a significant trend of staff being provided by government departments on deputation to the ombudsman. Good practice suggests that “where staff are seconded from other agencies, the choice of whom to accept or to return to service in the original agency is the ombudsman’s alone” (Gottehrer and Hostina 1998). This is also the practice in Pakistan, where the Wafaqi Mohtasib and Provincial Ombudsmen have the authority to choose whom to accept on deputation from a government agency.

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27 This is also the norm for the heads of independent evaluation in IFIs.
29 This is also considered key to independent evaluation.
28 For example, according to the Punjab Ombudsman’s annual report for 2009, “the office of the ombudsman remained vacant for more than six months during 2008. As a result, the year 2009 saw an unusual backlog of 6,628 complaints.”
30 According to statute, it is not necessary for the Wafaqi Mohtasib and the Provincial Ombudsmen to consult the relevant public service commission “for making appointment of the members of the staff or on matters relating to qualifications for such appointment and methods of their recruitment.”
48. The adequacy of the ombudsman’s budget, the process by which it is approved, and accountability for spending also feature as elements of independence. Available literature, however, is not as clear on these points as on some other aspects of independence. Even for parliamentary ombudsmen, it seems that the process for obtaining budget approval may be managed by a parliamentary committee or the Treasury, even though independence from the executive branch implies that budgets should be approved directly by, and accounts rendered directly to, the parliament. The practice in Pakistan is that the ombudsman makes a budget request to the Ministry (or provincial department) of Finance, which may approve or reduce the requested amount, and/or place restrictions on certain budget categories. The ombudsman has more flexibility than other heads of department in re-appropriating between certain budget categories, but he cannot re-appropriate from other categories, including pay and allowances. The overall result, by and large, is item-by-item budget control by the government, which is not conducive to the ombudsman’s effectiveness. This has evidently led to problems as well as a high level of frustration among ombudsmen and their staff, and severely constrains the ombudsman in setting competitive salary levels to recruit and retain staff.

49. Surprisingly, available literature on the independence of ombudsmen institutions does not speak about the authority of the ombudsman to disclose information without prior approval of the executive branch of the government. Relevant statutes in Pakistan do not explicitly prohibit the ombudsman from disclosing information to the public without prior approval. The practice, as far as can be ascertained, is for ombudsmen to issue annual reports, research findings, conference proceedings, press releases and so on without the approval of higher authority.

50. Finally, it may be mentioned that provincial governments in Pakistan have the authority to draw up their own legislation, rules and regulations for ombudsmen, independently of the Federal Government and the Wafaqi Mohtasib. While it is true that the three provincial statutes are almost exact copies of the 1983 Presidential Order establishing the Wafaqi Mohtasib, nothing prevents the provinces from making their statutes different from each other’s. This is illustrated by differences between Punjab on the one hand and the other provinces and the Federal Mohtasib on the other: the appointing authority for the Punjab Ombudsman is the Chief Minister rather than the Governor, and the ombudsman’s recourse against removal lies with the High Court rather than the Supreme Judicial Council.

51. In conclusion, the ombudsman institution in Pakistan is not a parliamentary institution but it operates within a legal framework that tends to encourage

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31 It is for these reasons, it seems, that the Sindh Ombudsman in his 2008 annual report proposed that the Finance Department should “provide a one-line grant to the Provincial Ombudsman Secretariat, as in the justice sector” (that is, the judiciary). The Wafaqi Mohtasib has also requested the Ministry of Finance several times for a one-line budget, but with no success.

32 In independent evaluation, as observed in the IFIs, the head of evaluation has the authority to disclose information (including evaluation products) to the Executive Board and the public without prior approval from the head of the organization.
independence, except in the matter of budget, and the appointment of the ombudsman and his deputy. Both of these are highly significant aspects of independence. More specifically, the inability of the ombudsman to allocate resources within the budget and set adequate compensation levels for staff is a serious constraint on aligning human resources with the priorities of the ombudsman, and, therefore, on the effectiveness of the office. Moreover, the appointing authority for ombudsman is an individual who is not bound to follow any prescribed process or consult anyone, and is associated, in most cases, with a political party. Thus, opposition parties, the media, civil society and the general public cannot be assured that the ombudsman’s selection and performance will be conducted strictly in the public interest, and this is bound to affect the credibility and effectiveness of the institution. The absence of a fully-empowered deputy ombudsman who could head the office when the permanent position is vacant also impacts on the effectiveness and credibility of the institution.

C. Structure and Linkages

52. Statutes establishing the Wafaqi Mohtasib and the Ombudsmen of Balochistan and Sindh allow the ombudsman to set up regional offices, while the Punjab Ombudsman is silent on this matter. In practice, all ombudsmen have regional offices. Balochistan and Punjab have three regional offices each. The Wafaqi Mohtasib has eight regional offices. The Sindh Ombudsman has 13 regional offices and aims eventually to have one in each district of the province. Clearly, different models of organization are at work across the country, as far as the ombudsman’s field presence is concerned.

53. However, there are more similarities than differences in the structure of ombudsman head offices and functional units. More specifically:

(a) The largest department in each ombudsman office is concerned with the investigation of complaints.
(b) A small number of staff are also devoted to managing complaints and conducting research and analysis.
(c) There are also units responsible for finance and administration, communication and information technology.

54. Outreach depends not only on the size and geographical spread of an organization but also on its linkages. As elaborated by the Wafaqi Mohtasib (Malik 2007), linkages with government departments and civil society organizations (CSOs) are particularly important for effective implementation. The Wafaqi Mohtasib is pursuing collaboration with government departments with at least three related aims:

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33 For example, a 2008 report from Transparency International observes, “A Global Integrity report (2006) asserts that the ombudsman has not been very effective and has been sometimes subject to external pressure from the executive with regard to initiating investigations [into corruption]. There is no known case of high level officials being investigated by the ombudsman in recent years” (Transparency International Help Desk http://www.u4.no/helpdesk/helpdesk/query.cfm?id=174).
(a) to help them strengthen their internal redress systems;
(b) reduce the volume of complaints coming to the ombudsman; and,
(c) free up the ombudsman’s resources to focus more on systemic issues.

55. The Wafaqi Mohtasib is working with Federal Ministries and Provincial Departments with the objective of getting complaints resolved, in the first instance, at the agency level, as promptly as possible. More specifically, with assistance from the United Nations Development Program (UNDP)\textsuperscript{34}, an in-depth study of the grievance redress systems of five Federal Agencies was completed in 2009. These agencies account for the highest number of complaints received by the Wafaqi Mohtasib. The agencies (in order of the number of complaints received by the Mohtasib) are: Sui Northern Gas Pipelines Ltd. (SNGPL); Pakistan Telecommunications Ltd. (PTCL); National Database and Registration Authority (NADRA); Pakistan Post; and, State Life Insurance Corporation (SLIC).

56. The Wafaqi Mohtasib is also reaching out to another set of government agencies with the assistance of the United Nations Children’s Fund (UNICEF)\textsuperscript{35}. \textit{This is the first initiative in the country that focuses ombudsmanship on an important vulnerable group in society}. It provides for the establishment of a Children’s Complaints Office (CCO) that receives complaints from and about children against maladministration by any Federal Agency, including a school, hospital or law enforcing agency. It also facilitates the Government of Pakistan in implementing the United Nations Convention on the Rights of the Child (UNCRC), in part by monitoring the compliance of Federal Agencies with the UNCRC and the progress of the associated National Plan of Action. By working through the Wafaqi Ombudsman’s head office and eight regional offices, and providing additional resources for establishing CCOs in three Provincial Ombudsmen offices, UNICEF is helping \textbf{mainstream children’s concerns in ombudsman institutions throughout the country}.

57. The \textit{Wafaqi Mohtasib’s outreach to civil society has been evolving around the following main initiatives} (mentioned in the annual report and other documents):

(a) A Civil Society Advisory Committee with 13 members has been constituted to strengthen the link with CSOs and facilitate feedback and advice on issues of public interest. The CCO has also established linkages with 10 CSOs and started receiving complaints and assistance from some of them.

(b) A Policy Dialogue Forum has been set up as a platform for regular exchange of views between various oversight bodies and civil society in general.

(c) A survey called the Citizens’ Report Card has been conducted to get a public assessment of the work of the Mohtasib’s office.

\textsuperscript{34} This assistance is rendered through the Strengthening Public Grievance Redress Mechanisms Project, or SPGRM.
\textsuperscript{35} The UNICEF-assisted project is called Responsible, Enabling and Accountable Systems for Children’s Rights (REACH).
(d) For improving awareness among the public at large, the services of the Wafaqi Mohtasib were advertised through electronic media (television channels and radio) as well as a number of English and Urdu newspapers.

58. Media coverage of Provincial Ombudsmen has also been reported from Balochistan, Punjab and Sindh. Judging from the annual reports, however, **there are three important ways in which the Provincial Ombudsmen differ from the Wafaqi Mohtasib in approaching the question of linkages.** More specifically:

(a) There is little sign of a plan for engaging government departments in a collaborative rather than adversarial mode.
(b) There is little evidence of attempts at diagnosing the systemic factors behind maladministration.
(c) There is no recognition of CSOs as potential partners.

59. In conclusion, it appears that **the ombudsman’s outreach is being achieved largely through expansion of offices across the country, with Sindh leading this approach with the aim of having an office in every district of the province.** Clearly, this approach is limited by the availability of budgets and trained human resources, and it may prove difficult to sustain at a consistent level of performance, over time and across the country. Except for the Wafaqi Mohtasib, there is little evidence that ombudsmen have established cooperative relationships with civil society, volunteers or government agencies that could reduce the volume of complaints coming to the ombudsman and induce systemic change in government agencies. The issues of implementation and outreach are discussed further in the following chapter on relevance.

D. Overlapping Authority for Public Grievance Redress

60. As indicated above in paragraph 32, **there is overlap in the grievance redress functions of the Wafaqi Mohtasib and certain regulatory bodies that have authority over utility companies.** The relevant regulatory bodies are:

(a) the National Electric Power Regulatory Authority (NEPRA), which regulates the nine power distribution companies (DISCOs) in the country;
(b) The Oil and Gas Regulatory Authority (OGRA), which has responsibility inter alia for regulating the gas distribution companies, namely, the Sui Northern Gas Pipelines Limited (SNGPL) and the Sui Southern Gas Company Limited (SSGCL); and,
(c) the Pakistan Telecommunication Authority (PTA), which regulates telecommunication companies.

61. These bodies are authorized to receive and redress individual complaints against the service providers they regulate, and they have developed certain systems for addressing this aspect of their mandate (refer to Annex V). The Law and Justice
Division of the Federal Government has ruled, however, that the Wafaqi Mohtasib still has exclusive jurisdiction in matters concerning maladministration. At this time, the Mohtasib receives more complaints against the service providers than the regulatory bodies. Judging by the number of complaints, there is some degree of overlap between the Mohtasib and PTA, and much more so with NEPRA and OGRA.

62. **Overlapping mandates for redress of grievances are not only a legal or academic matter but also have significant implications for complainants and for the means available for improving service delivery.** The following observations are pertinent in this connection:

(a) Is it appropriate in view of good practice for a regulatory body to receive, investigate and redress individual complaints? Note that the State Bank of Pakistan regulates banks, but individual complaints are handled by the Banking Mohtasib.

(b) The Wafaqi Mohtasib has a large and experienced staff specializing in receiving and handling complaints, investigating them and ensuring implementation of recommendations. The regulatory bodies do not have the same capacities, which means they cannot respond to complainants as effectively as the Mohtasib. They could, over time, try to develop the required capacities, but the outcomes are not certain, given the resource constraints, and the cost of duplication may not be justifiable in all cases (especially where the work load is not large).

(c) As long as there is overlap, it is possible that decisions taken by the Mohtasib and a regulatory body would conflict with each other. As nobody has the authority to resolve such conflict, citizens could be left in limbo while a disagreement persists.

(d) Parties to a complaint can make a representation to the President against the Mohtasib’s recommendations. The only recourse available against a decision taken by a regulatory body is the conventional and expensive option of going to court.

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36 Institutions such as the Securities and Exchange Commission throughout the world are a special case, in that whistle blowers are essential to their effective functioning, particularly in terms of unearthing fraud.
III. ASSESSMENT OF RELEVANCE

A. Signs of Enduring Relevance

63. The importance of ombudsman is now universally recognized, and the institution is present in 130 countries (Field 2010). In the words of an experienced ombudsman, “The term ombudsman has become increasingly popular because it is a unique and trusted brand name, a name that connotes impartiality, fairness, integrity and independence” (Field 2010). More could be done to strengthen the institution in Pakistan, but the brand name has clearly enjoyed growing popularity in the country. The country’s seven ombudsmen, including one for taxation and two for important economic sectors, signal Pakistan’s presence among countries committed to the pursuit of ombudsmanship as a wide-ranging instrument of good governance.

64. As indicated in paragraph 30, the first ombudsman in Pakistan was established as an instrument of accountability at a time when most other avenues for justice, accountability and representation had been closed or curtailed. Subsequently, ombudsmen institutions were established not only by military but also by civilian governments. This compares favorably with the fate of local government, the other instrument favored by military governments in the past as a substitute for democracy. One reason for this may be that respect for provincial autonomy (as summarized in paragraph 50) has added to the legitimacy of the institution among the Federating Units. Thus, the replication by successive civilian and military governments of an institution first established by a military government may be seen as a sign of continuing relevance.

65. There have been meaningful and productive attempts over the years not only to create but also to strengthen ombudsman institutions in the country. There has been ongoing discussion at the federal and provincial levels, among civil servants as well as elected representatives, on ways of improving the effectiveness of the institution. The mass media have reported positively on ombudsmen and have also been engaged in awareness campaigns. In recent years, the Wafaqi Mohtasib, in particular, has initiated plans for engaging civil society more effectively and focusing on children as a vulnerable segment of society. Growing donor interest in ombudsmen is also evident. Attention to awareness-raising, efforts at institutionalization and strengthening, innovation and healthy debate among stakeholders indicate an encouraging degree of rooted-ness in the public consciousness.

B. The Relevance of Mandates

66. As indicated in paragraph 31, Pakistan’s ombudsmen are guided and challenged by a comprehensive notion of maladministration. It would be hard to argue that the definition of maladministration adopted in the country’s statutes could be made either more precise or significantly broader. At the same time, as indicated in paragraph 38,
ombudsmen have been invited through their respective statutes to study the root causes of corruption and injustice, and propose how to eradicate them, even though they are not explicitly allowed to go beyond studies, research and recommendations in this direction. In effect, the Federal and Provincial Ombudsmen have been handed a mandate for accountability on a large scale, but without some of the instruments (for example, assistance for capacity development) for addressing systemic issues. Given the importance of systemic issues in governance, and the growing attention that is being to this by ombudsmen in other countries, it may be timely to consider how to further capacitate Pakistan’s ombudsmen for addressing systemic change.

67. It is clear from the statutes that matters of national defense and foreign relations have been excluded from ombudsman mandates, but this is not unusual in the region. At this stage, what is perhaps of greater interest to the public is the overlap between the Wafaqi Mohtasib and the regulatory bodies for oil, gas and electricity. To start with, it is not easy for ordinary consumers of utility services to understand the division of responsibility between the Mohtasib and the regulatory bodies. Moreover, the presence of two sets of grievance redress mechanisms is not the most cost effective method available. There is also the fact that there have been huge increases in the number of complaints against power and gas utilities in the last five years, and there is a real possibility that this trend may continue. Under the circumstances, it may be questioned whether the prevailing arrangement concerning the gas and power utilities best serves the interests of the public, and whether alternatives, including (specialized) industry ombudsmen may be more appropriate.

68. The whole question of independence, discussed in paragraphs 40-51, is also a matter of great relevance that is embedded in the very core of ombudsman mandates. As many have demonstrated in Pakistan and elsewhere, much can be achieved by ombudsmen even without the independence enjoyed by parliamentary ombudsmen. Three points, however, may be pertinent in this regard: one, it is not necessary to view independence in an either-or sense, understanding independence to mean what it means in toto for independent parliamentary ombudsmen; two, it is not possible to ignore the very real difficulties faced by Pakistan’s ombudsmen because of lack of independence, particularly as it affects budget and human resource issues, which are key to the success or failure of any institution; and three, it is seldom the case that what are essentially 27-year old laws can be considered relevant for all times. It would be timely and appropriate to ask, therefore, how a greater degree of independence could be introduced in the laws and practices governing Pakistan’s ombudsmen.

C. Relevance of Implementation Arrangements

69. It is challenging for ombudsmen, to say the least, to extend outreach and focus on the neediest in society, when resources are meager, large segments of the population poor and illiterate, and electronic means of communication largely

37 As far as can be determined, only the Punjab statute and the 1983 statute establishing the Wafaqi Mohtasib have been amended in some ways. Other than this, however, no changes have been made in the original statutes.
inaccessible. As indicated in paragraphs 52-59, **ombudsmen in Pakistan have responded with a variety of implementation arrangements** in these circumstances. The most common approach is a familiar one: expanding the organization, geographically, functionally or both, to achieve outreach and results. Another approach, also familiar but less common, is to build linkages (or networks), in part, to share the work load. Using technology, particularly for office work and electronic engagement with the public, is also increasingly popular.

70. And yet, it must be evident (for example, from Tables 2 and 3) that **large numbers of people, particularly in villages and among the poor and illiterate, do not receive adequate services, suffer from corruption and do not have recourse to justice through ombudsman institutions**\(^{38}\). It may be tempting to propose that the best way forward is the one adopted by the Sindh Ombudsman, that of establishing an office in every district of the province. Some may ask, however, whether effective operations can be established where few, if any, government institutions have succeeded in doing so at the district level. Moreover, even if it is possible for Sindh to do so, it may not be possible for Balochistan to follow suit in view of the large number of districts, the large geographical areas of the districts, thinly spread population and ever-present resource and capacity constraints\(^ {39}\). Even Punjab, with greater resources, has established only three regional offices. As suggested earlier, **attempts to expand outreach by expanding ombudsman offices may not prove to be feasible or effective in view of resource constraints.**

71. Networking with government agencies and CSOs is another way of expanding outreach. In this connection, important steps have been taken by the Wafaqi Mohtasib (as noted in paragraphs 54-57) to cooperate with government departments and engage with CSOs. **This shows the potential for scaling up an efficient approach to outreach by pursuing networking**, if efforts are also made along the way to significantly improve citizen’s access to ombudsmen institutions from rural areas, most of the districts of the country, and from among the poor and illiterate who are often neglected by public services.

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\(^{38}\) Indeed, the Wafaqi Mohtasib has observed that in Pakistan "there exists a fairly wide gap between the number of potential complainants and complaints actually made. This may be generally true, especially in countries where education levels are low" (Malik 2007).

\(^{39}\) According to the 2008 annual report of the Balochistan Ombudsman, the three regional offices are in regions that are thickly populated.
IV. ISSUES IN EFFECTIVENESS AND EFFICIENCY

A. Systematic Approach for Improving Performance

72. Since 2007, the Wafaqi Mohtasib has introduced a number of changes in his office. This resulted from a process of change management that was built on three pillars, namely, business process re-engineering, institutional repositioning and improved advocacy and outreach; it extended to improved terms and conditions of service, staff training and information technology. The indications are that these changes have led to some significant improvements in performance. This is the result of a systematic approach for improving performance that was outlined in a paper by the Wafaqi Mohtasib (Malik 2007) presented to the Asian Ombudsman Association (AOA). Fine-tuned to some extent for present purposes, the key elements of performance that are highlighted in the paper may be summarized as follows:

(a) legal powers, including the objectives of the ombudsman, jurisdiction and mechanism for ensuring compliance with ombudsman recommendations;
(b) collaboration and coordination with other accountability agencies, government agencies that are subject to investigation, and civil society;
(c) human resources, including issues of specialization and the use of advisory bodies, volunteers, short-term expertise and outsourcing;
(d) service standards and key performance indicators that focus on results (outputs and outcomes) rather than inputs and activities;
(e) modern information technology, including technology for management, monitoring, evaluation, research and communication; and,
(f) awareness raising, including advertising campaigns, partnerships with civil society and low-cost ways of reaching the public (including messaging to mobile phone owners).

B. Indicators of Efficiency

73. In the past, the Wafaqi Mohtasib’s annual report used to report the cost per complaint received and disposed of. The cost was reported in rupees, without, it seems, adjusting for inflation, and rose from PKR 700 per complaint the mid-1990s to PKR 3,300 (about USD 55) in 2004. The 2004 annual report explains that increases in cost were due to inflation, increases in petrol prices and salary levels, and capital investment in office equipment. The methodology for calculating the cost is not explained in the report, and it is not stated how this indicator was interpreted or used in practice. Other ombudsmen have never mentioned such an indicator in their reports.

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40 Some of these elements are also mentioned in the annual reports of Provincial Ombudsmen, but there is little to suggest in these reports that a systematic effort to improve performance has been initiated.
74. In recent years, the Wafaqi Mohtasib has instituted certain standards of efficiency and productivity for its personnel and discussed these in the annual reports. (Other ombudsmen have not published such standards, and perhaps not enforced them either.) One such standard lays down the **time that may be taken to dispose of a complaint**, and this is shown in Table 5. The Mohtasib uses an automated Complaint Management Information System (CMIS) that tracks progress along the seven-step process outlined in Table 4 and identifies bottlenecks where attention is required. In 2009, with the help of this system, more than 80% of the complaints (from a total of about 30,000) were disposed of within six months, and almost one-half the total within the three months stipulated in the standard. This is a huge improvement over 2004, when only 4% of the complaints were disposed of within three months.

<table>
<thead>
<tr>
<th>Day</th>
<th>Actions</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>Complaint registration</td>
</tr>
<tr>
<td>1</td>
<td>Dispatch of complaint by the Registrar to the Investigating Officer</td>
</tr>
<tr>
<td>2-3</td>
<td>Dispatch of complaint to agency concerned for its report</td>
</tr>
<tr>
<td>4-33</td>
<td>Receipt of complete report from the agency concerned</td>
</tr>
<tr>
<td>34-72</td>
<td>Time taken to conduct hearings</td>
</tr>
<tr>
<td>73-88</td>
<td>Preparation of draft findings</td>
</tr>
<tr>
<td>89-90</td>
<td>Approval by Ombudsman: Disposal of Complaint</td>
</tr>
<tr>
<td>91-120</td>
<td>Implementation</td>
</tr>
</tbody>
</table>

75. **The Wafaqi Mohtasib has also established a work load target for each of its investigating officers to dispose of 40 cases per month.** It reports an average output of 40 cases per month in 2008 and 43 cases in 2009, compared with 28 in 2007 (an improvement of more than 50% in two years). In 2009, the office experienced a significant decrease in the number of investigation officers but nevertheless maintained the 2008 level in terms of the total number cases disposed of. Other ombudsmen in Pakistan have not reported (and perhaps not established) such standards.

76. **The inability, so far, to establish a permanent cadre (for example, a cadre of investigators) is an important factor undermining the efficiency and effectiveness of the ombudsman.** The problem is that most of the ombudsman’s staff do not have a career path. They gain experience and receive training on the job, then find their prospects limited, and leave the institution; the ombudsman has to start all over again with new staff. The Wafaqi Mohtasib is moving a case to the government for enabling the creation of a professional cadre with a career path.

C. Understanding the Ombudsman’s Objectives

77. Effectiveness is about the extent to which the objectives (of an intervention) were achieved, or are expected to be achieved, taking into account their relative importance. The primary objective of the Wafaqi Mohtasib, Provincial Ombudsmen and the Federal Tax Ombudsman is encapsulated in the opening words of the statutes establishing
these institutions. The primary objective is “to diagnose, investigate, redress and rectify any injustice done to a person through maladministration.”41 This objective focuses on individual persons rather than systems. Moreover, from the word diagnose onward, this objective has a curative rather than preventive orientation.42

78. The statutes may also be construed to have a preventive objective. This allows the ombudsmen, “for ascertaining the root causes of corrupt practices and injustices,” to arrange “for studies to be made or research to be conducted,” and then “recommend appropriate steps for their eradication.” Arguably, the root causes of corruption and injustice may be associated with systems as well as individuals. Thus, this part of the mandate may be understood as an extended invitation to address systemic issues, and this may be understood as the secondary objective of ombudsmen in Pakistan.

D. Effectiveness in Relation to the Primary Objective

79. The Wafaqi and Provincial Ombudsmen have been handling complaints against a large number of government agencies—about 30 in the case of the Wafaqi Ombudsman, 36 in Sindh and more than 50 each in Balochistan and Punjab. This is an impressive outreach across the institutional landscape of governance. Also impressive is the geographical spread of operations, as judged by the lists of districts from which complaints are received.

80. There is a point of view that the volume of complaints received by an ombudsman reflects public awareness as well as a public evaluation of the ombudsman’s services. This is plausible, but it is not possible to explain in these terms either the large year-to-year fluctuations or the up-down-and-up again long-term trend reported by the Wafaqi Mohtasib. The number of complaints received by the Mohtasib shows considerable variation during 2000-2009, ranging from almost 12,000 complaints in 2006 to 41,000 in the year 2000. In 2009, the Mohtasib received about 30,000 complaints, which is twice the number received in 2005, 37% higher than 2008 but almost the same as in 2002.

81. The number of complaints received in Balochistan, Punjab and Sindh has been relatively more stable.44 The Balochistan Ombudsman received about 550-700 complaints per year during 2005-2007, with a sharp increase to about 1,000 in 2008. The Sindh Ombudsman has been receiving 6,000 to 8,000 complaints per year since 2000. The Punjab Ombudsman received 8,000 to 9,000 complaints per year in most

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41 The statute establishing the Federal Tax Ombudsman ends this sentence with the words “by functionaries administering tax laws.”
42 Diagnosis, in the medical sciences, is the process of identifying a disease or disorder on the basis of its symptoms and the patient’s medical history.
43 It is possible to argue that an ombudsman’s systematic attention to maladministration serves as a deterrent and, therefore, also has a preventive value, but information is not available for pursuing this line of thought.
44 A large increase in the number of complaints was reported by the Balochistan Ombudsman in 2008. In the absence of the 2009 annual report, it is not possible to say with any confidence whether this was a one-time increase or the beginning of a trend.
recent years, but the number was about 50% higher in 2006, 2007 and 2009. In Punjab, 20% of the complaints received in 2009 were against the education department, 15% were against the police, 11% against the revenue department, and 6% against the health department. In Balochistan, the water and sanitation authority and the education department accounted for about 20% each of the complaints filed in 2008. Similar information is not available for Sindh.

82. The Wafaqi Mohtasib reports that women filed just over 11% of all complaints received in 2009. In the same year, a total of 183 children’s complaints were received; 78 of these were lodged either through the WMS website or by post, and 105 complaints were received through the Wafaqi Mohtasib’s helpline. With inputs from the CCO, the Mohtasib has already put forward recommendations that could have a significant impact on children, particularly in education but also in terms of rights. The Provincial Ombudsmen have not reported the number of complaints filed by women and children.

83. During 2005-2006, the majority of the complaints filed with the Wafaqi Mohtasib were rejected in limine. Since 2007, the Mohtasib paid particular attention to this issue and revamped the Registration Wing. Now every complained is examined minutely, and the service is also more friendly and courteous. As a result, less than one-fifth of the complaints are rejected in limine by the Wafaqi Mohtasib. The rejection rate is higher for the Punjab Ombudsman (around 50%), and lower (about 10%) for Sindh. Similar information is not available for Balochistan.

84. The annual reports of the Punjab Ombudsman regularly classify complaints in three categories, which other ombudsmen do not. In 2009, the Punjab Ombudsman observed the following pattern in the almost 5,000 complaints considered maintainable:

(a) 53% of the complaints related to inattention, delay, neglect, inefficiency and ineptitude;
(b) 30% of the complaints were about administrative excesses, discrimination, favoritism, and arbitrary, unjust and biased decisions; and,
(c) 17% of the complaints were against corrupt practices.

85. The Wafaqi Mohtasib maintains that an ombudsman in Pakistan is not equipped to handle corruption cases. He points out that it takes a lot of time and special expertise to investigate corruption charges, and dig out credible evidence that proves the charges. Perhaps that is why the classical model of ombudsman does not extend to matters of corruption (the Republic of Korea and the Philippines being the exceptions in the region).

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45 The difference between education and health here is the opposite of the impression given by Table 2, in which 58% of the households are reported to be satisfied with education services and only 35% with health services.
46 These categories are based on the definition of maladministration provided in the statutes and reproduced above in paragraph 31.
47 Meeting with the author, June 29, 2010.
86. One option available to ombudsmen under their mandates is to resolve matters through conciliation. The ombudsman acts as a facilitator, and the time taken to dispose of complaints is considerably reduced in the process. Thus, particularly since 2007, the Wafaqi Mohtasib’s Office has given greater emphasis to this modality. It is observed that the percentage of cases in which relief is provided to the complainant through conciliation and agreement has doubled between 2008 and 2009. Similar information is not available for the Provincial Ombudsmen.

87. Out of the total workload in 2008 and 2009, the Wafaqi Mohtasib recommended relief in almost one-half the cases, and rejected less than 10% of the complaints. The Mohtasib reports that 38% of his recommendations were implemented by the agencies concerned in 2007, and this rate increased to 75% in 2008 and 88% in 2009. The main reason for this remarkable improvement in implementation is that the Mohtasib instituted a system of follow up, where earlier there was none. This system relies on the CMIS as well as an Implementation Wing established as part of change management to ensure that recommendations are implemented and not forgotten.

88. The Punjab Ombudsman reported in 2008 that 56% of the complaints decided after investigation led to grievances being redressed, the views of the agencies were upheld in 31% of the cases, and in 13% of the cases directions were issued but implementation was pending for more than six months. The Ombudsman observed, “It has been experienced that Government Departments are generally averse to the orders of Ombudsman. There is a general tendency of [sic] Government officials to delay implementation of the orders of the Ombudsman.” All three Provincial Ombudsmen observe in their annual reports that lack of implementation by agencies has been a problem. However, an improvement was observed in Punjab according the Punjab Ombudsman’s 2009 report: implementation was pending for only 5% of the complaints decided. In 2008, matters also improved considerably in Balochistan, after the Governor intervened and issued strict instructions to government departments.

89. In conclusion, the Wafaqi Mohtasib and the Provincial Ombudsmen have established themselves as increasingly popular and vigorous institutions of accountability in relation to maladministration, as defined in the statutes. Relatively little attention has been given to corruption compared to other aspects of maladministration, but this is understandable in view of the demands associated with proving corruption. The Wafaqi Mohtasib and the Balochistan and Punjab Ombudsmen have reported improvement in the implementation of their recommendations, which, in the case of the Wafaqi Mohtasib, is due to changes in the tracking and follow-up systems of the institution. In recent years, the Wafaqi Mohtasib also improved his effectiveness as a conciliator between complainants and Federal Agencies. There is also now, at the Federal and provincial levels, a special focus on children, although attention to women’s issues is evidently not as emphatic.
D. Effectiveness in Relation to the Secondary Objective

90. With the exception of Punjab and the Wafaqi Mohtasib, there is little in the annual reports of the ombudsmen to suggest that these institutions are addressing systemic issues and the root causes of injustice and corruption in government agencies. The Punjab Ombudsman, in his 2009 report, makes 11 general recommendations that cut across provincial agencies and address injustice and grievances of specific groups of citizens, including students, government employees, job applicants, the disabled and rural people. In a different vein, the Wafaqi Mohtasib has given recommendations to individual agencies for improving their systems, including recommendations against which the agency concerned made a representation to the President, and the President upheld the Mohtasib’s recommendation. Two recent cases of this nature attracted high-profile media attention; these were:

(a) The Mohtasib recommended that Pakistan Railways should change its rules, so that it does not charge for high-quality service when a passenger has paid for it but not received it due to a sudden change in the train service. He held existing rules to be unfair and unjust for passengers. He invoked the principle that passengers should be charged for the service they are provided.

(b) The Mohtasib recommended that the National University for Science and Technology should change its rules to return the admission fee (in this case, USD 11,420) paid in advance by a student who then decided to proceed to another institution. The University admitted that it did not suffer any loss on account of the student’s decision. The Mohtasib declared the University’s refund policy to be oppressive.

91. The reports of the Wafaqi Mohtasib also contain a considerable amount of analysis of the nature of complaints in various sectors, and try to explain why complaints arise. These reports, however, do not discuss the root causes of corruption, except, occasionally, in relation to the DISCOs. Indeed, there is no discussion anywhere among ombudsmen institutions of rent-seeking behavior and the perverse incentives that have prevailed for so long in the public sector and that affect service delivery across the country.

92. Building on the Wafaqi Mohtasib’s interest in systemic issues, the SPGRM study mentioned in Chapter II led to recommendations of three types: general recommendations for all five agencies to improve their public grievance redress mechanisms; general recommendations for all five agencies to improve their overall service (and thereby prevent complaints arising); and, specific recommendations for each of the five agencies. It provided the opportunity for the Wafaqi Ombudsman to initiate evidence-based dialogue with the five agencies, aimed at systemic reform, and this must be considered a break-through.\(^48\) The agencies reviewed the

\(^{48}\) In comparison, Provincial Ombudsmen reports reflect a more adversarial attitude vis-à-vis government agencies.
study findings and recommendations, and agreed to receive capacity development inputs from the ombudsman.

93. The REACH project is another important initiative that pays attention to systemic issues. As mentioned earlier, this is the first initiative in the country that focuses ombudsman institutions on one of the vulnerable groups in society. It addresses systemic issues of relevance to children primarily in two ways, as summarized below:

   (a) The project conducts research, advocacy and engagement with children and other stakeholders on children’s rights.

   (b) One of the main objectives of the project is to improve coordination and policy dialogue between public sector agencies and other stakeholders. In this connection, the project plans to review and evaluate the National Plan of Action, for which it has already undertaken a preliminary review of progress. This indicated some major implementation issues that were taken up in a detailed meeting with the National Commission for Child Welfare and Development. The meeting was useful in identifying gaps and bottlenecks in implementing the plan of action. As a follow-up step, a review meeting with the relevant ministries will be chaired by the Wafaqi Mohtasib to facilitate implementation.

94. In conclusion, there have been some highly-relevant initiatives very recently to address systemic issues, but the resources of ombudsman institutions are concentrated on dealing with individual complaints rather than systemic change. Donor assistance has capacitated the Wafaqi Mohtasib to focus much more on systemic issues than its own resources would have allowed. One result of this is evidence-based dialogue with and assistance to government agencies for pursuing systemic change. The Provincial Ombudsmen have also used donor assistance to launch initiatives for children.

95. At the same time, the reluctance to study and address the root causes of corruption is surprising in view of the explicit provision to this effect in the statutes. Resource constraints that inhibit sound research may be part of the reason, but this does not explain why ombudsman institutions have been unable to use existing analyses of corruption in Pakistan and elsewhere. Literature is available on perverse incentives in the public sector, rent-seeking behavior as well as simple popular explanations and solutions. Available literature, together with the ombudsmen’s own (considerable) information and insight, provides a solid basis for putting forward recommendations for rooting out corruption.

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50 For example, according to Transparency International’s National Corruption Perceptions Survey 2010, “The most important cause of corruption, according to Pakistanis, is lack of accountability. Lack of merit and low salaries follow it. Following this trend, Pakistanis wanted accountability of public officers, appointment on merit and adequate salaries as the remedies for corruption” (http://www.transparency.org.pk/report/ncps%202010/ncps2010A5.pdf).
V. MAIN FINDINGS AND FOOD FOR THOUGHT

A. Progress and Problems

96. The number of ombudsmen in Pakistan has increased over the years. In addition to the Wafaqi Mohtasib (Federal Ombudsman), there are now three specialized federal ombudsmen. Three of the four provinces have ombudsmen and the fourth is expected to create one in the near future. The ombudsmen have shown impressive coverage of the institutional landscape of governance and also of districts across the country. There can be little doubt that the institution has been found to be fair and cost-effective by its users throughout the country. In all these ways, the institution has proved to be resilient and lived up to its brand name for a large number of people in the country.

97. With reference to the legal framework, the ombudsman institution in Pakistan is not a parliamentary institution but the statutes tend to encourage independence, except in the matter of budget, and the appointment of the ombudsman and his deputy. These are important limitations that affect the ability of the ombudsman to allocate resources, demonstrate credibility across the political spectrum and in the media and civil society, and assure continuity of function in the absence of a permanent ombudsman. All of these factors, in the final analysis, have a bearing on the effectiveness of the ombudsman in giving timely relief and influencing service delivery.

98. In addition, laws establishing regulatory bodies for electricity and gas supply have created an overlap between these bodies and the Wafaqi Mohtasib that is problematic for service users as well as an invitation to duplication by the institutions concerned. Moreover, the national telephone operator PTCL, in which a majority stake is held by the government and a strategic investor holds 24% of the shares, has been removed from the jurisdiction of the Wafaqi Mohtasib, which runs counter to the global trend of placing public services within the ambit of ombudsman.

99. The implementation approaches adopted by ombudsmen in Pakistan suggest that outreach is being achieved largely through expansion of offices across the country, with Sindh leading this approach and seeking to establish an office in every district of the province. This familiar approach—bureaucratic expansion—cannot go far as a country-wide model, given the well-known limitations of budgets, motivation and trained human resources that afflict the public sector, more so if it is acknowledged that large numbers of people, particularly in villages and among the poor and illiterate, do not receive adequate services and cannot access and engage government offices even at the district level. Alternatives that have the potential for scaling up an efficient approach to outreach (such as networking with government agencies and CSOs) have not been pursued, except recently and to a limited extent by the Wafaqi Mohtasib.
100. In terms of addressing maladministration, which is the primary objective of ombudsmen in Pakistan according to the statutes, the Wafaqi Mohtasib and the Provincial Ombudsmen have established themselves as increasingly popular and vigorous institutions of accountability. There is also now, at the Federal and provincial levels, a special focus on children, although similar attention to women’s issues is not yet evident. Relatively little attention has been given to corruption compared to other aspects of maladministration, but this is understandable in view of the demands associated with proving corruption through due process.

101. The secondary objective of ombudsmen in Pakistan is to address the root causes of injustice and corruption, and this is an invitation to look into systemic issues. Available evidence suggests that there have been some highly-relevant initiatives very recently to address systemic issues, but the energy of ombudsmen institutions is directed at individual complaints rather than systemic change. Donor assistance has capacitated the Wafaqi Mohtasib to focus much more on systemic issues than its own resources would have allowed, and the Mohtasib as well as Provincial Ombudsmen to launch initiatives in support of children’s rights. It is surprising to find, however, that ombudsmen have been reluctant to recommend how to eradicate the root causes of corruption, even though research and recommendations for this purpose already exist in the literature.

102. There are a number of other signs, particularly when comparing ombudsmen offices with each other, which illustrate that more could be done to achieve the potential of the institution. It is clear, first of all, that the Wafaqi Mohtasib has worked with a vision in recent years to improve the performance of his office. The Mohtasib’s methods and achievements may well provide food for thought to other ombudsmen, more so because the Mohtasib is an older institution and Provincial Ombudsmen have not found it possible to forge ahead equally rapidly. The following findings illustrate this statement:

(a) The number of complaints received by Provincial Ombudsmen each year has been more-or-less steady during 2000-2009. Moreover, fewer complaints are received by Provincial Ombudsmen as a group than the Wafaqi Ombudsman\(^5\), even though the jurisdiction of the former extends to a much larger number of agencies.

(b) The implementation of ombudsman recommendations by government agencies has improved remarkably at the Wafaqi Mohtasib, and also (in 2009) the Punjab Ombudsman and (in 2008) in Balochistan, but has been problematic in the past and also in Sindh.

(c) Service standards and key performance indicators have not been articulated, except by the Wafaqi Mohtasib for some aspects of the business process.

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\(^5\) As noted earlier, however, the number of complaints received by the Wafaqi Mohtasib shows large ups and downs during 2000-2009.
(d) Problems with staffing and budgets have remained largely unresolved over time, except that progress has been made by the Wafaqi Mohtasib.

(e) The Wafaqi Mohtasib has started to institutionalize linkages to civil society. However, outreach through civil society does not appear to be of concern to other ombudsmen.

(f) Based on research, the Wafaqi Mohtasib has initiated collaboration with government organizations to understand and address the root causes of maladministration. The Punjab Ombudsman has also submitted general recommendations that focus on specific groups of citizens and apply to all agencies; other Provincial Ombudsmen have not yet moved in these directions. Moreover, the root causes of corruption have not yet been studied or addressed by any ombudsman.

(g) Only recently has attention been given to one of the most vulnerable groups in society (children). To date, however, nothing significant has been done to focus systematically on women (except for reporting on complaints made by women to the Wafaqi Mohtasib), the rural poor and other vulnerable groups (except the disabled in Punjab).

(h) The statutes seem to have been revised in only two cases (Wafaqi Mohtasib and Punjab Ombudsman), and that too only in limited ways. Other than this, there has been no systematic attempt at reviewing and changing statutes that are based essentially on a 27-year old ordinance issued by a military government.

B. Revisiting the Legal Framework

103. As many of their problems are common, it may be appropriate for Pakistan’s ombudsmen to articulate their priorities for change as a group. The main question, however, is how they might persuade policy makers to change gears and help them energize the institution. The answer depends, perhaps first and foremost, on the ownership of the institution. As matters stand, the ombudsman (except in Punjab) is appointed by the President of Pakistan or the Governor of a province, reports to the appointing authority, and depends, eventually, on the appointing authority for the enforcement of his recommendations.

104. What is clear from this picture is that the ombudsman has no ownership among elected representatives. The latter, after experiencing long years of military government, would wish, understandably, to assert their own role in society. (Indeed, much of the electorate considers a representative to be useful if he or she intervenes regularly and successfully with government departments to solve the individual and common problems of the voters.) In this situation, it is not surprising that ministers do not take their agencies to task for ignoring the recommendations of the ombudsman, and that the National and Provincial Assemblies have shown little inclination to empower the ombudsman beyond the limits set by a military government, 27 years ago.
105. It may be appropriate to consider how to develop ownership of the ombudsman among elected representatives, initially at the national and provincial levels and subsequently also at the local level for large metropolitan areas. One option, discussed in Section II.B, is to convert the ombudsman into a parliamentary institution, selected by and reporting either to an assembly or a bipartisan committee of the assembly. In terms of the political economy of service delivery (as depicted in Figure 2), this would bring the ombudsman closer to elected representatives and policy makers, and better integrated in the long route of accountability through which citizens hold service providers accountable. Selection of the ombudsman and deputy ombudsman through a transparent, credible and consultative process is integral to this proposal. Similar arrangements can be envisaged for appointing metropolitan ombudsmen in large population centers such as Karachi and Lahore, with jurisdiction over either provincial and local or provincial, local and Federal agencies.

106. Converting the ombudsman into a parliamentary ombudsman would also be a great step in the direction of independence from the executive branch of government. However, given its importance, the question of independence (discussed in Section II.B) may be considered both within and outside the context of parliamentary ownership of the institution. For example, nothing would be gained by waiting for greater ownership among elected representatives, while important staffing and budget issues, particularly the demands for professional cadres and one-line budgets, remain unresolved. Whether it is these or issues concerning the ombudsman’s appointment process, length of tenure and appointment of deputy ombudsman, elements enhancing independence could certainly be introduced in a step-by-step manner, while discussion continues on the matter of parliamentary ombudsman.

107. The issue of systemic change, including addressing the root causes of injustice and corruption, in the words used in the statutes, also deserves greater emphasis in the ombudsman’s legal framework. As matters stand, the ombudsman is limited in the statutes to conducting research and giving recommendations based on analyses of root causes. This may be taken to mean that instruments other than research and recommendation are not available to the ombudsman for interacting with government agencies. These instruments could include free access to an agency’s records, provision of technical assistance, coordinating IT-based solutions, authority to call meetings on subjects of common interest, and so on. Clearly, more could be said in the statutes to allow the ombudsman a more effective role in addressing systemic issues and promoting reform.

108. In addition, as discussed in Sections II.D and V.A, the problematic overlap between the Wafaqi Mohtasib and regulatory bodies with authority over electricity and gas distribution companies needs to be resolved at the level of the respective

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52 In 2009, complaints from Lahore District accounted for approximately 10% (more than 4,300) of the complaints received by the Punjab Ombudsman and Wafaqi Mohtasib. The Wafaqi Mohtasib also received 1,400 complaints from Karachi. District-level data are not available from the Sindh Ombudsman, but at least 700-1,000 of the complaints received by him each year are directed at the city authorities.

53 In the latter case, the metropolitan ombudsman may be selected by and report to a joint committee of the national and provincial assembly.
legal frameworks. One option, justified by the expertise available to the Wafaqi Mohtasib and the need to avoid duplication, is to put these utilities exclusively under the jurisdiction of the Mohtasib, and remove individual grievance redress from the functions of NEPRA and OGRA. Another option, which would be costlier, is to establish a specialized industry ombudsman for one or both of these service sectors. Both options are consistent with the observation that regulatory bodies, in general, are not meant to address individual complaints. The following observations make a case for the second option:

(a) More than 11,000 (38%) of the complaints received by the Wafaqi Mohtasib in 2009 were aimed at the electricity distribution companies, and 2,500 were aimed at the gas distribution companies.
(b) More than two-thirds of the population is not satisfied with the provision of electricity and gas (Table 2).
(c) The power supply sector has consistently ranked second (after the police) in the citizens’ ranking of the most corrupt sector (Table 3).

C. Strategic and Operational Directions

109. There is considerable experience within the country, the region and other parts of the world suggesting that new directions may be useful for Pakistan’s ombudsmen to consider. National experience and some of the good practices have been summarized in this paper; other good practices are mentioned in RETA 2009 and Malik 2007. In addition to these, change is also indicated by the Eighteenth Amendment to the constitution, which has significantly increased the responsibilities of provincial authorities, including the Provincial Ombudsmen, in terms of sectors and services. There is, moreover, urgency to the challenge of improving the provision of services to a poor and rapidly expanding population, and ensuring the outcomes associated with Pakistan’s MDG commitments.

110. Ombudsmen institutions in Pakistan, particularly the Provincial Ombudsmen, may wish to consider how to position themselves strategically in the prevailing situation. One possibility is to further develop the twin focus on human rights and vulnerable groups that the ombudsmen have adopted recently in relation to children. Proceeding in this direction, the ombudsman strategy could:

(c) Focus more emphatically on specific target groups, particularly specific groups of vulnerable people such as children, women, the rural poor, the disabled and so on, to whatever extent is considered feasible by an ombudsman office.
(d) Adopt a rights-based approach (introduced briefly in Annex VI) that could provide a powerful internationally-accepted framework for the

\[54\] Indeed, the Balochistan Ombudsman in his 2008 report conveys his belief that “the institution of ombudsman is well suited for the task of promoting human rights and the self-efficacy of the disadvantaged sector of the society, which is a victim of the abrasive discrimination and discretionary actions of the bureaucracy.”
ombudsman to address injustice and corruption, and help improve service delivery.

111. In terms of the high-level elements of strategy, this could imply, for example, modifying the ombudsman’s mission statement to include something along the following lines: To capacitate the ombudsman and his partners to eradicate injustice to women, children, the poor and vulnerable. It could also imply the articulation of some new objectives such as the following:

(a) Support Pakistan’s human rights commitments as laid down in its international obligations and in its Constitution and law.
(b) Support Pakistan’s commitment to achieve the MDGs.

112. While the MDG targets are not as comprehensive as some of the rights-based agenda, they are actionable through specific development interventions in a wide range of key sectors. In addition, taken together the MDG targets represent probably the broadest commitment to development that the government has ever given to the citizens of this country (short of the rights and principles enshrined in the Constitution of Pakistan). Thus, the government’s commitment to the MDGs provides a strong foundation for ombudsmen to pursue a rights-based approach and, in the process, highlight the institution’s huge mainstream role and, consequently, raise its profile.

113. At the operational level, one of the most important issues is the need for a realistic implementation approach that could make an ombudsman much more accessible to the public than he is at present. As suggested in Section II.C, it may be appropriate to consider relevant lessons from Pakistan and other countries in this connection. While regional and district offices have an important to play in extending the ombudsman’s outreach, networking with CSOs as well as local (district-level and smaller) organizations could also be useful. This may be different from engaging CSOs in an advisory capacity at the ombudsman’s head office: it could mean engaging them to facilitate citizen’s access to the nearest ombudsman office, or (after adequate training and testing) acting as a conciliator between complainants and government agencies (through their district or regional offices) on behalf of the ombudsman.

114. In addition to CSOs and local organizations, there is a large group of individuals who could also play the above-mentioned roles, especially where distances are large and CSO presence is weak. These are social workers and community activists who are

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55 The statutes allow the Wafaqi Mohtasib and Provincial Ombudsmen “to recommend appropriate steps for [the] eradication” of “corrupt practices and injustices.”
56 The Wafaqi Mohtasib and Provincial Ombudsmen are already supporting Pakistan’s constitutional provisions and international commitments with respect to children.
57 As described by the Wafaqi Mohtasib (Malik 2007) the linkages established by the ombudsman system in Japan, through civil society and volunteers, have resulted in a situation whereby the public can find at least one government-commissioned resident counselor in each municipality. “Approximately 70% of the complaints are received and dealt with by the administrative counselors in various districts of the country, while the remaining 30% are received and handled by the field offices of the Ministry.” This frees up the Ministry to address the more fundamental issues of systemic change.
present at the level of the district, the Union Council and even the village throughout the country. Communities trust them because of their proven integrity and impartiality. Not only CSOs but also government projects engage them for various purposes, related mainly to development activities and awareness-raising. Volunteers such as these at the Union Council level have also played a highly positive role in the area of governance, for example, in the UNDP-assisted program to help operationalize the alternative dispute resolution mechanism called Musalihat Anjuman in 20 districts across the country.

115. As indicated earlier in this paper, additional improvements that could help improve ombudsman operations and effectiveness include the following:

   (d) the introduction and monitoring of service standards and key performance indicators, as initiated by the Wafaqi Mohtasib.

   (e) the introduction of a comprehensive Complaint Management Information System and creation of an Implementation Wing, along the lines of the Wafaqi Mohtasib; and,

   (f) analysis of systemic factors that generate widespread corruption, starting modestly, if need be, with the kind of resources and perspectives that are outlined in paragraph 95.

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58 As observers who know the country might appreciate, social workers and community activists are different from local notables, a class of self-promoters inherited from earlier times who are marched out by the local administration for every visiting dignitary, mainly to press their own claims in the name of the people.

Websites of the Ombudsman Institutions of Pakistan:


Foundation documents:

- Wafaqi Mohtasib (Federal Ombudsman): President’s Order No. 1 of 1983
- Provincial Ombudsman of Balochistan: Balochistan Ordinance No. VI of 2001
- Ombudsman of Punjab: Punjab Ordinance No. XI of 1996
- Provincial Ombudsman of Sindh: Sindh Act No. 1 of 1992
- Federal Tax Ombudsman: Ordinance No. XXXV of 2000
- Banking Ombudsman: Banking Companies Amendment Act of 1997

Literature on good practices for ombudsman institutions:

- Office of Ombudsman, Toronto: [http://www.ombudstoronto.ca/history-ombudsman](http://www.ombudstoronto.ca/history-ombudsman)
Other references (listed here in the order in which they are cited in the paper):

- Social Audit of Local Governance and Delivery of Public Services, Islamabad: April 2010; published by UNDP and the Devolution Trust for Community Empowerment, containing reports on user satisfaction with selected services during 2001-2009.
Tariq Husain is Managing Director of Enterprise & Development Consulting (Private) Limited (EDC), a small research and consulting firm based in Islamabad. He has worked in the field of development for 29 years, including 22 years as a consultant. The central theme in his work is people-centered development—organizing people to do more for themselves, enabling private and public agencies to engage people in decision-making, and advocating humane approaches in all walks of life. He has expertise in mobilizing resources, evaluating their impact, helping institutions adapt to change, and institutionalizing change in line with international standards. Mr Husain is the author of 15 international publications and more than 30 published articles on national issues, and former member of the UNDP’s Gender Advisory Panel for Asia-Pacific.

**Institutional Experience**

Employment experience with the Ford Foundation and the Aga Khan Rural Support Program. Consulting experience with organizations in the international development community, including the World Bank, ADB, UNDP, IFAD, International Wheat and Maize Improvement Center, International Center for Integrated Mountain Development, IUCN—The World Conservation Union, International Institute for Environment and Development, International Water Management Institute, Regional Community Forestry Training Center (Bangkok) and the Mekong River Commission Secretariat; the bilateral aid agencies of Switzerland, United States, Britain, Netherlands, Norway, Japan, Canada and Germany; national planning agencies, development projects, NGOs, multinationals and international consulting firms.

**High-level Contributions**


**Geographical Experience**

Most of Pakistan, and 18 other countries (Bahrain, Bangladesh, Bhutan, Cambodia, China, Ethiopia, Ghana, Italy, Laos, Mexico, Myanmar, Nepal, Sri Lanka, Tanzania, Thailand, Uganda, the United States and Viet Nam).

**Sectoral Experience**

Community mobilization, governance, gender, agricultural research and extension, water management, agricultural and irrigation economics, social forestry, community infrastructure, the social sectors, biodiversity and the environment, microfinance and the informal economy.
Academic Qualifications

Focus Group Discussion – Roads

The reaction of focus groups to the condition of roads was mixed. In some places of Punjab and Sindh, participants praised the improvement made in the roads during the past four years. However, participants in Balochistan and Khyber Pakhtunkhwa complained of broken roads and said that during the monsoon, the condition of roads worsens making walking and travel extremely difficult.

Focus Group Discussion – Sewerage and Sanitation

Sewerage and sanitation and drainage of rain water were major issues in all focus group discussions. Participants complained of neglect by the authorities and said that despite repeated complaints, these issues remain unresolved. They also stressed an urgent need to solve these problems as lack of proper sewerage and sanitation causes severe water-borne diseases, especially among the children.

Focus Group Discussion – Garbage Disposal

In most communities, participants said that government’s garbage disposal service was virtually non-existent. They said that people who can afford to hire private sweepers and garbage cleaners do so at their own personal cost. The major complaint was that garbage items (bags and bottles) clog water drains resulting in stagnant water which emits stench and creates an unhygienic environment.

Focus Group Discussion – Water Supply

All focus groups complained of water, its limited quantity and poor quality. Most participants said that water is very dirty. During the survey, one person showed a bottle of “brown” mixture and asked the survey team to guess what the mixture was. Most people said it was honey. She said it was the water quality the residents were getting in that community!

Focus Group Discussion – Electricity

Complaints against electricity supply were endless. Focus group participants highlighted the frequent bouts of load shedding daily and said it adversely affected not only their normal routine but also their work and income. There were also complaints about rising charges and inflated electricity bills.

Focus Group Discussion – Gas Supply
Focus group discussions reveal that there are many areas in Pakistan where there is a lack of access to gas. In areas where gas supply was present, there were few complaints. In fact, in Toba Tek Singh and Rahim Yar Khan, focus groups praised gas supply and said this had greatly improved.
User Satisfaction with Health Services

In 2002, 23% of households were satisfied with government health services, 45% were dissatisfied and 32% considered they had no government health service at all. In 2004, overall satisfaction with government health services was 27%. Satisfaction with government health rose in 2009/10, with 33% households satisfied, 28.5% households dissatisfied and “no access” almost rising back to 2001/02 level. Across provinces, dissatisfaction was relatively much higher than satisfaction in Balochistan and Khyber Pakhtunkhwa.

<table>
<thead>
<tr>
<th>Province</th>
<th>%Satisfied</th>
<th>%Dissatisfied</th>
<th>%Indifferent</th>
<th>%No Access</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balochistan</td>
<td>15.3</td>
<td>36.6</td>
<td>16.1</td>
<td>31.0</td>
</tr>
<tr>
<td>Khyber Pakhtunkhwa</td>
<td>23.6</td>
<td>49.5</td>
<td>11.4</td>
<td>13.1</td>
</tr>
<tr>
<td>Punjab</td>
<td>38.8</td>
<td>23.2</td>
<td>8.6</td>
<td>27.2</td>
</tr>
<tr>
<td>Sindh</td>
<td>27.9</td>
<td>28.4</td>
<td>3.4</td>
<td>39.5</td>
</tr>
<tr>
<td>PAKISTAN</td>
<td>32.9</td>
<td>28.5</td>
<td>7.9</td>
<td>28.9</td>
</tr>
</tbody>
</table>

Except for the “very vulnerable” where the proportion of households satisfied with government health is lower that of households dissatisfied, the proportions of households satisfied are relatively higher to those dissatisfied for “vulnerable” and “non vulnerable” groups.

Focus Group Discussions

Focus groups discussed health issues at length. Most participants complained about government health facilities, stating that there were no doctors present; even if they were appointed in health units, they were more interested in running their private clinics. It was pointed out that there were a shortage of medicines in government
outlets and in fact, government medicines were being sold in markets. The behaviour of doctors and medical staff was rude. Participants also said that sometimes due to lack of emergency care, patients die unattended. However, the services and helpful attitude of the lady health workers (LHWs) was appreciated.
User Satisfaction with Government Education

In 2002, 55% of households said they were satisfied with government education services, 38% were dissatisfied, 3.8% were neither satisfied nor dissatisfied and 7.4% reported no available service. In 2004, 53.3% of households said they were satisfied, 36.4% were dissatisfied, 6.2% were indifferent and 4.1% considered they had no access at all. Overall satisfaction with government education has risen marginally over the past five years. In 2009/10, except in Balochistan where the proportion of households satisfied with government education is relatively lower than those dissatisfied, the proportion of households satisfied are much higher in all provinces, especially in Punjab (perhaps due to the PESRP), than the proportion of dissatisfied households.

![Figure 2. Government Education: Relative Satisfaction Levels 2001/02-2009/10](image)

<table>
<thead>
<tr>
<th>Province</th>
<th>%Satisfied</th>
<th>%Dissatisfied</th>
<th>%Indifferent</th>
<th>%No Access</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balochistan</td>
<td>29.7</td>
<td>38.9</td>
<td>18.8</td>
<td>11.6</td>
</tr>
<tr>
<td>Khyber Pakhtunkhwa</td>
<td>42.3</td>
<td>38.5</td>
<td>9.3</td>
<td>7.3</td>
</tr>
<tr>
<td>Punjab</td>
<td>66.2</td>
<td>19.3</td>
<td>7.0</td>
<td>4.3</td>
</tr>
<tr>
<td>Sindh</td>
<td>52.4</td>
<td>31.8</td>
<td>4.5</td>
<td>10.1</td>
</tr>
<tr>
<td>PAKISTAN</td>
<td>57.8</td>
<td>25.9</td>
<td>7.1</td>
<td>6.6</td>
</tr>
</tbody>
</table>

For all vulnerable as well as non vulnerable groups, majority of households expressed satisfaction with government education.

Focus Group Discussions

Issues related to government education system were discussed in detail in the focus group. While acknowledging that government education was cost-free, with provision of textbooks, uniforms and sometimes even meals for the students, there were complaints
about the low quality of teaching by untrained teachers, teacher absenteeism and inability of teachers to implement discipline among students. Female focus group participants stressed the need to upgrade primary girls’ schools to middle level and middle schools to higher levels and also establish skills training centres for women. On the other hand, focus groups praised the quality of education in private schools but said that these could only be attended by those who could afford the relatively high costs. Most participants also said that madrassah education was patronized by those parents who thought religious education taught good values and civil norms, and as such was essential for girls who did not need formal education. Some participants also said the madrassah education was cost-free and as such encouraged by parents who could not afford high costs of private school, especially in cases where no government school was nearby.
Annex IV:
Elements of Independence in International Practice

From a paper presented by Laura Pettigrew, Senior Counsel, Ombudsman Ontario, at a conference of the Forum of Canadian Ombudsman, March 30 – April 2, 2003 (http://www.ombudsmanforum.ca/events/2003_conference/pettigrew_law_e.asp)

Independence is often referred to as a hallmark of Ombudsmanship. There are, however, varying degrees of independence, for instance, while administrative tribunals display elements of independence, they are fundamentally distinct from Superior Courts, which are constitutionally required to possess objective guarantees of both individual and institutional independence.

Parliamentary Ombudsman are usually structurally independent of the political process and government administration. They generally are officers of and report directly to the Assembly/Parliament. The appointment of the Ombudsman is commonly on the address, recommendation or approval of the Assembly/Parliament. Some Ombudsman may appoint their own staff, who are not civil servants and have the authority to lease premises and contract for services. Budgets may also be approved by a process governed by the Assembly/Parliament rather than by government administrators. There are often statutory safeguards ensuring that the Ombudsman can only be removed for cause on the address of the Assembly/Parliament. The term of office of the Ombudsman may also extend beyond the term of a particular government. These and other features tend to separate Ombudsman from the organizations over which they have jurisdiction.

Statutory Ombudsman, who report through a Minister, may display some of the same indicia of independence as parliamentary Ombudsman. However, there may be less structural separation between such Ombudsman and the administration they investigate. For instance, a statutory Ombudsman may report to a Minister rather than directly to the Assembly/Parliament. However, the Minister's ability to exert influence over the Ombudsman may be limited, for instance, the Minister may be required to table the Ombudsman's reports with the Assembly/Parliament.

Public sector, private sector and college and university Ombudsman are often a part of the administration that they investigate. However, there are ways of developing relationships and processes to attain a degree of independence, even when this is not entrenched in legislation.

From a presentation by Chris Field, Western Australian Ombudsman, at the Australian and New Zealand Ombudsman Association Biennial Conference 2010, 6 May 2010, Wellington, New Zealand
I now want to turn to how independence is applied in practice. At the outset, I need to be clear that there is no one accepted approach to the application of independence for parliamentary Ombudsmen, nor for industry-based Ombudsmen and between these two different types of Ombudsmen there are also many differences of approach. What I have decided to do in this section is set out what I think are typical ways that independence is applied, whilst still noting obvious departures from the norm. I have identified ten ways that independence is applied in practice, namely: (1) the appointment process of the Ombudsman; (2) the term of appointment of the Ombudsman; (3) the removal of the Ombudsman; (4) the legislative guarantee of the independence of the Ombudsman; (5) the relationship of the Ombudsman with the Government of the day; (6) the Ombudsman should be outside of the public service (7) the relationship of the Ombudsman with the Parliament; (8) the budget of the Ombudsman; (9) the location of the Ombudsman within the structure of government; and (10) the physical location of the Ombudsman. In compiling this list, I have principally had in mind parliamentary Ombudsmen, but where appropriate I have also made reference to industry-based Ombudsmen. I will now deal with each in turn.

4.1 The appointment process of the Ombudsman

First, the appointment process for the Ombudsman, to preserve independence, is generally an appointment of the Governor chosen through an independent selection process. Some appointment processes specify that a Parliamentary Committee undertakes the appointment process or that both Houses of Parliament must agree to the appointment of an Ombudsman.

In the case of industry-based Ombudsmen, appointment is typically undertaken by the Board (or Council where they are separate) of the Ombudsman, or a committee of the Ombudsman that has equal number of consumer and industry representatives.

4.2 The term of appointment of the Ombudsman

Second, the term of the appointment of the Ombudsman is widely recognised as a key component of protecting independence. The general view is that the term of appointment should be at least longer than one full term of government. In Australia, the norm is that appointment terms are between five and seven years, but at least in one case the Ombudsman is appointed until the age of 65.

In the case of the industry Ombudsmen, appointment terms are usually set out in contracts, but not necessarily for extended fixed terms. Having said that, the experience of Australian industry-based Ombudsmen is that they generally serve terms of five years or more.

4.3 The removal of the Ombudsman
Third, the removal of the Ombudsman is also a critical factor in preserving the independence of the Ombudsman. The Ombudsman should, of course, be removed from office for proven incapacity or misconduct, but generally speaking this can only be undertaken with the agreement of both Houses of Parliament.

The removal of industry-based Ombudsmen is usually by the decision of the governing body of the Ombudsman, namely the Board.

4.4 The legislative guarantee of the independence of the Ombudsman

Fourth, the independence of the Ombudsman (including many of the matters that I have included in this list) should be enshrined in the legislation that creates the office of the Ombudsman. Some additional matters that are regularly captured in legislation that pertain to independence are the salary of the Ombudsman, the post-employment activities of the Ombudsman and also immunity from civil suit for the performance of their functions.

The independence of industry Ombudsmen is usually enshrined in their establishing documents, including Charters and Constitutions, but may also have a regulatory underpinning, often in legislation that regulates the particular industry that the Ombudsman oversees. Of course, both the Benchmarks and ANZOA’s policy on independence of Ombudsmen provide critical reference points for the independence of industry-based Ombudsmen.

4.5 Ombudsman should be outside of the public service

Fifth, the Ombudsman should not be a member of the public service and should have freedom in relation to employment of staff.

4.6 The relationship of the Ombudsman with the Government of the day

Sixth, the Ombudsman must be free of Ministerial direction or direction from the Government of the day. Similarly, industry-Ombudsmen must not only be free of control of industry, but also the Ombudsman should be free from direction about how to handle and resolve complaints from the Board of the Ombudsman.

4.7 The relationship with the Parliament

Seventh, the Ombudsman must have a direct relationship with parliament and be subject to their authority and their authority only.

4.8 The budget of the Ombudsman

Eighth, the Ombudsman must have a sufficient budget to undertake their tasks independently. This certainly does not mean that the Ombudsman, to be independent,
can simply name a number that he or she believes is appropriate and be given that amount. Ombudsmen, like other agencies, must seek their appropriation directly from the Parliament and be held to account by Parliament for its expenditure. The method by which Ombudsman obtain their Parliamentary appropriation will differ slightly from jurisdiction to jurisdiction, but will sometimes be approved by a parliamentary committee and on other occasions, a government department, most typically, Treasury.

In the case of industry-based Ombudsmen, their budgets are generally set by their Boards and approved at an Annual General Meeting of Members.

4.9 The location of the Ombudsman within the structure of government

Ninth, the structural location of the Ombudsman is important in practice to its independence. The location of an accountability agency as a line responsibility in a large departmental structure can potentially have negative impacts on the independence of the Ombudsman. In my view this is very different from having a Minister charged with the administration of the governing legislation of the Ombudsman – a quite proper arrangement that in no way impacts upon the independence of the Ombudsman.

4.10 The physical location of the Ombudsman

Tenth, care must also be exercised about the physical location of the Ombudsmen – my office, for example, is in a building with no other government tenants, save for a number of accountability and integrity agencies with whom we very sensibly have a resource sharing arrangement. Similarly, we would generally expect industry-based Ombudsmen to not be located in the same building as their industry.
Complaints Against Service Delivery Institutions

Although the Wafaqi Mohtasib has been receiving complaints against a variety of service providers, seven Federal Agencies have consistently accounted for the bulk of the Mohtasib’s work load. (One of the seven, namely, PTCL, is no longer within the jurisdiction of the Mohtasib.) This is shown in quantitative terms in the following table:

<table>
<thead>
<tr>
<th>Agency</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>WAPDA (PEPCO)</td>
<td>2,181</td>
<td>508</td>
<td>10,179</td>
<td>9,855</td>
<td>11,336</td>
</tr>
<tr>
<td>SNGPL and SSGCL</td>
<td>196</td>
<td>65</td>
<td>1,253</td>
<td>1,794</td>
<td>2,543</td>
</tr>
<tr>
<td>PTCL</td>
<td>1,015</td>
<td>708</td>
<td>1,190</td>
<td>1,154</td>
<td>672</td>
</tr>
<tr>
<td>Allama Iqbal Open University</td>
<td>353</td>
<td>317</td>
<td>683</td>
<td>894</td>
<td>897</td>
</tr>
<tr>
<td>NADRA</td>
<td>394</td>
<td>270</td>
<td>435</td>
<td>487</td>
<td>785</td>
</tr>
<tr>
<td>Pakistan Post</td>
<td>182</td>
<td>173</td>
<td>351</td>
<td>288</td>
<td>356</td>
</tr>
<tr>
<td>SLIC</td>
<td>210</td>
<td>200</td>
<td>242</td>
<td>239</td>
<td>257</td>
</tr>
</tbody>
</table>

Complaints against WAPDA, the gas distribution companies (SNGPL and SSGCL), and PTCL declined in the years 2005 and 2006 as the Wafaqi Mohtasib stopped receiving complaints after the establishment of sector-specific regulatory agencies (introduced below). The Law and Justice Division, however, later opined that the Wafaqi Mohtasib still had exclusive jurisdiction in matters concerning maladministration. Complaints against these organizations, therefore, increased as they began to be entertained again. The service providers also have their grievance redress systems; the nature of complaints received against them is introduced below.

Regulatory Agencies

*National Electric Power Regulatory Authority (NEPRA):*

The generation, transmission and distribution of electric power is now regulated by the Generation, Transmission and Distribution of Electric Power Act, 1997. Under this Act, the functions of distribution were transferred from the Water and Power Development Authority (WAPDA) to nine licensed power distribution companies (or DISCOs) with
distinct regional jurisdictions. The DISCOs are confronted with some serious challenges and NEPRA, established under the 1997 Act, regulates their operations.

The Consumer Affairs Division of NEPRA redresses complaints filed against electric utility companies which infringe the terms of the NEPRA Act. Such complaints are usually referred to the concerned offices and the cases are pursued until the issues are resolved. A Complaint Cell has been established under the Consumer Affairs Division of NEPRA for receiving and redressing diverse complaints.

*Oil and Gas Regulatory Authority (OGRA):*

OGRA has responsibility *inter alia* for regulating the gas distribution companies (SNGPL and SSGCL). Any person may submit an application with the Registrar for:

a) any act or thing done or omitted to be done by a licensee or dealer in violation or alleged violation of the ordinance, rules, regulations, order of the Authority or terms and condition of the license;

b) non-compliance by the licensee or dealer with the service standards in the areas including but not limited to:

   i. billing
   ii. connection and disconnection of service
   iii. metering
   iv. undue delay in providing service
   v. safety practices, or
   vi. quantity and quality of natural gas, LPG or CNG being supplied; or

c) Discriminatory practices of the licensee or dealer.

*Pakistan Telecommunication Authority (PTA):*

PTA regulates telecommunication companies. It aims to ensure the protection of telecom consumers’ rights by setting strict quality measures for the operators. PTA had initially formed a Consumer Complaint Cell to handle their complaints. The escalating consumer base had put the number of complaints on rise and due to the introduction of new services by operators the nature of consumer complaints has also got diversified. The previous complaint handling mechanism was not effective enough to tackle with such situation. The Authority, after analyzing the situation, revamped its Complaint Cell into a dedicated Consumer Protection Directorate (CPD).

CPD comprises of a Complaint Cell which can easily be accessed by consumers through a number of channels including Toll Free Number, telephone, fax, e-mail, PTA’s website, post mail and through person visitation. Furthermore, consumers can also access PTA’s Zonal offices at provincial capitals for early redress of their complaints. PTA by joining hands with telecom operators and other stakeholders continued its efforts to protect the rights of telecom consumers. For this purpose it initiated process
for formulation of regulations to safeguard telecom consumers. After an extensive consultation on different forums the final outcome was presented in the form of “Consumer Protection Regulations, 2009” in March 2009. Under these regulations, the telecom operators are required to setup a comprehensive mechanism for the redress of consumers’ grievances.

Regarding the complaint handling mechanism these regulations make it compulsory for the operators to entertain complaints of consumers such as misuse of services, quality of service, illegal practices, poor services, misleading statements, non-provision of services, mobile portability related complaints etc by maintaining the confidential information about the consumer.

For the awareness of telecom consumers PTA has recently launched a campaign titled “Redressal of Consumer Grievances Mechanism”. In this campaign, telecom consumers were informed about proper procedure of lodging a complaint. Through this campaign three easy steps for lodging a complaint were explained to the consumer. If a consumer wants to lodge a complaint, in the first step he can contact the Service Provider through Call Center Helpline, Fax, Post, Email or Web Form Link.

**Service Providers**

_Sui Northern Gas Pipelines Limited (SNGPL) and Sui Southern Gas Company Limited (SSGCL):_

The majority of complaints relate to over-billing, delays in obtaining gas connections and gas fluctuation (reduced pressure) especially in the winter. These stem from problems with the manual meter reading system and the overall shortage of gas. SNGPL has a call centre which appears to handle emergency complaints, e.g. gas leak, very effectively. But the company’s complaint system is much slower at responding to non-urgent grievances, notably about over-billing.

_Pakistan Telecommunication Company Limited (PTCL):_

Mostly complaints relate to faulty lines, over-billing and disconnections. Digital technology should have ended complaints about billing, but these persist in large measure because of ‘hidden charges’ and imposed packages. PTCL has a nationally known and used hotline which people call to register complaints. Complaint handling varies: the company has an efficient referral system but it is hampered by dependence on linemen—they vary in their attitude and responsiveness.

_National Database and Registration Authority (NADRA):_

NADRA primarily works to issue CNIC and other related identification documents. Most complaints relate to delays in issuance of these cards, or rejection of applications. The agency claims most arise because of discrepancies in data entry, e.g. spelling of
names, dates of birth. It attributes these to the low levels of education in the population. NADRA has highly automated operating systems, right down to local level centers and mobile vans. But research suggests the agency needs to focus on improving facilities for the public, and instilling a culture of customer service and care in its staff. A major problem with NADRA is that it does not communicate proactively with applicants and tell them what is happening with their cases: they only find out when they seek information themselves. The other problem is NADRA’s highly centralized structure: core functions of data verification and card issuance are carried out in the national HQ, inevitably leading to delays. NADRA’s grievance redress system is hampered by the same factors: most can only be resolved by national HQ.

Pakistan Post:

It receives a large number of complaints about lost/late delivery of mail/money orders. Most arise in rural areas, where the agency’s facilities are generally in very poor condition. Pakistan Post has made substantial efforts to improve services and facilities in major offices, but at local rural level the situation is still dire. Automation does not extend to local offices, making communication, upward reporting and monitoring of post offices and sub-post offices difficult and undermining accountability. Pakistan Post faces a serious shortage of personnel and equipment. The agency has introduced an electronic tracking system in major cities. It has a hotline where people can make complaints and complaints cells in its national, circle and regional offices. But in the absence of substantial improvements at local level, both the system of grievance redress and quality of service is not up to par.

State Life Insurance Corporation (SLIC):

Most of the complaints relate to rejection of claims or delays in processing of claims. The major cause of these is the Corporation’s dependence on agents to sell policies. Agents are paid commission and have little loyalty or accountability to SLIC. It is common to find them giving potential policy purchasers false information. There are also numerous complaints about agents embezzling funds. SLIC provides some training to agents, but overall its control and monitoring of them is weak. Some complaints are handled by local and zonal offices, but others are passed onto the Policy Holder Services Division in SLIC’s national headquarters. Processing of those complaints takes time. SLIC operates largely with manual systems, so upward reporting is very weak. HQ has no idea how many complaints are received by zonal offices and handled internally. SLIC suffers from an overall shortage of personnel and facilities.
Annex VI:
Introduction to a Rights-Based Approach

The literature emphasizes that a program for pursuing a rights-based approach revolves around obligations and capacities. It means contributing to the development of capacities of:

(a) duty-bearers to meet their obligations; and,
(b) rights-holders to claim their rights.

The following elements are necessary for a rights-based approach:

• Assessment and analysis in order to identify the human rights claims of rights-holders and the corresponding human rights obligations of duty-bearers, as well as the root causes of the non-realization of rights.
• Assessment of capacity elements (responsibility, authority, resources) of rights-holders to claim their rights, and of duty-bearers to fulfill their obligations, leading to strategies for building capacity.
• Monitoring and evaluating both outcomes and processes guided by human rights standards and principles.

Duty-bearers should be identified against specific rights holders. They include:

• the parliament and its committees and caucuses;
• the administrative or executive branch of government;
• the judiciary; and,
• non-state actors (including civil society and the media) who are in a position to influence other actors in favor of the rights holders.

Additional sources of information include:


and