

NEWSLETTER

December 2018

About the Common Man Initiative

Common Man Initiative is a non-profit organization which aims to highlight the issues of the common man. Our goal is to understand why and how the needs of the common man are not being catered to due to a lack of efficient governance, policy implementation and a sound legal and judicial system.

The organization aims to provide a platform to the common man where they can voice the issues that they face; issues which are often dismissed by the State, amidst personal political and social motives. Issues which need to be brought forward, voices which need to be incorporated in the governance

Editor's Note

Dear Readers,

Over the course of the past year, the team at CMI has actively worked towards proposing legislative and policy alternatives, in regards to issues concerning the 'common man'.

As this year draws to a close, we would like to highlight some of the key issues that have previously been discussed in our periodic publications.

CMI published its academic journal, encompassing extensive research and policy proposals in the field of education, electoral reforms, civilian law enforcement agencies, and healthcare. Furthermore, our monthly publications focused on stories of the common man, achievements of 'unsung heroes' of our country, and ongoing debates concerning government policy initiatives, including, conservation of subsurface water, construction of dam, environmental reform, and protection of minority rights.

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and policy dialogue of the State and, the common man, who needs representation in order to reshape the relevant public policy narrative.

CMI's overarching goal is to present policy alternatives for a secure and prosperous Pakistan. To this end, CMI shall identify and highlight fundamental governance issues affecting the common man, in order to restructure pertinent State policies. Particularly, through a series of publications, outreach programs, academic collaborations and institutional alliances, CMI intends to present actionable ideas for implementation by private and public institutions.

Finally, CMI concluded its year, in December, with the successful launch the Whistle-Blower Protection and Vigilance Commission Bill, 2018, after consultation with domestic and international stakeholders.

Through this monthly newsletter, CMI is sharing the salient features of the Whistle-Blower Protection and Vigilance Commission Bill, 2018, recommendations by participants of the Whistle-Blower symposium (held in Islamabad), and the way forward with regards to the same.

I hope that this newsletter is engaging and thought provoking; we would love to hear your ideas and feedback. I would also like to thank you for your support in making our first year worthwhile. Please feel free to contact us if you any questions or comments.

Wishing you all a happy new year.

Falak Akhtar Wahla

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CMI Presents its Draft Law on Whistle-blower Protection and Vigilance Commission Act, 2018

Common Man Initiative unveiled its Legislative Policy Brief on the Whistle-blower Protection and Vigilance Commission Act, 2018 on 11th December, 2018, at a symposium held in Serena Hotel, Islamabad.

The conference was arranged by the Common Man Initiative team, led by Mr. Saad Rasool and Mr Iftikhar Ahmed.

The symposium was attended by participants from various State institutions and professional backgrounds, including lawyers, policy makers, social media activists, representatives from NAB, Police, FIA and relevant NGO's. The participants partook in the discussion on the proposed Bill and made key recommendations on subject.

Our guests included Mr. Syed Tehsin Anwar Ali (former DG FIA), Ms. Simi Kamal (Head of Grants and Operation at Pakistan Poverty Alleviation Fund/ Voluntary Chair at Academic Committee of Hisaar Foundation), Dr. Shoaib Suddle (former IG Police/DG IB), Mr. Husnain

Ahmed (DG NAB), Mr. Shahid Nadeem Baloch (former IGP Sindh), Mr. Ihsan Ghani (former IGP KPK/National Coordinator NACTA), Lt. General Asif Yasin Malik (former Corp Commander/Secretary Defence), Mr. Tariq Ahmed (Additional DG Securities and Exchange Commission Pakistan), Mr. Tariq Malik (Director FIA Islamabad), Mr Taimur Khan (Advocate High Court, Islamabad), Ms. Yumna Baloch (Advocate High Court), Mr Qamar Ullah (Managing Director at Associated Press of Pakistan), Capt. Zafar Iqbal Awan (Additional Secretary of National Security Division, Prime Minister's Office, Islamabad), Mr. Manzoor Kayani (Advocate Supreme Court/Candidate for President of Islamabad High Court Bar ssociation), Mr. Siddique Jan (Supreme Court Reporter/Social Media Activist), Mr. Abid Andleeb (Social Media Activist), Mr. Ahmed Hassan (Social Media Activist), Ch. Waqas Zamir (Advocate High Court), Mr. Raja Inam (Advocate High Court), Mr. Yousaf (Representative of Private Power Infrastructure Board) and Mr Raza (Representative of National Commission of Human Rights).

Salient Features of the Model Legislation

The salient features of the Whistle-blower Protection and Vigilance Commission Bill, 2018, drafted and proposed by CMI, which were critically analysed at the symposium, are as follows:

- The proposed Bill stipulates a strict/ fool-proof legal and regulatory framework to ensure accountability in public and private sectors.
- The proposed Bill mandatorily requires the commission to investigate every complaint received from persons within or outside the public or private organization, and take necessary corrective measures.
- Every organization is under an obligation to develop an internal standard operating procedure, in line with the provisions of the proposed Bill, to, inter alia, promote a culture of accountability through whistle-blowing.
- The location of the whistleblower is inconsequential, per the proposed Bill; meaning thereby, that an external supplier or agency discovering an illegal or unlawful act that can adversely affect the

public at large, is allowed to blow the whistle.

- The whistleblower's identity and the nature of the disclosed information are to remain confidential, per the Model Legislation.
- In line with the principles of natural justice, the proposed Bill ensures that the person or organization accused of wrongdoing, corruption or corrupt practices must be informed of the nature of the accusations made against them and permitted to refute them.
- The proposed Bill makes the anonymous public interest disclosures mandatory.
- Members of the Armed Forces or other such other forces as are charged with the maintenance of public order are exempted from the provisions of the proposed Bill, for the purpose of ensuring the proper discharge of their duties or the maintenance of discipline among them.
- In order to motivate and increase accountability, the model legislation recommends that the whistleblower be

granted 30% of the Government's total recovery, in the interest of public at large.

Discussion and Recommendations by the participants

An essential component of the symposium was to encourage comments and feedback on the proposed Bill. Our esteemed participants proposed certain recommendations, which have been taken into consideration by CMI and for which we are extremely grateful.

Mr. Tariq Ahmed, representing the Securities and Exchange Commission of Pakistan (SECP), proposed that instead of there being a singular commission set up by the Government under Section 3 of the proposed Bill, there should be multiple bodies imbued with a similar mandate. The term "complaint" used should be replaced by the term "disclosure". Additionally, the Bill should envisage certain protocols and mechanisms that different bodies, public and private, can incorporate in their organizations to encourage and protect whistleblowing. Mr. Ahmed also proposed that in order to address the influx of disclosures, such disclosures with a prequalification threshold, should be taken up by the respective organizations, and if not acted upon, then the Commission should only then take cognizance. Lastly, as far as the Commissioner's term in office is concerned, it should be along the line of Senate.

Lt. General (R) Asif Yasin Malik recommended that the composition of the commission consisting only of three commissioners, as postulated by the Bill in Section 4, was insufficient and the Commission instead should comprise of 5 members.

Ms. Simi Kamal, representing the Aurat Foundation, suggested that in addition to the draft bill, a campaign must also be launched to bring awareness about whistleblowing in the country. Additionally, more checks and balances should be put in place to protect the identity of the whistle-blowers. A culture should be developed in organization, in addition to laws, that discourages targeting of the whistle-blowers.

Mr. Husnain Ahmed raised a pertinent point and suggested that Commissioners should have no political affiliations and more qualifications need to be introduced

for the appointments of Commissioners, especially in terms of vetting past ties with political parties, in order to make the Commission purely non-partisan. Additionally, Mr. Ahmed also stated that exceptions for the Army and Police provided for in the proposed Bill ought to be withdrawn, a comment which was welcomed by other members as well.

Mr. Tehsin Shah highlighted that the term "High Court" needs to be appropriately defined in the Bill, and the words "Public Servant" should be given the same meaning as in the Pakistan Penal Code.

Mr. Raja Inam, Advocate of the Supreme Court, in voicing concerns over the lack of clarity on the jurisdiction of the Commission stated that it significantly overlapped with other agencies and in light of that, the Commission's task should be amended to only take up a complaint and refer it to the concerned agencies.

Mr. Shoaib Suddle recommended that more powers should be vested in the Commission, including those under the Code of Criminal Procedure, 1898 and certain other powers must also be enumerated. Guidance in this regard can be sought from the Ombudsman laws. Furthermore, Mr. Suddle was of the view that instead of having separate Commissions, notwithstanding the requirements of the 18th Amendment, there should be one Federal Commission. Additionally, since the draft bill is procedural and not substantive, therefore, no exceptions should be extended to any organization or institution.

Mr. Ummar Ziauddin suggested that the bill should, in the first instance, employ a gender-neutral language, for instance in section 7 of the Bill, the word "chairman" should be replaced with the word "chairperson". Mr. Ziauddin also voiced a concern regarding the definition of "complaint" under section 8 of the Bill and believes that the criteria employed in the same may be too difficult to fulfil and many complaints could be returned solely on the ground that they do not constitute a complaint as envisaged in the enabling law. Additionally, the Bill should contain a

proforma complaint in the rules and regulations, to be filled by the complainant to incentivize the act of whistleblowing, making it easier for people.

CMI is indebted to the participants who came forth in the symposium and recommended pertinent amendments. These suggestions were taken into account by our team, and will be duly incorporated in the revised version of the proposed bill. In keeping with our goal of motivating policy change in Pakistan, the revised version will be presented to the relevant government officials as a model that can be adopted in Pakistan.

Additionally, CMI will be arranging a symposium in Lahore to brief individuals from academia, legal fraternity, policy makers, activists and officials from various state organs about the working and necessity of such a legislation.

Way Forward

As reported, the incumbent Government is currently in the process of drafting a bill concerning the protection of whistleblowers.

In order to facilitate and affectively contribute towards the consultative process of introducing such a bill on the protection of whistleblowers, CMI shall propose its version of the Bill (incorporating the recommendations), which can then be presented to the relevant governmental authorities.

For this purpose, the team at CMI has conducted numerous interviews with the concerned stakeholders, and also reviewed

Pakistan's international obligations/commitments, relevant laws as well as policy briefs/debates on the protection of whistleblowers from different jurisdictions, including, inter alia, United Kingdom, United States of America, Australia, Canada, India, Serbia, Kenya, Japan, South Africa, and New Zealand.

Team CMI is hopeful that the incumbent Government will propose the Whistle Blower Protection and Vigilance Commission Bill, 2018, to the parliament, at its earliest, so as to protect the constitutional rights of its citizens as well as fulfill one of its key electoral promises.





Common Man Story



When I was a student in a primary class, we were taught not to lie to people. As I grew older I noticed that everyone scared me of the life ahead, they called it the “practical life”. In this practical life, everybody had an excuse to lie and cheat, primarily to earn some extra money. That extra money is earned through deception and it is never enough. Now, as I work outside a government institution, I see my colleagues and competitors cheat through their livelihoods and I can’t do anything about it. There are plenty of people involved in this and it is happening in every government institution. These people create problems for the common man and then charge

money to fix those problems. It is happening in passport offices, in NADRA offices, schools and colleges. People stand in lines for hours just to discover most ‘problems’ are fixed by paying cash. When you go and ask them they blame the system, they say that everyone is doing this and that a little cash never hurts anyone, but I wonder if this is fair to the common man. The people that don’t have this extra money to spare are the ones affected the most by this system. When they come to these offices they are not treated equally, they are humiliated, while the rich man gets his work done instantly. This is a huge flaw in the system that I am a part of, and this problem needs to be fixed.



CALL FOR PAPERS: Quarterly Publication

Common Man Initiative is a non-partisan and not for profit organization, dedicated to identifying and highlighting fundamental governance issues affecting the common man. CMI collaborates with intellectuals, policy makers, academics, public officials and members of the legal fraternity to reshape relevant public policy narrative.

The core of the research at CMI results in quarterly publications of academic papers. These papers include an in-depth understanding of the issues at hand, with dynamic policy alternatives that benefit the common man.

CMI invites you to contribute towards the change that we envision, and become part of our upcoming publication. The objective of the publication is to identify and evaluate policies that directly affect the common man.

Topics of interest include (but are not restricted to):

- PTI's first 100 days: Evaluation and Analysis
- Health Care Policies
- Public Education
- Water Conservation
- Law and Order
- Environment
- Social Sector Development
- Economic Policies
- Regional and Foreign Relations
- Governance

Guidelines:

1. Each submitted paper should include a title, an abstract, methodology, literature review and references (APA format).
2. Papers should be saved in an MS Word Format.
3. Font should be Times New Roman, 12-point font, double spaced.
4. All pages should be numbered.
5. Word limit: 10,000 - 12,000
6. Renumeration will be provided


The deadline for submission is January 29th, 2019.

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