



Federal Tax Ombudsman
Pakistan

Annual Report 2011



Federal Tax Ombudsman Pakistan

MAKING A DIFFERENCE

Annual Report
2011

إِعْدِلُوا هُوَ أَقْرَبُ لِلتَّقْوَىٰ

***Be just; that is nearer
to righteousness.***

6:5:8 (Al Quran)

Introduction

The Office of the Federal Tax Ombudsman (FTO) is a quasi-judicial forum established under the Establishment of Federal Tax ombudsman Ordinance (No XXXV) of 2000 dated August 11, 2000, with the objective of providing inexpensive and expeditious redress against unfair and arbitrary treatment of taxpayers by tax functionaries of the Revenue Division / Federal Board of Revenue.

The FTO Secretariat started functioning on September 19, 2000, when the first FTO took oath of the Office. The FTO Secretariat comprises its Headquarters at Islamabad and Regional Offices at Karachi, Lahore, Peshawar and Quetta. Prior to the establishment of the Office of the FTO, tax maladministration fell in the jurisdiction of Wafaqi Mohtasib in terms of the Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983.

The law empowers the FTO to entertain complaints against the FBR officials administering income tax, customs duties, sales tax and federal excise duty. The FTO is mandated to identify and review systemic issues and emerging maladministration-related problems within the Revenue Division / FBR and its field offices. Also, a citizen can file a complaint with the FTO against the Revenue Division / FBR for not providing the requested information as per the Freedom of Information Ordinance, 2002.

The FTO Office maintains a comprehensive website: www.fto.gov.pk.

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Islamabad,
2 March, 2012

Dear Mr. President,

In pursuance of section 28 of the Federal Tax Ombudsman Ordinance 2000, the Annual Report of the Office of the Federal Tax Ombudsman for the period 1 January to 31 December 2011 is submitted, please.

With regards.

Yours sincerely,

(Dr. Muhammad Shoaib Suddle)



***Hon'ble Federal Tax Ombudsman, Dr. Muhammad Shoaib Suddle,
with Members of Advisory Committee (June 20, 2011)***



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Hon'ble FTO, Dr. Muhammad Shoaib Suddle, visited Chamber of Commerce and Industry, Quetta, on 27 July 2011

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Message of the Federal Tax Ombudsman



**Dr. Muhammad
Shoaib Suddle,
the Federal Tax
Ombudsman**

I am pleased to present the annual report for the year 2011, during which a number of reform initiatives, aiming at 'Making a Difference' in the lives of taxpayers aggrieved by tax maladministration, matured. During 2011, I decided 1402 complaints and 88 review applications. Most complaints related to relatively less empowered, under-served and uninfluential taxpayers.

Implementation Focus

During my tenure from June 3, 2009, I have taken a number of steps to put in place core capacities in the organization. Not only skill sets of investigation staff but monitoring of implementation of FTO findings has substantially improved. Under a thematic approach, I declared 2011 as the year of implementation. With exceptional effort, FTO's decisions in as many as 760 cases were got implemented by the Federal Board of Revenue during 2011, as compared to 331 decisions implemented during 2010 and 170 during 2009. In other words, the number of decisions got implemented during 2011 was 2.3 times of those implemented in 2010 and 4.5 times of those implemented in 2009. More specifically, the implemented decisions pertained to FTO's recommendations issued in 2011 (222), 2010 (425), 2009

(48), 2008 (52), 2007 (6), 2006 (2), 2005 (2), 2003 (1) and 2002 (2).

Complaint Disposal

In 2011, 1390 fresh complaints were received of which 704 (50.65%) pertained to income tax, 349 (25.10%) to customs, 328 (23.60%) to sales tax, 7 (0.50%) to federal excise and 2 (0.14%) to the Freedom of Information Ordinance, 2002. Of these, 1218 (87.63%) complaints were decided by 31st December 2011. In addition, 184 complaints pending from 2010 were decided by 31st March 2011. Of the total 1402 decided complaints, 1207 (86.09%) ended up in favour of taxpayers. The ratio of favourable decisions was 83.16% in 2010 and 76.25% in 2009. For the first time in the history of FTO, the taxpayers' grievances in as many as 399 complaints filed during 2011 were got redressed during the investigation phase. The average time taken to decide a complaint was exceptionally reduced from 117 days in 2009 and 67 days in 2010 to 60 days in 2011. The ratio of decisions challenged through representations under section 32 of the FTO Ordinance, 2000 and upheld by the President exceptionally increased from 71% in 2009 and 79% in 2010 to almost 97% in 2011.

Of the 1402 decided complaints, 1207 (86.09%) ended up in favour of taxpayers

Refund and Duty Drawback

In 2011, a sum of Rs7.89 billion was got refunded to the taxpayers as compared to Rs7.08 billion during 2010 and Rs0.094 million. This included refunds amounting to Rs606 million in 455 income tax cases,

In 2011, a sum of Rs7.89 billion was got refunded to the taxpayers

In addition, 181,880 duty draw-back customs cases involving refunds of Rs6.63 billion were settled during 2011 under suo moto jurisdiction

Rs570 million in 107 sales tax cases, and Rs81 million in 15 customs cases. The highest amount of refund issued in a single income tax case, sales tax case and customs case was Rs143.31 million, Rs143.70 million and Rs40.19 million respectively. The taxpayers also received a sum of Rs6.15 million in compensation for delayed payment of refunds in 81 cases. In addition, 181,880 duty draw-back customs cases involving refund of Rs6.63 billion were settled during 2011 under suo moto jurisdiction as against 194,056 duty draw-back cases involving refund of Rs4.9 billion in 2010. It is worth noting that Rs7.89 billion that the taxpayers received due to the intervention of FTO during 2011 was almost 4 times of the total amount that they got during 2000-2009, and 36 times of the average per annum the taxpayers received during the same ten-year period.

Citizen Report Card Study

The stakeholders rated FTO services as most user-friendly and the FTO Office having an exceptionally high level of competence and integrity

In a first ever such exercise, I invited the Transparency International to get the performance audit of the FTO Office conducted by an independent research organisation. The task was assigned to Islamic Countries Society of Statistical Services (ISOSS) that published its findings in May, 2011. The stakeholders rated FTO services as most user-friendly and the FTO Office having an exceptionally high level of competence and integrity. According to the study, the FTO Office was adjudged by the respondents as the cleanest public sector organization in Pakistan with approval rating of over 90%. These findings by an independent research



organization are a rare tribute for any public sector organization.

According to Transparency International's 2011 Corruption Perceptions Index, Pakistan's score in 2011 was 2.5 out of 10 as compared to 2.3 in 2010. One of the four organizations that contributed in improving Pakistan's rank in 2011 was the FTO Office.

Computerization

We significantly achieved our computerization targets for 2011 under the Project: Enhancing Countrywide Outreach, Up-gradation and Computerization of FTO Office. The project was conceptualized in 2009 and approved by the CDWP on March 18, 2010. Despite meager releases of funds, essential IT infrastructure was set up at FTO offices at Islamabad, Lahore and Karachi, including a state of the art web-based FTO's Computerized Complaint Management System (FCCMS). The system will be ready during 2012 for on-line filing of complaints and e-correspondence. In addition, through e-link established with FBR and its field offices, notices and related documents are now sent through email, reducing time lags significantly.

Forum of Pakistan Ombudsman

My proposal to set up Forum of Pakistan Ombudsman (FPO) for collective capacity building and optimal Ombudsmanship across Pakistan was enthusiastically received, and I was unanimously elected

We significantly achieved our computerization targets for 2011 under the Project: Enhancing Countrywide Outreach, Up-gradation and Computerization of FTO Office.



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I also envisioned that Ombudsman offices across the Islamic world needed to be networked

as the founder President of the Forum on April 15, 2011. Under the umbrella of FPO, all ten Ombudsman agreed to conduct a capacity mapping exercise of their offices. Capacity gaps in terms of investigation skills, enablement and reform of legal and procedural frameworks were identified. Two training workshops for early 2012 to be held at Islamabad and Karachi for sharpening the skill-sets of investigation staff of Ombudsman offices have been planned, with technical assistance to be provided by the Canadian International Development Agency (CIDA).

Networking of OIC Ombudsman

In this backdrop, I also envisioned that Ombudsman offices across the Islamic world needed to be networked, on the analogy of the Association of Asian Ombudsman (AOA), European Ombudsman Association (EOA) and International Ombudsman Institute (IOI). The proposal was referred to the Ministry of Foreign Affairs for consideration. Significantly, the Minister of State for Foreign Affairs included it in her statement delivered at the 38th meeting of the OIC Council of Foreign Ministers held at Astana, Kazakhstan, from June 28-30, 2011. As the proposal was widely supported, a working paper on the subject was provided to the Ministry of Foreign Affairs for circulation by the OIC General Secretariat at Jeddah. After clearance of the proposal at technical level, the General Secretariat will prepare a resolution for adoption by the Council of OIC Foreign Ministers at its 39th meeting to be held in Djibouti in 2012.



FTO Advisory Committee

An Advisory Committee of well reputed experts was established

An Advisory Committee of well reputed experts was established to act as a reliable conduit for identification and articulation of taxpayers' grievances against the FBR. The Advisory Committee has been divided into four sub-committees with specific assignments. Their recommendations will go a long way in strengthening accountability and promoting efficiency of tax functionaries. For safeguarding taxpayers rights, one of the sub-committees is tasked to draft Taxpayers Bill of Rights.

ISAF Container Scam

I investigated the 'ISAF Container Scam' on a reference by the Supreme Court of Pakistan in terms of section 9(1) of the FTO Ordinance, 2000. The scam turned out to be 'mother of all scams'

I investigated the 'ISAF Container Scam' on a reference by the Supreme Court of Pakistan in terms of section 9(1) of the FTO Ordinance, 2000. The scam turned out to be 'mother of all scams'. The ongoing follow-up investigation has led to detection of at least 28,802 commercial containers and a further 3,542 containers imported in the name of ISAF / NATO that went 'missing' during the period January 2007 to October 2010, and the numbers are still rising. While the security-related aspects of the scam are yet to be quantified, the colossal loss of revenue, assuming that these containers carried the usual smuggling-prone items, has been estimated at over Rs 60 billion. The impact of FTO investigation on local industry, which was dying due to flood of 'duty free' smuggled items, has been phenomenal. Not only has the transit-related 'smuggling' registered a staggering drop of 60%,



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FTO as Role Model

While the FTO has emerged as a role model institution in improving good governance in Pakistan, the problem of maladministration is deep-rooted and needs concerted efforts on the part of both Government and the FBR to effectively control it.

Before I conclude, I am pleased to place on record the good work done by officers and the rank and file of FTO officials across the country. I express my indebtedness to all those who ran extra miles for promptly redressing taxpayers' grievances.

May Allah Almighty guide us all.

Dr. Muhammad Shoaib Suddle
Federal Tax Ombudsman



***Hon'ble Federal Tax Ombudsman, Dr. Muhammad Shoaib Suddle
receiving a memento from the President and Members
of FPCCI Karachi on February 22, 2011***

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Mandate, Vision, Mission and Values

Mandate

- Ensuring expeditious and inexpensive redressal of taxpayers grievances against maladministration of tax officials.

Vision

- Eliminating tax maladministration and helping taxpayers receive the highest level of service and respect.

Mission

- Redressing taxpayers' grievances and addressing systemic issues.

Values

- Accessibility
- Efficiency
- Integrity
- Objectivity
- Transparency



***Hon'ble Federal Tax Ombudsman visited the Regional Tax Office,
Faisalabad, on September 28, 2011***

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Jurisdiction

The FTO legislation empowers the Ombudsman to diagnose, investigate, redress and rectify any injustice done to any person through maladministration by a tax employee

- ▶ The FTO entertains complaints against the functionaries of FBR administrating laws relating to income tax, sales tax, customs duties and federal excise duty. The FTO legislation empowers the Ombudsman to diagnose, investigate, redress and rectify any injustice done to any person through maladministration by a tax employee. The important areas of maladministration which the FTO can investigate include decisions or processes as are contrary to law, rules or regulations, or are perverse, arbitrary, discriminatory or unreasonable. The definition of maladministration also covers exercise of official power for corrupt or improper motives, neglect, inattention, delay, discrimination, incompetence and inefficiency.
- ▶ The FTO has the authority to investigate complaints on such grounds as issuance of repeated notices, requirement of unnecessary attendance and prolonged hearings deliberately done to harass taxpayers. The FTO can also investigate cases involving willful withholding of refunds, coercive methods of tax recovery and the FBR's avoidance of disciplinary action against



those officials who have been held by the FTO as vindictive, whimsical or biased.

- ▶ The FTO himself can initiate an inquiry into a complaint or assign his officials to conduct a probe. In the process, the authorised official is entitled to have access to any official document necessary for investigation.
- ▶ The FTO can issue a warrant ordering a person to appear before him. He can take cognizance of cases referred to him by the President, the Parliament, the Supreme Court or a High Court during the course of any proceedings or of his own motion.
- ▶ Under section 16 of the Establishment of the Office of Federal Tax Ombudsman Ordinance, 2000, the Ombudsman has the same powers, mutatis mutandis, as the Supreme Court of Pakistan, to punish any person for contempt, if he abuses, interferes with, impedes, imperils, or obstructs the process of the FTO in any way or disobeys his orders. In case, the charge of maladministration gets established against a tax functionary, the Ombudsman may recommend to the concerned authority for an appropriate remedial action. He can recommend disciplinary action, and order compensation by the errant tax official to the aggrieved citizen. The FBR will have

Under section 16 of the Establishment of the Office of Federal Tax Ombudsman Ordinance, 2000, the Ombudsman has the same powers, mutatis mutandis, as the Supreme Court of Pakistan, to punish any person for contempt

to explain reasons in case it does not implement the FTO's recommendations within 30 days, and if the FTO is not satisfied with the explanation, he can refer the matter to the President of Pakistan.

The FTO performs his functions and exercises his powers independent of the executive. All the executive authorities throughout Pakistan are required by law to act in aid of the FTO

- ▶ The FTO performs his functions and exercises his powers independent of the executive. All the executive authorities throughout Pakistan are required by law to act in aid of the FTO.
- ▶ Under section 14(8) of the FTO Ordinance, the Federal Tax Ombudsman has power to re-examine any findings / recommendations made or any order passed by him. The FTO is also empowered to identify and review systemic and emerging maladministration-related issues within the FBR and its field offices that have a negative impact on taxpayers.
- ▶ The FTO's jurisdiction does not extend to cases that are sub judice before a court or a tribunal of competent jurisdiction. He is not mandated to carry out functions such as interpretation of law, assessment of tax, valuation and classification of goods, except when these issues are intermingled with maladministration.

Citizens can file complaints under the Freedom of Information Ordinance, 2002

- ▶ Citizens can file complaints with the FTO against the Revenue Division/ FBR and their field offices for not providing the required information in defiance of the Freedom of Information Ordinance, 2002.



Hon'ble FTO receiving a memento after addressing the Gujranwala Chamber of Commerce and Industry on May 9, 2011



Performance-2011

Highlights

1,390

complaints were received by the FTO Office during 2011 as against 1446 complaints received in 2010 and 634 complaints received in 2009

1,402

complaints were decided by the FTO office during 2011

1,218 of the decided cases were fresh complaints

184 were decided from cases carried over from 2010

399

grievances redressed during the investigation phase compared to 367 grievances redressed in 2010 and 151 in 2009

760

recommendations were got implemented in 2011 as compared to 331 recommendations in 2010 and 170 recommendations in 2009

**1,207**

or 86% complaints were decided by the FTO Office in favour of taxpayers as against 1195 (83%) favourable decisions in 2010 and 642 (76%) favourable decisions in 2009

195

complaints rejected as against 242 complaints rejected in 2010 and 200 complaints rejected in 2009

181,880

refund cases involving systemic issues were decided under suo moto jurisdiction of the FTO as compared to 194,056 cases in 2010.

7.89

billion rupees got refunded to the taxpayers on FTO recommendations during 2011 which is 36 times higher than the average annual amount of refund during 2000-2009

1(+)

billion rupees added to customs revenue every month due to diversion of smuggling-prone items to regular import channels after investigation of ISAF Scam by the FTO

**60**

days taken on average for disposal of a complaint during 2011 as against 67 days in 2010 and 117 days in 2009

81

percent of the cases decided in 2011 were accepted by the FBR and taxpayers. Acceptance ratio was 77% in 2010 and 78% in 2009

93.5*

percent of respondents held high opinion about competency of FTO officials

87*

percent of respondents rated performance of FTO Office as excellent

83.5*

percent of respondents held FTO officials were high on integrity

(* As reported in Citizen Report Card study published by Transparency International-Pakistan in May, 2011)



Disposal of Complaints

1402 complaints were decided within an average timeline of 60 days in 2011

During 2011, the performance of the FTO Office continued to improve on many counts. Several achievements during the year added new milestones to its already exceptional accomplishments. The most notable achievement was that out of a total workload of 1575 formal complaints (1390 fresh and 185 carried forward from previous year), 1402 complaints were decided within an average timeline of 60 days in 2011.

All complaints carried forward from 2010 were decided by March 31, 2011. Of the 1402 decided complaints, 1207 (86%) complaints ended up in favour of taxpayers. For the first time in the history of the FTO, the grievances of tax payers in 399 complaints filed during 2011 were redressed at the investigation phase.

The Table-1 provides an overview of station-wise and subject-wise receipt (R) and disposal (D) of complaints.

Table-1

Receipt/Disposal of Complaints during 2011

	Income Tax		Sale Tax		Customs		Federal Excise		FOI*		Total		
	R	D	R	D	R	D	R	D	R	D	R	D	Bal
ISB	48	34	29	24	13	10	0	0	2	2	92	70	22
KHI	103	99	168	148	268	242	5	4	0	0	544	493	51
LHR	505	467	119	88	40	27	2	1	0	0	666	583	83
PSR	44	35	10	8	16	13	0	0	0	0	70	56	14
QTA	4	3	2	2	12	11	0	0	0	0	18	16	2
Total	704	638	328	270	349	303	7	5	2	2	1390	1218	172**

Two complaints were received under the Freedom of Information Ordinance



* The Freedom of Information Ordinance, 2002

** Most carried forward complaints were filed during the closing months of 2011.

A majority of complaints received by the FTO Office pertained to income tax. The subject wise distribution of fresh complaints received during 2011 is given in Table-2

Table-2

	Number of Complaints	Percentage
Income Tax	704	50.65%
Customs Duty	349	25.10%
Sales Tax	328	23.60%
Federal Excise	07	00.50%
FOI*	02	00.14%
Total	1390	100.00

*The Freedom of Information Ordinance, 2002

Month-wise Receipt and Disposal of Complaints

Month-wise filing of complaints during 2011 remained almost uniform, except January when it touched the lowest level of only 81 complaints and July when it touched the highest number of 188 complaints. The month-wise break up of receipt (R) and disposal (D) of complaints is given in Table-3.

Table-3

Month	R	D	Month	R	D
January	81	53	July	188	122
February	122	123	August	117	135
March	112	86	September	90	150
April	115	128	October	107	90
May	117	140	November	92	83
June	148	91	December	101	201

Average Time Taken per Disposal of a Complaint

In 2011, the average time taken for investigation and disposal of complaints got exceptionally reduced to 60 days from 67 days in 2010 and 117 days in 2009. No other Ombudsman is known to have achieved such a high level of efficiency in handling complaints while ensuring accuracy and transparency. Substantial reduction in the time taken for investigation and disposal of complaints was the outcome of reform initiatives put in place during 2009 and 2010. These initiatives included simplification and rationalization of operating procedures and intensive training of investigation staff for upgrading their skills-sets. Driven by the core objective of enabling taxpayers access to speedy justice, operationalization of the FTO's Computerized Complaint Management System (FCCMS) was a critical initiative. Break-up of time taken by the FTO Office in disposal of complaints is reflected in Table-4:

In 2011, the average time taken for investigation and disposal of a complaint was exceptionally reduced to 60 days from 67 days in 2010 and 117 days in 2009

Table-4

	Within 30 days	31 to 60 days	61 to 90 days	More than 90 days	Total
No. of Decided Complaints	68	630	436	84	1,218
Percentage	5.60	51.70	35.80	6.90	100.00
Average time: 60 days					

Time taken for disposal of complaints begins from the date of filing a complaint with the FTO Office. It includes the time taken for referring the complaint to the FBR for comments; reply of the FBR is sent to the Complainant for filing a rejoinder if any; sharing the rejoinder, with the FBR; holding hearing(s); drafting of findings by the Advisors and approval of findings/recommendations by the Hon'ble FTO.

Refund and Compensation

Inordinate delay in refund of income tax, sales tax and drawback of customs duty constitutes the most serious systemic issue in the FBR's tax administration. The delay and deferment of tax refund and duty drawback is caused more by design than by default. Delay is mostly caused by the tax functionaries either for corrupt motives or the dishonest desire to artificially jack up revenue collection. In view of the serious nature of this systemic issue, the FTO is proactively addressing it in exercise of suo moto jurisdiction under section 9(1) of the FTO Ordinance, 2000. During 2011, 181,880 cases involving an

The delay and deferment of tax refund and duty drawback is caused more by design than by default

amount of Rs6625.80 million were taken notice of and addressed under the suo moto jurisdiction. In addition, 577 complaints against non-payment of refund and duty drawback involving an amount of Rs1256.89 million were received and settled. Table-5 reflects the position of tax refunds and duty drawback as well as compensation allowed to the taxpayers on intervention by the FTO:

Table-5

Category	Number	Amount of Tax Refund/Duty Drawback	Amount of Compensation
Suo moto cases	181,880	Rs6625.80 million	0
Taxpayers complaints	577	Rs1256.89 million	Rs6.15 million
Total	182,457	Rs7882.69 million	Rs6.15 million

The highest amount involved in one case each of various taxes is given in Table-6:

Table-6

Category	Case Number	Amount (Million Rs)
Income Tax	780-K/2011	143.31
Sales Tax	266-K/2011	143.70
Customs	21-ISB/2011	40.19

It is obligatory for the FBR and its field formations, without waiting for external intervention, to ensure timely payment of tax refund and duty drawback, lawfully due to the taxpayers

Deliberate delay in tax refunds and duty drawback is the most serious irritant in the country's tax system. It creates liquidity problems for taxpayers, mostly small businessmen and exporters. It is obligatory for the FBR and its field formations, without waiting for external intervention, to ensure timely payment of tax refund and duty drawback, lawfully due to the taxpayers.

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Addressing Systemic Issues

Any reform vision for redressal of tax maladministration can be successful only if the systemic issues are identified, contextualized and articulated at appropriate levels, using the organizational experience gathered over the years. In other words, only 'informed' reform vision is likely to be successful in the modern day governance system. This requires initiation of an overarching reform initiative which has the capacity to sustain itself over a long period of time and has flexibility to absorb and synthesize competing and divergent interests.

The Government of Pakistan has been trying, for the last over two decades, to restructure and reform tax administration. Restructuring may have taken place but reform is still a far cry

The Government of Pakistan has been trying, for the last over two decades, to restructure and reform tax administration. Restructuring may have taken place but reform is still a far cry. The main reasons for deficient reform are basically inadequate capacity of the available human resource and their weak accountability. The donor-driven reform programmes also fell short of their goals because these lacked enforcement and accountability mechanisms in the obtaining environment of impunity for tax maladministration. The need for reform of tax administration is more acute now than ever before. Without a simpler and fairer tax system, the goal of expanding fiscal space by reducing the fiscal deficit and



During the last 12 years of its existence since September, 2000, the FTO Office has decided 16 thousand complaints mostly of the least empowered and underserved majority of tax payers. During this period, 1100 review applications were also decided

increasing domestic resource mobilization cannot be achieved.

Federal Tax Ombudsman is mandated under the law to diagnose, investigate, redress and rectify tax maladministration. He is accordingly delivering speedy and inexpensive justice to the taxpayers aggrieved by maladministration of tax functionaries. During the last 12 years of its existence since September, 2000, the FTO Office has decided 16 thousand complaints mostly of the least empowered and underserved majority of tax payers. During this period, 1100 review applications were also decided. Based on the diagnosis of individual complaints, the focus of FTO is now converging on addressing systemic issues plaguing efficiency and accountability of tax administration.

The extent of wastage of time and effort of tax administration on account of systemic issues and the resultant higher cost of doing business for the aggrieved taxpayers can be gauged from the fact that the matter which should not take hours to resolve in this day and age of automation, takes not days, weeks or months but at times years to get decided, much less to get resolved. A painful aspect of weak dispute management is that the issues mostly pertaining to the weak and vulnerable among the taxpayer community remain unresolved. It not only indicates the gravity of tax maladministration but also the tolerance level of the aggrieved taxpayers who suffer for years, to get their problems decided. They generally avoid making complaints to the FTO Office for



fear of reprisals which they can ill-afford due to critical dependence of their businesses on tax functionaries. It is only after their exasperation with endless maladministration of the functionaries that they come to the FTO, willy-nilly.

The severity of tax reprisals is embodied in what is internationally known as Dave Henderson's tax nightmare

The severity of tax reprisals is embodied in what is internationally known as Dave Henderson's tax nightmare. In that case, Dave Henderson, a small businessman, suffered vicious reprisals at the hands of revengeful tax functionaries of Newzealand for four years due to which he went bankrupt. This one incident prompted tax reforms in Newzealand. There is an urgent need in Pakistan not only to substantially reduce the tolerance threshold of aggrieved taxpayers with the maladministration of tax functionaries but also to enhance the Tax Ombudsman's capacity to proactively address systemic issues in order to forestall the chances of repetition of same kind of acts of omission and commission, time and again.

The FTO Secretariat has used its in-house capacity of Advisors to diagnose taxpayers' issues by utilizing both the reactive and proactive approaches. While investigating the complaints, systemic issues are diagnosed which taxpayers are repeatedly facing at the hands of tax functionaries. These include inordinate delay, non observance of mandatory time limits, non responding to taxpayers correspondence, inefficient handling of tax cases, and discriminatory and arbitrary decision making. Systemic issues are identified proactively and addressed under the *suo moto*



jurisdiction of the Hon’ble FTO. The widespread and recurrent issues so diagnosed are explained below:

Inordinate Delay

Delay is the most recurrent and wide-spread maladministration in the tax system. The Citizen Report Card study indicated delay as the most repeated problem:

Table-7

Nature of Maladministration Faced by Taxpayers

Maladministration	Percentage
Delay	56.7%
Inefficiency	24.3%
Arbitrariness	8.9%
Harassment for corrupt motives	6.9%
Other	3.2%

Delay is the most recurrent and wide-spread maladministration in the tax system

Cases of tax refund and duty drawback relating to past several years have been pending with the tax authorities. The supervisory managements of field offices of Customs, Income Tax, Sales Tax and Federal Excise have not been properly sensitized about the need for expeditious settlement of tax refunds. The most significant aspect of delay is that even the cases decided in favour of taxpayers by various appellate fora remain unimplemented on account of lame excuses. It is extremely disturbing that implementation of the FTO's recommendations relating to redress of delay are delayed by the tax functionaries which promotes corruption.

Non-Observance of Mandatory Time Limits

A good number of complaints relates to the failure of field officers to observe the mandatory time limits prescribed under the relevant tax legislation

A good number of complaints relates to the failure of field officers to observe the mandatory time limits prescribed under the relevant tax legislation. Orders-in-Original are not issued within the prescribed time limits; extensions are not timely sought and granted; and provisional assessments of duties and taxes leviable on imported goods are not finalised in time. More often than not, failure to observe the prescribed time limits leads to avoidable litigation before the Appellate Tribunals, courts of law and the FTO Office. As a result, not only is a lot of revenue lost with impunity but much time is also wasted in handling litigation. The tax departments need to take stock of the situation to effectively make systemic rectifications. The FTO Office is regularly sensitizing the FBR and their departmental representatives who come for hearings in the FTO Secretariat in this regard, in particular to ensure plugging of the black holes of leakage of revenue by meticulously observing the mandatory time limits. However, complaints are still being received unabated which shows that the systemic problem of non-observance of time limitations is persisting. FBR must ensure zero tolerance for violation of prescribed time limits.

Non Responding to Taxpayers Correspondence

It has been observed from the complaints being



Letters remain unresponded for weeks and months which creates serious implications for the taxpayer, tax administration, revenue and the businesses

received in the FTO Secretariat that tax functionalities seldom respond to the taxpayers' correspondence. Even formal legal notices have been ignored at times. Letters remain unresponded for weeks and months which creates serious implications for the taxpayer, tax administration, revenue and the businesses. This kind of maladministration on the part of tax functionalities is highly frustrating for the aggrieved taxpayers and breeds contempt for the tax administration. On the initiative of the FTO, the FBR has issued a circular on standardized acknowledgment of public correspondence vide Standing Order No. 6(23) Coord/2011 dated March 03, 2011. It is a good beginning provided the instructions contained in the Standing Order are sustainably implemented in right earnest. It will not only bridge the age-old disconnect between the tax functionalities and the taxpayers, but also keep the tax functionalities on their toes to expeditiously resolve disputes.

Inefficient Handling of Tax Fraud Cases

It has been observed that major tax fraud cases are detected but poorly handled subsequently at the investigation, prosecution, adjudication and appeal stages. As a result, a number of tax fraud cases involving large sums of revenue are pending recovery and the influential perpetrators are roaming free in search of their next targets. The case of 265 containers fraudulently cleared from Port Qasim, 102 containers fraudulently cleared from Karachi Port by misuse of the procedure for duty free shops and 52 containers of imported liquor



cleared by a Pakistani culprit by misuse of ISAF Transit Facility and thousands of containers detected in the flagship investigation conducted by the Hon'ble FTO under the direction of the Hon'ble Supreme Court represent a few glaring examples of mega tax frauds. The Revenue Division / FBR ought to focus on these cases for forestalling the chances of their recurrence, recovering the evaded duties / taxes and bringing the culprits to book. Moreover, the officials found responsible for collusion or inefficiency in such cases must be deterrently punished and their assets duly scrutinized to obviate chances of repetition of such cases in future.

Discriminatory and Arbitrary Decision Making

It has been observed that the discriminatory and arbitrary treatment of similar cases within the field offices results in undesirable inconsistencies

It has been observed that the discriminatory and arbitrary treatment of similar cases within the field offices results in undesirable inconsistencies. Decisions containing such inconsistencies are self-destructive and disadvantageous to both taxpayers as well as the tax administration. A number of examples of inefficient, willful, highhanded, arbitrary and discriminatory treatment of cases of the weaker segments of taxpayers have been noticed through the complaints being received in the FTO Office. The supervisory officers within the Collectorates/RTOs/LTUs must institute credible deterrence against such discriminatory and oppressive practices.

The need for addressing systemic issues is being



It is suggested that FBR may utilize provisions of section 7 of the FBR Act, 2007 to make effective internal institutional arrangements for inhouse redress of taxpayers complaints

The FTO's intervention is playing a critical role to bring about reform in tax administration by addressing systemic issues

regularly emphasized through FTO's recommendations and coordination meetings with the Revenue Division / FBR and supervisory administration of field offices. Remedial measures are suggested including strengthening of supervision, improving accountability, and developing training modules of case studies to sensitize operational, supervisory and policy levels of tax administration. It is suggested that FBR may utilize provisions of section 7 of the FBR Act, 2007 to make effective internal institutional arrangements for inhouse redress of taxpayers complaints. The FBR has taken some measures in this regard but these are proving insufficient to change the maladministration paradigm widely obtaining among tax functionaries or to remodel their mindset.

It also appears that there is a conspicuous lack of appetite for reform in the Revenue Division / FBR. Consequently, the spate of complaints of systemic issues like delays, inefficiency, non response to taxpayers' correspondence, arbitrariness and discrimination etc keeps finding its way to the FTO Office. Most of these complaints originate from small businesses and the weak and vulnerable segments of taxpayer community. In the backdrop of unabating insensitivity of tax functionaries to address recurring issues, the FTO's intervention is playing a critical role to bring about reform in tax administration by addressing systemic issues.

6

2011- The Year of Implementation

Under his thematic approach, the Hon'ble FTO declared 2011 as 'the Year of Implementation'

Under his thematic approach, the Hon'ble FTO declared 2011 as the 'Year of Implementation'. The main driver of this decision was the unabating phenomenon of delay by the FBR in implementing the FTO findings and recommendations. The organizational experience reinforced by the FTO's extensive interaction with stakeholders during 2009 and 2010 confirmed that the tax functionaries were delaying implementation of a large number of FTO findings. Delay is in fact an abiding and widespread maladministration of the tax functionaries. The irony is that tax functionaries firstly delay resolution of taxpayers' problems and when such delays are addressed by the FTO, they resort to dilatory tactics to further delay and defer implementation of the redress provided by the FTO.

The Citizen Report Card (CRC) study on the performance effectiveness of the FTO Office conducted by an independent research firm and published in May 2011 by Transparency International Pakistan pointed out that 'the main taxpayer complaint against the tax functionaries is inordinate delay in refund and decision making, and inefficiency in dealing with their cases'. The weightage of delay as a factor of tax maladministration is rated in the study at 56.7%, followed by inefficiency at

24.3%. Concluding that maladministration breeds corruption, the study reflects the weightage of various categories of tax maladministration as indicated in Table-7 above.

Consequently, a large number of FTO findings / recommendations remains unimplemented every year. Table-8 shows the number of FTO findings / recommendations implementation of which is delayed and deferred mostly on account of inaction by tax functionaries but also due to unwarranted representations and unnecessary review applications filed by the FBR:

Table-8***Non Implementation of Findings***

Year	Findings issued During the year	Findings Pending Implementation at the end of the Year	%age of Non Implemented Findings
2009	842	256	39.88
2010	1437	592	49.54
2011	1402	324	26.84

As most delay in implementation is by design rather than by default, it is a serious systemic issue and fatal for the tax collection system

As most delay in implementation is by design rather than by default, it is a serious systemic issue and fatal for the tax system. A more critical aspect of delay in implementation of FTO decisions is the following scenario that unfortunately gets created by such delays and deferments:

- ▶ maladministration prone tax functionaries will continue operating at will in an environment of impunity and lack of accountability; and
- ▶ taxpayers cannot get out of the clutches of maladministration-prone tax functionaries;

Such a scenario obviously aggravates the nuisance value of the ill-disposed among the tax functionaries and breeds corruption. Noting the phenomenon of delay in implementation of Ombudsman's findings/recommendations and observing the Government functionaries' resistance to the Ombudsman interventions, the President of Pakistan issued Directive No. 1 of 1990 vide letter No. 178/1/President dated the 20th September, 1990 as follows:

- (i) Findings/recommendations of Ombudsman should be implemented within the stipulated time;
- (ii) The tendency of defying or delaying implementation of Ombudsman's recommendations should be avoided; and



- (iii) Representations should only be made if there is a strong case. These should not be made on frivolous grounds merely to gain time.

Vide letter No. JS9PUB/Misc/14156/ 25035 dated the 14th November, 1995, the Prime Minister of Pakistan also underlined the need for ensuring compliance of the aforesaid directive of the President. The Supreme Court of Pakistan, in Federation of Pakistan vs Mohammad Tariq Pirzada (199 SCMR 2189), while dealing with the provisions of Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order 1983 in respect of implementation of the recommendations referred to the directives of the President and the Prime Minister of Pakistan and observed as follows:-

***The Supreme Court observed:
"It is unfortunate that the agencies/public functionaries unnecessarily resort to representations under Article 32 of the Order instead of expeditious implementation of recommendations of the Ombudsman and thereby thwart the ends of justice, aggravating the suffering of the complainants"***

"It would thus appear that it has been the departmental interpretation of the Federal Government itself that recommendations of the Mohtasib ought to be implemented promptly. It is unfortunate that the agencies/public functionaries unnecessarily resort to representations under Article 32 of the Order instead of expeditious implementation of the recommendations of the Ombudsman and thereby thwart the ends of justice, aggravating the suffering of the complainants. The path shown must be followed".

In spite of substantive provisions of law and the directives of the President and the Prime Minister and observations of the Supreme Court, which are equally applicable to FTO as tax matters then fell in the

jurisdiction of Wafaqi Mohtasib, the phenomenon of delay in implementation of FTO recommendations has continued unabated due either to inaction, or unwarranted representations or unnecessary review applications. Table-9 and Table-10 reflect the number of representations and review applications filed against the FTO findings / recommendations:

Table-9
Representations

Filed by	2009	2010	2011
FBR	106	190	183
Taxpayers	22	22	28
Total	128	212	211

Table-10
Review Applications

Filed by	2009	2010	2011
FBR	34	35	21
Taxpayers	25	86	31
Suo-moto	0	0	1
Total	59	121	53

Although there cannot be any cavil at filing representations or review applications in genuine cases, misuse of these mechanisms as a dilatory tactic frustrate the FTO decisions favourable to taxpayers is a clear violation of the aforesaid directives of the President, the Prime Minister and the Supreme Court of Pakistan. It is also tantamount to contravention of the law enshrined in

section 3(3) of the FTO Ordinance, 2000, requiring all executive authorities throughout Pakistan to act in aid of the FTO.

Expressing his concern over delay by the tax functionaries in implementation of the FTO's findings the first Federal Tax Ombudsman (2000-2004) noted that "there are still certain elements who are resisting the change and trying to find excuses to delay, defer, avoid or defy the recommendations on lame excuses, by moving unwarranted review applications, or making frivolous representations to the President".

The different dilatory tactics employed by the tax functionaries to delay implementation of the FTO recommendations as identified by the first FTO include:

- (i) lame excuses
- (ii) unwarranted review applications
- (iii) frivolous representations

As regards lame excuses, a lot of correspondence has to be exchanged with the FBR to elicit response to FTO recommendations communicated under section 11(1) of the FTO Ordinance, 2000. It is usually after much ado that the excuses for non-implementation get exposed. The intervening time is lengthy and exasperating for the aggrieved taxpayers and the Office of the FTO.

So far as deferring the implementation of the FTO

"there are still certain elements who are resisting the change and trying to find excuses to delay, defer, avoid or defy the FTO recommendations on lame excuses, by moving unwarranted review applications, or making frivolous representations to the President"

findings / recommendations by filing unwarranted review applications under section 14(8) of the FTO Ordinance, 2000 and frivolous representations under section 32 ibid is concerned, it is borne out by the fact that an overwhelming majority of these end up in rejection. The high rejection ratio of review applications and representations filed by the FBR is indicated in Table-11 and Table-12

Table-11
Decided Review Applications

Year	Decided	Accepted	Rejected	Rejection Ratio
2009	33	20	13	39.39%
2010	29	6	23	79.31%
2011	10	1	9	90.00%

Table-12
Decided Representations

Year	Decided	Accepted	Rejected	Rejection Ratio
2009	69	29	40	57.97%
2010	29	9	20	68.97%
2011	61	2 (modified)	59	96.72%

High rejection ratio is an irrefutable evidence that the FBR is mostly filing unwarranted representations / review applications mindlessly and unnecessarily

High rejection ratio is an irrefutable evidence that the FBR is mostly filing unwarranted representations / review applications mindlessly and unnecessarily. It is also evident that the number of the FBR review applications before the Federal Tax Ombudsman is considerably lower than the number of the FBR representations before the

President of Pakistan. The apparent reason for the FBR's filing more representations than review applications is automatic suspension of the FTO's findings / recommendations on filing of a representation in terms of the President's order communicated by the Law and Justice Division vide Office Memorandum No. 36/2001-Law(FTO) dated 10-12-2001. According to this, implementation of the FTO findings/recommendations shall remain in 'abeyance' during the pendency of the representation. Explaining the adverse implications of automatic and indefinite 'abeyance' of FTO findings, the first Federal Tax Ombudsman observed in the Annual Report-2004 as under:

"Hardship to the taxpayers exists with regard to the President's directive of December 10, 2001. According to the earlier directive of November 8, 2001 of the President, once a representation is filed by the CBR, status quo had to be maintained by all concerned. This decision was reversed by the directive referred to above. Now, only the recommendations of the FTO are to be kept in abeyance. The result of this change is that while the Department complained against proceeds with impunity with impugned action, the recommendations made by the FTO remain unimplemented. This causes hindrance in the process of justice."

The second FTO (2005-2008) made a reference to the President on 26th January, 2005 indicating the



Continuation of automatic stay in case of a representation constitutes a critical challenge to the Revenue Division / FBR as well as the FTO Office. Its misuse denies or delays the relief provided by the FTO Office to the aggrieved taxpayers and allows the guilty tax officials go scot free

adverse implications of misuse of the President's order of automatic and indefinite stay on filing of representations. It appears that this reference did not attract the attention of the President's Secretariat. Continuation of automatic stay in case of a representation constitutes a critical challenge to the Revenue Division / FBR as well as the FTO Office. Its misuse denies or delays the relief provided by the FTO Office to the aggrieved taxpayers and allows the guilty tax officials go scot free.

It has been also observed that representations are filed by the FBR mostly in those FTO findings / recommendations which involve relatively large amounts of refund or the accountability of tax functionaries. This fact is borne out by the FBR Circular C.No. 6(1) TO-2/2001 dated the 2nd October, 2003 instructing the field formations to file representations in situations 'where substantial revenue is involved'. Although the stated purpose of the aforesaid Circular was to reduce the undesirable tendency of filing unnecessary representations, yet the category of the FTO findings / recommendations involving substantial revenue was explicitly excluded by the FBR from its conditionalities on filing representations. No wonder that tendency of filing unnecessary representations continues unabated in cases involving large amounts, as also disciplinary proceedings; illegality and impropriety of the above mentioned instruction of the FBR notwithstanding.

In the backdrop of foregoing facts, the present FTO adopted a pragmatic strategy to eliminate the



phenomenon of delay by the FBR in implementation of findings / recommendations. He packaged a number of measures in order to achieve the objective:

- (i) Declared 2011 as the "Year of Implementation"
- (ii) Built capacity of Implementation and Monitoring Wing of the FTO office by e-enablement and appointing an official possessing necessary expertise and qualification.
- (iii) Strengthened monitoring and implementation of the FTO's findings/ recommendations;
- (iv) Got the Citizen Report Card study on performance effectiveness of the FTO Office conducted and published which identified delay by the FBR as the main cause of taxpayers dissatisfaction with the tax collection system; and
- (v) Upgraded coordination with the FBR for ensuring timely implementation of the FTO recommendations.

In pursuance of increased focus on implementation, the FTO recommendations pending with FBR were carefully catalogued and vigorously followed up by the FTO Office

In pursuance of increased focus on implementation, the FTO recommendations pending with FBR were carefully catalogued and vigorously followed up by the FTO Office. As a result, a record number of 760 recommendations were got implemented during 2011 as indicated in Table-13:

Table-13

***Implementation of FTO's Recommendations
by the FBR***

Year	Findings Requiring Implementation on 31-12-2010	Implemented During 2011	Balance
2002	03	02	01
2003	02	01	01
2004	01	00	01
2005	02	02	00
2006	03	02	01
2007	14	06	08
2008	64	52	12
2009	96	48	48
2010	592	425	167
2011	546	222	324
Total	1323	760	563

Table-13 above indicates an exceptional implementation in 760 cases in 2011. The number of cases in which the FTO recommendations were implemented during 2010 and 2009 was 331 and 170 respectively. In other words, the number of the FTO decisions got implemented during 2011 was 2.3 times as for 2010 and 4.5 times as for 2009. More specifically, the implemented decisions pertained to FTO recommendations issued in 2011 (222), 2010 (425), 2009 (48), 2008 (52), 2007 (6), 2006 (2), 2005 (2), 2003 (1) and 2002 (2). In addition, grievances in 399 cases were redressed at investigation stage as compared to 367 cases in 2010 and 151 in 2009. In spite of exceptional increase in implementation of FTO recommendations,

***In addition,
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151 in 2009***

563 findings pertaining to 2002 to 2011 were still pending implementation by the FBR. Apart from the aforesaid pendency, a sizeable number of findings / recommendations remains unimplemented on account of representations and review applications filed by the FBR every year. As most of these representations and review applications end up in rejection, their filing is obviously both unnecessary and unwarranted.

The Minister for Finance, Dr. Abdul Hafeez Shaikh appreciated the FTO efforts for promptly addressing taxpayers' grievances

The matter of filing unnecessary representations was *inter alia* flagged by the FTO before the Minister for Finance, Revenue, Economic Affairs, Statistics and Planning and Development, during the inaugural session of the FTO Advisory Committee held on June 20, 2011. Speaking on the occasion, the Minister appreciated the FTO's efforts for promptly addressing taxpayers' grievances. He assured his full support and cooperation of the FBR to the FTO. The Minister observed that after the conclusion of the budget session, the issue of routine filing of representations against recommendations made by FTO would be considered and filing of unnecessary representations effectively avoided. In a follow up meeting of the FTO and the FBR on August 6, 2011, the issue was discussed in depth. Not only was the FBR advised to avoid filing unnecessary representations, it was also suggested that FBR could take advantage of the fast track review mechanism in order to avoid delay in implementation of the FTO's findings/ recommendations. In pursuance of this meeting the FBR issued fresh instructions vide C.No. 1(1)SS(L)/2010 dated September 7, 2011 urging the field formations to file a



Dr. Abdul Hafeez Shekih, Minster for Finance and Economic Affairs, addressing the FTO Advisory Committee on June 20, 2011



representation after careful consideration of its merits. Despite these instructions, the tax functionaries have continued to flood the President Secretariat with unnecessary representations. Table-14 reflects filing of representations and review applications after issuance of the FBR's aforesaid instructions dated 06-08-2011.

Table-14

Trend of Filing Representations / Review Applications by FBR

Year 2011	Number of Representations	Number of Review Applications
Before 7.9.2011	89	14
After 7.9.2011	94	7
Total	183	21

The FBR needs to seriously reconsider its practice of filing unnecessary representations

Instead of optimizing the use of fast track review mechanism, the FBR continues to prefer filing representations. This creates unnecessary workload on the President Secretariat which becomes both the cause and effect of avoidable delay as requirements of due process have to be completed for disposal of all such representations. The ensuing delay exacerbates taxpayers discontent with the FBR and breeds contempt for the Government. The FBR needs to seriously reconsider its practice of filing unnecessary representations. If the systemic issue of unnecessary representations is effectively addressed, it will spare a lot of management time of the tax administration which is



***Redressing
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presently being lost in avoidable litigation. It will also save the taxpayers a lot of entrepreneurial time and reduce their cost of doing business. This kind of a scenario will increase productivity of enterprises on the one hand and optimize revenue by shifting of focus to eliminating tax evasion and interdicting smuggling. It will also relieve the President Secretariat of unnecessary workload and thus enable it to invest the spared time in quickly deciding the reduced number of representations. Redressing unwarranted suffering of taxpayers will also allow them to quickly avail the fruits of the FTO's favourable decisions. The following suggestions are made in order to rectify the unacceptable situation of delay in implementation of the redress provided by the FTO.

- (I) The FBR to assign monitoring of implementation of the FTO findings / recommendations to two senior officers of the rank of Chief (BS 20) instead of only one coordinating officer of the rank of a Second Secretary (BS 17-18). The job can be done more efficiently by one Chief for Customs and the other Chief for Inland Revenue (IR);
- (ii) The FBR to earnestly ensure compliance of its own instructions to avoid unnecessary filing of representations;
- (iii) The FBR needs to strengthen its inhouse complaint management system in terms



of section 7 of the FBR October of 2007.

- (iv) The FBR to ensure compliance of the FTO findings / recommendations that are not under review or representation, within the time limits specified by law.
- (v) The Law Division needs to take a second look at the legality and propriety of the order of 'abeyance' communicated vide its Office Memorandum No. 36/2001-Law(FTO) dated the 10th December, 2001.

7

Outreach Initiatives

The Hon'ble FTO conceptualized 'Making a Difference' by restructuring the organizational framework, reforming the administrative set-up and simplifying the business process of the FTO Office

The Hon'ble FTO conceptualized 'Making a Difference' by restructuring the organizational framework, reforming the administrative set-up and simplifying the business process of the FTO Office. The vision included strengthening internal and external mechanisms for evaluating performance effectiveness of the FTO Office. Automation for e-enablement of FTO Office was prioritised for achieving paperless environment. Advocacy for enhancing taxpayers awareness about the FTO mechanism also constituted a priority. A number of measures were taken to implement these priorities. Some of the measures are explained below:

(i) Establishment of Advisory Committee

A wider engagement of public and private partnership is a crucial step required to resolve tax disputes on sustainable basis. The need for institutionalization of this partnership at the platform of the FTO was met by establishing an Advisory Committee in 2011 as provided under Section 18 of the FTO Ordinance, 2000. For constituting this Committee the professional landscape of the civil society was searched. Top individuals known for their earnestness, competence,



initiative and drive backed by academic qualifications and professional expertise in relevant fields were identified from all provinces. The inaugural session of the Advisory Committee was held on June 20, 2011 which was also addressed by the Finance Minister. The Committee will be the FTO's eyes and ears on the performance effectiveness of both the FTO officials and FBR functionaries posted across Pakistan. It will also constitute the FTO's formal and regular linkage with the civil society, the community of taxpayers and tax professionals.

The Advisory Committee was divided into four sub-committees comprising seven members each including a Convener. The following tasks have been assigned to these sub-committees.

- Sub-Committee No.1: Diagnosing the systemic issues of tax maladministration and suggesting sustainable remedies.
- Sub-Committee No. 2: Expanding FTO's outreach for public awareness and suggesting ways and means for their improvement / sustainability.
- Sub-Committee No. 3: Proposals for widening the tax base in the context of a fair, just and transparent tax system.



The Taxpayers Bill of Rights being drafted by one of the sub-committees will be a flagship achievement of the FTO Office for ensuring taxpayers rights against tax maladministration

Sub-Committee No. 4 : Preparing a code of conduct/rules of procedure, and also Taxpayers Bill of Rights.

The sub-committees are being ably led by their Conveners and extensive research studies are being made to firm up recommendations in consultation with stakeholders. It is expected that research and recommendations of the Advisory Committee will strengthen synergies between the FTO and the FBR to achieve the objectives of mitigating tax maladministration and improving revenue mobilization. The Taxpayers Bill of Rights being drafted by one of the sub-committees will be a flagship achievement of the FTO Office for ensuring taxpayers rights against tax maladministration.

(ii) E-enablement:

The FTO Office was operating manually till 2009. Computers of old vintage were used for typing work only. An acute need was felt for replacing the old manual system with an IT-enabled complaint handling and decision support system. The Hon'ble FTO undertook an initiative for computerization of FTO Office as a critical tool for change management in the organization. An absorptive capacity mapping exercise of the organization was launched. After completing the preparatory work, a project titled "Enhancing Countrywide Outreach, Up-gradation and Computerization of FTO Office" was submitted to the Planning Commission. The CDWP



Despite the meager releases of funds, the FTO Secretariat has managed to achieve a significant milestone at IT enablement component of the Project. Basic IT infrastructure has been set-up at FTO offices at Islamabad, Lahore and Karachi

approved it on 18-03-2010 at a cost of Rs133.189 million. The objectives and scope of the project are in line with the justice sector policies/strategies under Mid Term Development Framework (MTDF) and introduction of e-governance in Pakistan. The project will not only improve taxpayers access to justice but also lead to FTO's increased ability to respond in a timely manner, as also expeditiously redress taxpayers grievances. It envisages decrease in the cost of filing complaints by the general public, creation of a paperless environment and effective coordination between the FTO and the FBR. Automation is also aimed at ensuring uniformity in decisions through easy access to computerized records of complaints.

Despite the meager releases of funds, the FTO Secretariat has managed to achieve a significant milestone at IT enablement component of the Project. Basic IT infrastructure has been set-up at FTO offices at Islamabad, Lahore and Karachi. A state of the art web-based FTO's Computerized Complaint Management System (FCCMS) has been developed for operationalization by electronically connecting the FTO HQs at Islamabad and its Regional Offices at Lahore and Karachi. IT infrastructure is also being set up at Quetta and Peshawar. Moreover, e-link has been established with FBR and its field offices and all related documents and notices are now being sent through secure email. Computer interface will also strengthen synergies between the FTO and the FBR for speedy redressal of



taxpayers grievances. FCCMS will ensure improved efficiency and better facilities to aggrieved taxpayers and significantly improve the work flow and output of the FTO Office. E-filing and e-correspondence will be operationalized in 2012/13 after test runs are completed in 2012. The canvas of the FTO's automation and outreach will be broadened after new Regional offices at Peshawar & Quetta become fully functional.

Besides ensuring transparency and efficiency, the FCCMS will be leveraged to provide the complainants with facility not only to file their complaints but also track progress online

Besides ensuring transparency and efficiency, the FCCMS will be leveraged to provide the complainants with facility not only to file their complaints but also track progress online. Automatic SMS and e-mail system is being buckled up with FCCMS that will keep the complainants informed about the complaint status through SMS and e-mail alerts.

(iii) Interaction with Stakeholders

The FTO continued extensive interaction with various chambers of commerce and industry, tax bar associations, media, civil society and field offices of the FBR. A high road of interactivity has been built with taxpayers, tax consultants and tax collectors. The process is being sustained and strengthened over time. During 2011, the Hon'ble FTO enhanced his interface with taxpayers and other related segments of society through the following outreach activities:

Activities at National Level



(i) Karachi

- (1) Visited Karachi Chamber of Commerce & Industry, Karachi, and addressed members on 20 January 2011
- (2) Visited Federation of Pakistan Chambers of Commerce & Industry, Head Office, Karachi and addressed the members on 23 February 2011
- (3) Chaired a seminar on the 'Performance of the Office of Federal Tax Ombudsman' organized in Karachi by Transparency International- Pakistan on 25 June 2011
- (4) Visited 'Pakistan Apparel Forum', Karachi, on 27 August 2011
- (5) Visited 'Karachi Centre for Dispute Resolution, Karachi for attending Workshop on 'Mediation as an Alternate Dispute Resolution Mechanism' on 27 August 2011



(ii) Lahore

- (1) Addressed senior officers of Inland Revenue, and the Chief Commissioners, Inland Revenue, at Regional Tax Office, Lahore, on 15 January 2011
- (2) Addressed members of Lahore Chamber of Commerce & Industry (LCCI), on 19 March 2011.

(iii) Quetta

- (1) Held meetings with the Officers of Regional Tax Office and the Customs Quetta, on 26 July 2011
- (2) Visited the Chamber of Commerce & Industry, Quetta, on 27 July 2011

(iv) Islamabad

Chained FTO Advisory Committee meeting at Islamabad on 20 June 2011

(v) Gujranwala

Visited Chamber of Commerce & Industry, Gujranwala, and Regional Tax Office, Gujranwala,



and held meetings with the members of the Chamber and senior tax officials on 09 May 2011

(vi) Sialkot

Visited Sialkot Chamber of Commerce & Industry, Sialkot, and addressed its members on 20 July 2011

(vii) Faisalabad

Visited Faisalabad Chamber of Commerce & Industry and Regional Tax Office, Faisalabad on 28 September 2011

Representation at International Level

(i) Canada

In May 2011 (15 May 2011 to 18 May 2011) visited Vancouver, Canada, to attend Conference of Forum of Canadian Ombudsman (FCO)

(ii) Nepal

Delivered a speech in '4th Integrity in Action (INTACT) Community of Practice (CoP) Meeting' held in Kathmandu, Nepal on 13 October 2011



Hon'ble FTO Dr Muhammad Shoaib Suddle visited Sialkot Chamber of Commerce & Industry on 20 July 2011

**(iii) USA**

On 24-28 October, 2011 visited Jacksonville, Florida, USA to attend the 32nd Annual Conference of US Ombudsman Association

(iv) Japan

Visited Tokyo and Shizuoka, Japan for attending 12th Conference of the Asian Ombudsman Association on 04th December, 2011.

(C) Other Outreach Measures

The electronic and print media is regularly briefed on critical aspects of performance of the FTO Office for the information of taxpayers

Landmark decisions of Hon'ble FTO are regularly published in law journals and promptly uploaded on the FTO website. Press releases are issued on important events and developments. The electronic and print media is regularly briefed on critical aspects of performance of the FTO Office for the information of taxpayers. The annual report for the President / Parliament comprehensively covers the performance and achievements of the FTO Office. A newsletter will soon be added to these outreach initiatives.



ISAF Container Scam

Background

In the Suo Moto Case No. 16/2010 regarding "ISAF Container Scam", the Chief Justice of the Supreme Court of Pakistan, in October 2010, for the first time in the history of FTO, referred the matter for investigation to the Federal Tax Ombudsman

In the Suo Moto Case No. 16/2010 regarding "ISAF Container Scam", the Hon'ble Chief Justice of the Supreme Court of Pakistan, in October 2010, for the first time in the history of FTO, referred the matter under Section 9(1) of the 'Establishment of the Office of Federal Tax Ombudsman Ordinance, 2000', for investigation to the Federal Tax Ombudsman. Incorporated in the Supreme Court's Order was a set of 14 specific questions ranging from the nature and extent of misuse; of transit facilities, procedural vulnerabilities causing the misuse and fixing responsibility thereof to suggest effective countermeasures to control such abuses in future.

Methodology of Investigation

- ▶ The FTO Secretariat immediately proceeded to seek stakeholder input on the subject through individual notices. A public notice was also published in the press inviting the interested parties / groups to give their views.
- ▶ Chairman FBR, Member (Customs) and a number of senior representatives of Customs Collectorates, Customs Intelligence, PRAL, Police,



FIA and NLC were interviewed at the FTO Secretariat, Islamabad.

- ▶ Briefings were received from Chief Collector Customs (South) and Collectors of Customs of Karachi and Port Qasim.
- ▶ Customs Examination System and Sealing System for transit containers was inspected at West Wharf, Karachi.
- ▶ Karachi International Container Terminal (KICT) was visited and a presentation received on the terminal operations.
- ▶ A presentation was received from Messrs TPL Trakker, Karachi, on container sealing and tracking technologies available in Pakistan.
- ▶ Meetings were held at Federal Tax Ombudsman's Regional Office Karachi with a number of stakeholders in the public and private sectors who shared their knowledge and expertise on the subject of smuggling through misuse of transit facilities.
- ▶ Independent data of departure and re-entry of transit containers into the same port terminals within less than 12 days was obtained from the following container terminal operators:

(1) Karachi International Container Terminal (KICT)



(2) Pakistan International Container Terminal (PICT)

(3) Qasim International Container Terminal (QICT)

The data was analyzed on the basis of certain 'physical impossibilities'.

- ▶ Briefing on One-Coustoms manual clearance system was also received in Custom House, Karachi.

Findings

The quality of data held by PRAL was found to be extremely unreliable

- (I) The quality of data held by PRAL was found to be extremely unreliable. The available cross-checks within the FBR were also found to be highly vulnerable to fraud and corrupt practices of various actors involved in the transit of goods to Afghanistan.
- (ii) It was soon realized that the abuse was massive, though difficult to quantify with a high degree of precision.
- (iii) It was estimated that at least 7,922 transit containers were pilfered within Pakistan during the last almost four years (Jan 2007 - Oct 2010). However, this could be just a tip of the iceberg.
- (iv) The estimated loss to national exchequer during January 2007-October 2010, based on 7,922



containers, was worked out at Rs19 billion.

- (v) It was gathered that the Customs procedural framework being highly porous suffered from serious vulnerabilities.
- (vi) While responsibility in general terms was fixed, the individuals involved in various mega scams of recent years had to be identified through criminal investigation for which a mechanism is provided under Section 17 of the FTO Ordinance.
- (vii) One-Customs manual clearance system was also found prone to huge transit scams.
- (viii) The senior management of Customs failed to take necessary steps to put in place appropriate countermeasures against repeatedly occurring scams.
- (ix) The investigation of four mega scams of containers in past few years had indicated a clear pattern. The phenomena of pilferage is not new, neither are the glossing over efforts by senior officers to provide cover up through creating hindrances in investigations, manipulation of record and data, and diverting focus through 'fact finding committees'. Deliberate attempts to diffuse focus of investigation against corrupt and influential officials through 'fact finding committees' were clearly discerned.
- (x) In Lunar case, the Collector who had failed to

The senior management of Customs failed to take necessary steps to put in place appropriate countermeasures against repeatedly occurring scams



prevent wrong clearance of 52 containers laden with liquor was made part of the 'fact finding committee', to frustrate the course of investigation by Director General (Intelligence and Investigation).

- (xi) The leadership of Customs rather than initiating appropriate disciplinary / criminal proceedings against the real culprits repeatedly tried to put a different gloss on these scams.
- (xii) The modus operandi in these mega scams remained the same: fake / forged documents, primitive and manual clearance and processing systems, wide discretion in the hands of unscrupulous customs officials, lack of transparency and effective accountability, involvement of seniors otherwise responsible for oversight.
- (xiii) The picture that emerged was of gross inefficiency, maladministration and corruption in an organization that is geared to further principally the individual and communal self interest of a few individuals at exorbitant cost to the country and its people.
- (xiv) This report is an exploratory start-up tool. Although it provided some answers, it raised many more questions. The report identified the work that needed to be done in future and provided a good roadmap for the way forward.



Recommendations:

- (I) Customs clearance and cross border certification and reconciliation procedures needed massive improvement, consolidation and rationalization.
- (ii) Cross checks needed to be upgraded, diversified and externalized.
- (iii) Transport system used for ATT needed to be organized on competitive basis, and transporters given a level-playing field.
- (iv) Only bonded carriers should be allowed to transport ATT cargo. The vehicle fleet used for the purpose must be upgraded in terms of technology input for safe transportation of transit cargo.
- (v) Security of cargo needed immediate enhancement through RFID seals, and live monitoring through GPS.
- (vi) ATT cargo should bear bar code embeddings for ease of detection, and to minimise the chances of its smuggling back into Pakistan.
- (vii) ISAF / UN / NATO should adopt the same technology and transport precautions as are being used by US Forces (e.g. RFID seals and effective tracking / monitoring through GPS).
- (viii) Collusion by and corruption of Customs officials be effectively discouraged and deterred in a



sustainable manner.

- (ix) A specialized and dedicated Collectorate needed to be created to deal exclusively with the entire cargo in transit to Afghanistan.
- (x) The definition of smuggling should be broadened to include in its purview any en-route pilferages of transit goods.
- (xi) The Directorate General (Intelligence and Investigation) needed to be suitably upgraded to act as an effective deterrent against actual and potential tax evaders and their accomplices within the Customs Department.
- (xii) For better administration, the FBR should be split into two Boards, one dealing exclusively with Customs matters and the other dealing with taxes like income tax, sales tax and federal excise duty. If that is not found appropriate at this stage, a competent and honest senior officer of Pakistan Customs Service may be appointed as Deputy Chairman FBR. The measure would provide better focus on matters relating to management of Customs.

Follow Up Investigations by the FBR

While reporting progress of follow up investigation to the Supreme Court of Pakistan, vide No.1(4)M-TPA/2011/Inquiry date December 30, 2011, the



The ISAF Container Scam turned out to be the 'mother of all scams'

FBR indicated that not only had the transit-related 'smuggling' registered a sharp decline of 60%, the FTO investigation was yielding over Rs1 billion in additional revenue to the national exchequer through diversion of smuggling-prone items to lawful import regime. The ISAF Container Scam thus turned out to be the 'mother of all scams'. The FTO investigations has set an enviable example for the functionaries how investigations should be conducted in major fraud cases which constitute the 'black holes' of smuggling and tax evasion.

The colossal loss of revenue has been estimated at over Rs60 billion

The ongoing follow-up investigations led to the detection of 28,802 commercial containers and 3,542 containers imported in the name of ISAF/NATO that went 'missing' during the period January 2007 to October, 2010. The number of missing containers is still rising as the follow-up investigation is progressing. The colossal loss of revenue has been estimated at over Rs60 billion. The impact of FTO investigation has been phenomenal on local industry which was dying due to flood of 'duty free' smuggled goods follow up investigations. It is now for the FBR to identify the culprits responsible for the ISAF Container Scam and mete out exemplary punishment to effectively forestall chances of repetition of such scams in future.

(complete text of FTO report on 'ISAF ContainerScam' is available at the FTO website: www.fto.gov.pk)

9

Citizen Report Card Study by Transparency International

One of the imperatives of good governance is that stakeholders get an opportunity to make their own independent appraisal of the quality of work done by an institution in terms of the laid down standards. It was in this context that the Hon'ble FTO invited Transparency International Pakistan (TIP) to carry out a study to determine the performance effectiveness of the FTO Office. This was a difficult decision because it involved serious risks of severe defame, if adverse comments were stamped by the TIP against the high office of the FTO which otherwise enjoyed a good repute of honesty, transparency, fairness and efficiency.

Transparency International Pakistan accepted the proposal and decided to conduct the 'first of its kind' Citizen Report Card (CRC) study of a public organization in Pakistan

Transparency International Pakistan accepted the proposal and decided to conduct the 'first of its kind' Citizen Report Card (CRC) study of a public organization in Pakistan. An independent research firm 'Islamic Countries Society of Statistical Sciences (ISOSS)' was commissioned to carry out the study. The main objectives of this study were to determine as to what extent the FTO Office fulfilled the obligations defined by the FTO Ordinance 2000; what were the weak points and gaps based on public perceptions, personal experiences and the knowledge of persons who lodged complaints with the FTO Office against the tax officials. To achieve these



Focus of the study was on the FTO performance for the years 2009 and 2010

objectives, the research team prepared a questionnaire which focused on structural and operational details related to stakeholders. Focus of the study was on the FTO performance for the years 2009 and 2010. For analytical purposes, Citizen Report Card (CRC) methodology was deployed, which is a proven technique for public opinion analysis in relation to public sector services and policies. A sample of 300 taxpayers was selected in proportion to the number of complaints from relevant cities within each province. A random selection was done from the taxpayers who lodged complaints with the FTO against functionaries of income tax, sales tax, customs duty and federal excise. Chambers of Commerce and Industry, Tax Bar Associations and Tax Collectors/Commissioners were included in the survey.

The study was published in May, 2011. It noted that highest ratio of complaints was generated by small sized businesses which play a vital role in the economy of the country

The study was published in May, 2011. It noted that highest ratio of complaints was generated by small sized businesses which play a vital role in the economy of the country. About 12 types of complaints were found more common. These included inordinate delay in refunds, non-response to taxpayers' correspondence, inefficiency, arbitrariness, and misuse of information and informers etc. All these aspects of maladministration lead to corrupt practices. More precisely 56.7% complaints related to the delay, 24.3% complaints to inefficiency and the remaining 19% complaints pertained to other types of maladministration. 71.18% complaints pertained to similar acts of maladministration. There was rarely a case where serious action was taken by the FBR against the erring tax officials by awarding a major penalty.



The study reported that over 90% of the respondents who had actually interacted with the FTO Office rated it as most helpful

The study reported that over 90% of the respondents who had actually interacted with the FTO Office rated it as **most helpful**. In the past, the Motorway Police had been rated as the most helpful public sector organization in Pakistan with 81.75% and 84.91% ratings in National Corruption Perception Surveys pertaining to 2009 and 2010 respectively. **The CRC Study indicated that the Federal Tax Ombudsman was the most clean public sector organization in Pakistan.** According to Transparency International's 2011 Corruption Perceptions Index, Pakistan's score in 2011 was 2.5 out of 10 as compared to 2.3 in 2010. **One of the four organizations that contributed in improving Pakistan's ranking in 2011 was FTO Office** (the other three being Public Accounts Committee (PAC) of the Parliament, the Judiciary, and the Ministry of Defense for applying PPRA rules).

Main findings of CRC study are summarized below.

- (1) 93.5% of tax payers rate FTO response quality as good or excellent
- (2) 90.6% of taxpayers are satisfied with FTO office staff behaviour
- (3) 89% of complaints filed are decided in favour of taxpayers
- (4) 87% taxpayers are satisfied with time taken by FTO to dispose of complaints



- (5) 86.1% taxpayers deny lack of interest by FTO office in resolving their grievances
- (6) 83.5% taxpayers consider FTO officials have high integrity by not asking any favour from the taxpayers
- (7) 85.8% of Complainant's did not use any agent or broker to present their case before the FTO
- (8) 71.8% of complaints pertained to similar acts of maladministration
- (9) 56.7% complaints pertained to delay by tax functionaries
- (10) 51.4% complaints were filed by small businesses

Salient Features of the Study

Taxpayers Business Categories

There are three categories of taxpayers in the study; large, medium or small in size. Business category-wise percentages are given in Table-15:

Table-15

Category of Taxpayers

Category	Percentage	Category	Percentage
Large	16.1%	N/A	1.6%
Medium	30.9%	Small	51.4%
		Total	100%

Taxpayers Form of Business

In cases of form of business or ownership type, 52.2% are sole proprietors, 21.2% are associations of persons and 15.9% are private limited companies. Table-16 reflects the position:

Table-16
Form of Business of Taxpayers

Type of Ownership	Percentage
Sole Proprietors	52.2%
Firms	4.1%
Association of Persons	21.2%
Private Limited Companies	15.9%
Public Limited Companies	2.4%
Not Applicable	4.2%
Total	100%

Nature of Tax Maladministration

The nature of tax maladministration faced by the taxpayers is reflected in Table-17:

Table-17
Nature of Maladministration Faced by Taxpayers

Maladministration	Percentage
Delay	56.7%
inefficiency	24.3%
Arbitrariness	8.9%
Harassment for corrupt motives	6.9%
Other	3.2%
Total	100%



Taxpayers Redress Grievances

When taxpayers lodge a complaint, they first contact one of the following persons or institutions.

- (i) Officer causing grievance
- (ii) Some officer in FBR
- (iii) FTO
- (iv) Courts
- (v) Others like Trade Bodies, Tax Bar Associations or Chambers of Commerce and Industry

Table-18 indicates the percentage of persons who approached the above offices.

Table-18
First Contact for Redress of Grievances

Contact Point	Percentage
Officer causing the grievance	41.7%
FBR	18.2%
FTO	38.8%
Courts	1.3%
Total	100%

Officials Contacted at FTO by the Taxpayers

A vast majority of the taxpayers (62.4%) contacted

the respective Advisors at FTO offices. The remaining 37.6% taxpayers contacted other FTO officials, as shown in Table-19:

Table-19***Person Contacted at FTO by Taxpayers***

Contact Point	Percentage
Advisor	62.4%
Registrar/Director	6.5%
Deputy/Registrar/DD	1.6%
Staff	23.7%
Others	5.8%
Total	100%

Response in case FTO recommends disciplinary action against tax functionaries is indicated in Table-20:

Table-20

Type of response	No of Response	Yes	Percentage
Take disciplinary action in right earnest	19	19	100.0%
Effectively punish the tax functionaries with minor penalties and censures only	19	1	5.26%
Let off the tax functionary with minor penalties and censure only	19	1	5.26%
Dislike recommendations of disciplinary action against staff	19	0	0.00%

Usefulness of the FTO in Rooting Out Tax Maladministration

None of the FBR officials who participated is the



CRC study thinks that the FTO is not useful in rooting out tax maladministration. In fact about 21.1 percent believe that the FTO is highly useful and about 78.9 percent that the FTO is useful in rooting out maladministration. Table-21 represents the position:

Table-21

Usefulness of The FTO in Rooting Out Tax Maladministrations

Rating	Percentage
Highly useful	21.1%
useful	78.9%
Not useful	-%
Total	100%

“The office of Federal-Tax Ombudsman has been ranked as the most clean and efficient office. It is exemplary and may be declared as a role-model, which should be followed by all public sector organizations”

In the back drop of the findings of the study, the Chairman Transparency International Pakistan observed in his Note prefaced to the study that **“The office of Federal-Tax Ombudsman has been ranked as the most clean and efficient office. It is exemplary and may be declared as a role-model, which should be followed by all public sector organizations”** The Executive Summary of the study carried the bottom line that: **“The study strengthens the relationship between the FTO and the taxpayers who consider that FTO is a blessing for them”**. The study also reports that **“taxpayers seem to be highly satisfied with the FTO.”** It is evident from the study that **efficiency** and **integrity** constitute **high visibilities** of the FTO Office in the context of ensuring accountability of tax administration and promoting good governance in Pakistan.

(complete report of CRC study is available at the FTO website: www.fto.gov.pk)



Forum of Pakistan Ombudsman

On the initiative of Hon'ble Federal Tax ombudsman a networking of Pakistan's Federal and Provincial Ombudsman was established on April 15, 2011 and registered under the Societies Act (Act XXI of 1860) on June 4, 2011. The Forum of Pakistan Ombudsman (FPO) comprises the following membership:-

- i. Federal Tax Ombudsman, Islamabad
- ii. Wafaqi Mohtasib (Ombudsman), Islamabad
- iii. Federal Insurance Ombudsman, Karachi
- iv. Banking Mohtasib Pakistan, Karachi
- v. Federal Ombudsperson for Protection against Harassment of Women at Workplace, Islamabad
- vi. Provincial Ombudsman Punjab, Lahore
- vii. Provincial Ombudsman Sindh, Karachi
- viii. Provincial Ombudsman Khyber Pakhtunkhawa, Peshawar
- ix. Provincial Ombudsman Balochistan, Quetta

On the initiative of Hon'ble Federal Tax Ombudsman a networking of Pakistan's Federal and Provincial Ombudsman was established on April 15, 2011

- x. Ombudsman of Azad Jammu & Kashmir,
Muzaffarabad

The FPO dedicates itself, by means of social, educational training and research pursuits, to promote the Ombudsman concept at the national, provincial and local levels and to establish professional linkages internationally

The FPO is a professional, independent and non-political network for ensuring effective accountability of public functionaries of Ombudsman of Pakistan and Azad Jammu and Kashmir (AJK). Its principal objective is advancement of good governance at federal and provincial levels. The FPO dedicates itself, by means of social, educational training and research pursuits, to promote the Ombudsman concept at the national, provincial and local levels and to establish professional linkages internationally. Its principal objective is to strengthen public grievance-redress mechanisms in Pakistan and Azad Jammu and Kashmir. For this purpose, core capacities will be strengthened for achieving higher order professionalisation in all ombudsman offices. Another major objective is to reduce the level of citizens' tolerance for maladministration by advocacy and awareness under a well-co-ordinated and collective outreach program under the umbrella of the FPO.

In the FPO's first formal meeting on 15-04-2011, the consensus-based decisions taken included:

- (i) The following office bearers were elected by consensus;

President : Dr. Muhammad Shoaib Suddle,
Federal Tax Ombudsman

Vice President : Mr. Khalid Mahmood,
Provincial Ombudsman, Punjab

Secretary: Mr. Badshah Gul Wazir,
Provincial Ombudsman, KPK

Treasurer: Mr. Mansur-ur-Rehman Khan
Banking Mohtasib, Pakistan

- (ii) Draft by-laws of the FPO were considered and approved
- (iii) Logo of the FPO was approved
- (iv) Annual membership fee was fixed at Rs25,000/-
- (v) The FPO to be registered preferably under the Societies Registration Act, 1860
- (vi) Focus of The FPO operations will be capacity building by improved coordination and sharing of expertise amongst the Ombudsman of Pakistan and AJK
- (vii) Training opportunities will be explored at international level to learn from international good practices
- (viii) The FPO to strive for standardization of Ombudsman practices in Pakistan

Honorary life membership of the FPO was conferred on Mr. Javed Sadiq Malik, the outgoing Wafaqi Mohtasib, and Justic (Retd) S. Ali Aslam Jaffari, former Insurance

Ombudsman, for their outstanding contribution to Ombudsmanship in Pakistan.

In order for achieving the goals set out for the FPO, the following collective reform initiatives were agreed as organizational priorities:-

- (i) IT enablement
- (ii) Outreach expansion
- (iii) Business process re-engineering
- (iv) Capacity building for skill development
- (v) Standardization of terms and conditions

In the two follow-up meetings held during 2011, the progress made on need assessment of individual ombudsman offices and collective capacity building through training was reviewed. It was decided to explore funding facilities preferably on grant basis, from international donors for holding capacity building workshops on the following themes:

- i) Principles of Ombudsmanship
- ii) Challenges of Ombudsmanship
- iii) Innovation in Ombudsmanship
- iv) The Art of Fairness in Ombudsmanship
- v) Investigation for Tangible Justice

It is expected that the legislation and procedural framework of all ombudsman offices, federal or provincial, will be rehashed in order to standardize the terms and conditions and strengthen the law to make ombudsmanship more effective in strengthening accountability for promoting good governance

Encouraged by the innovative institutionalisation of collective capacity building under the umbrella of the FPO, CIDA, UNDP and the World Bank have expressed their willingness to provide financial and technical support for ensuring efficiency and accountability of public functionaries in Pakistan. Financial/technical assistance is also expected from the European Union and International Ombudsman Institute (IOI). Along with this, necessary work has also been initiated to identify issues relating to standard terms and conditions and pay and allowances of the Ombudsman and staff.

It is expected that the legislation and procedural framework of all ombudsman offices, federal or provincial, will be rehashed in order to standardize the terms and conditions and strengthen the law to make ombudsmanship more effective in strengthening accountability for promoting good governance. Core capacities will also be put in the ombudsman offices under the umbrella of the Forum of Pakistan Ombudsman in order to upgrade the skill-sets and efficiency of members. Effective complaint management will be ensured for the mandated prompt redress of citizens grievances against maladministration of public functionaries.



Hon'ble Federal Tax Ombudsman, Dr. Muhammad Shoaib Suddle, visited Lahore Chamber of Commerce and Industry on March 19, 2011

1

Public Feedback

The FTO Office receives letters and e-mails of appreciation and thanks from many taxpayers whose grievances are redressed. Following are excerpts from some of these letters and e-mails:

“Motivated by sense of dedication and loyalty to the country, there can be no doubt that you are serving the best interests of Pakistan and its people and therefore, you should be a role model for our civil servants”

“I am unable to find adequate words of appreciation and gratitude for the positive role played by your office in bringing about speedy resolution of what had turned out to be a difficult and arduous matter without any valid reason. The Tax Office was simply not prepared to rectify its own error which caused unnecessary pain and suffering to me. Fortunately, however, with your intervention, I was able to enforce my legal right efficiently against the backdrop of official indifference and apathy of the Tax Department. Needless to say, upright, talented and decided officers like your good self are our country's greatest asset. Indeed, this is the only lining on the horizon, radiating bright rays of light and hope in an atmosphere of despondency and frustration. Once again, I feel constrained to thank you profusely for ordering the Tax Department to act according to the law. Motivated by sense of dedication and loyalty to the country, there can be no doubt that you are serving the best interests of



Pakistan and its people and therefore, you should be a role model for our civil servants."

Munir A, Gondal
Jeddah, Saudi Arabia

"The Hon'ble FTO in his findings dated 12-05-2011 recommended issue of refund and compensation as per law within 21 days of the report. It is submitted that the department issued refund in the light of directions issued by the Honourable FTO amounting to Rs1.195 million. We have received the refund and are satisfied with it. We are withdrawing our application regarding compensation on delayed refund u/s 171 of the Income Tax Ordinance, 2001. We extend our gratitude for the effort and support extended by FTO in our case."

UHY Hassan Naeem & Co
Chartered Accountants
193-A, Shah Jamal
Lahore

"We extend our gratitude for the effort and support extended by FTO in our case."

"I appreciate efficiency, honesty and promptness with which the claim has been settled by the concerned functionaries, speaks volumes of your able guidance and leadership."

"I have received the claimed refund from office of the Chief Commissioner Inland Revenue, Regional Tax Office, Sialkot. I appreciate efficiency, honesty and promptness with which the claim has been settled by the concerned functionaries, speaks volumes of your able guidance and leadership."

Justice (R) Ch. Mushtaq Ahmed Khan
Sialkot Law Chambers, Lahore



"I, as a counsel for as well as on behalf of my client am really indebted to your kind Secretariat whose timely interference saved my client from the unlawful embarrassment"

"This clearly reflects the justice and fairplay you are providing to even an ordinary taxpayer."

"I, as a counsel for as well as on behalf of my client am really indebted to your kind Secretariat whose timely interference saved my client from the unlawful embarrassment. This is your kind lordship that treated the law well in spirit and dispensed justice to the complainant. As soon as the judgment was delivered from your office, the respondent Commissioner withdrew his orders for conducting the Audit against the complainant. He issued orders accordingly and I received it. Thanks for dispensing justice."

Udha Ram Rajput
Advocate, Sukkur

"We are extremely thankful to you as we have received the rebate claims as per the directive of the Hon'ble Federal Tax Ombudsman. This clearly reflects the justice and fairplay you are providing to even an ordinary taxpayer."

M.R. & Associates
Customs, Rebate & Sales
Tax Consultant, Karachi

"I inform with pleasure and thanks that I have received refund voucher on 28-09-2011 from officer Inland Revenue, Enforcement & Collection, Lahore. Now no issue with reference to my above noted complaint in pending. Case may please be closed at your end. I once again thank you for providing me justice"

M.A. Masood
4-A, Mussarat Colony Guslhan-e-Ravi, Lahore



"It is our prayers that Allah may keep you empowered to do justice in the same way. (Ameen)"

"I, as a Secretary, Pakistan Library Association extend my Heartiest gratitude and appreciation to your good self on behalf of my colleagues on the historic verdict of 75% Tax Rebate, (Complaint No. 38/ISDI/IT(14) 490/2011) which curtailed the ongoing injustice to the library professionals. It is a positive and encouraging sign. By the grace of Almighty Allah the truth of justice is prevailing in Pakistan. It is our prayers that Allah may keep you empowered to do justice in the same way. (Ameen)"

Azim Khan Marwat

Secretary, Pakistan Library Association
Islamabad

"Please refer to your letter No. 1/16-L/11-Impl dated 10-09-2011. It is to inform you that with the help of your worthy office, the grievance of the complainant has been redressed and you may close the file."

Saeed Ahmed Akhtar

Rafique Chaudhry & Co Lahore

"All good wishes for all team members of the only cleanest organization of Pakistan"

"Justice has nothing to do with what goes on in a courtroom; justice is what comes out of a courtroom. All good wishes for all team members of the only cleanest organization of Pakistan."

Waheed Shahzad Butt

Advocate High Court Lahore

12

Organisation

The FTO Office started operating on September 19, 2000, when first Federal Tax Ombudsman took oath of office

The Government of Pakistan promulgated Ordinance No. XXXV of 2000, to establish the Office of the Federal Tax Ombudsman on August 11, 2000. The FTO Office started operating on September 19, 2000, when first Federal Tax Ombudsman took oath of office. The FTO Secretariat originally comprised its Headquarters at Islamabad and two Regional Offices at Karachi and Lahore. Another Regional Office started working at Quetta in November, 2009. The Regional Office at Peshawar will be operationalised in 2012. In addition, a number of Facilitation Centers have been planned for the main commercial cities like Hyderabad, Sukhur, Sialkot, Gujranwala, Multan, Faisalabad and Abbotabad.

Legal Framework

The legal framework of the FTO Office includes:

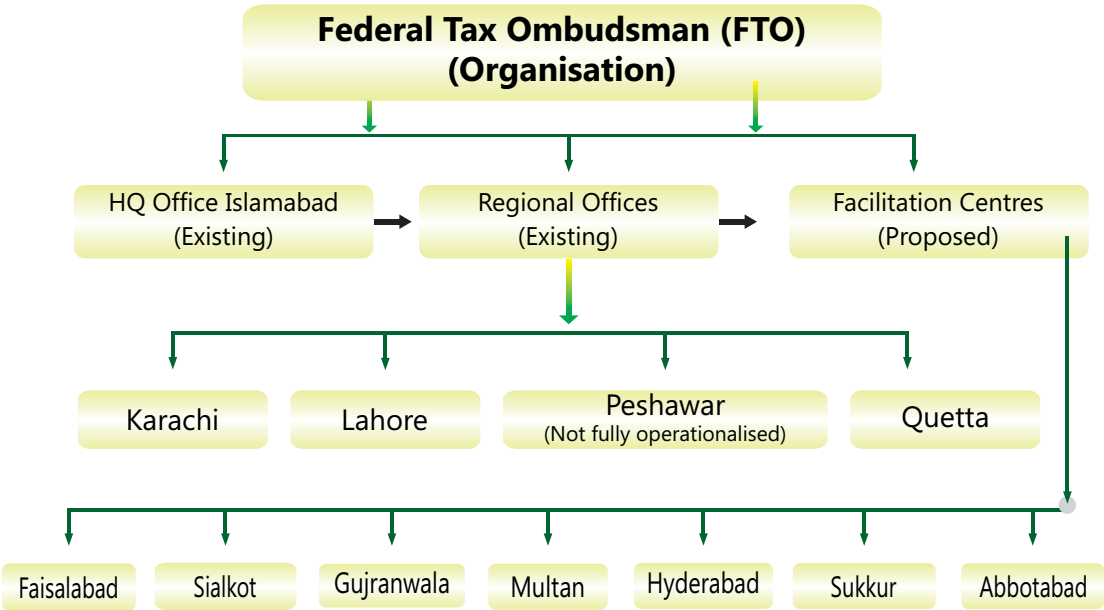
- (i) The Establishment of the Office Ombudsman Ordinance, 2000;
- (ii) The Federal Tax Ombudsman Investigation and Disposal of Complaints Regulations, 2001;
- (iii) The Federal Tax ombudsman Office Staff Service Rules, 2006; and



The organisational set-up of the FTO Secretariat including the Regional Offices is small and simple

Organisational Set up

The organisational set-up of the FTO Secretariat including the Regional Offices is small and simple as can be seen in the organogram below:



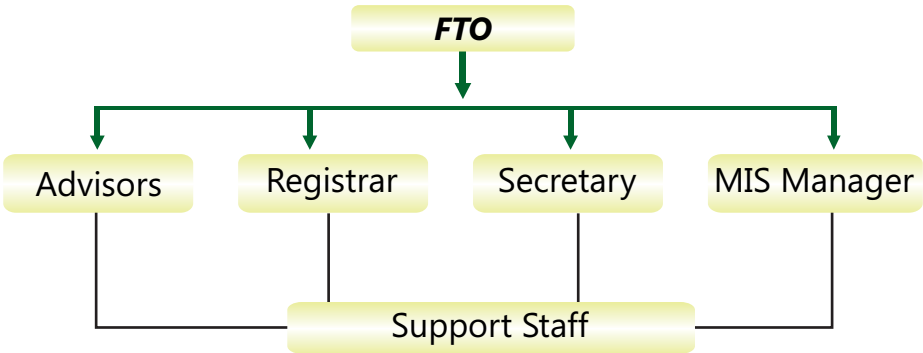
Administrative Structure

The FTO Office initially had the sanctioned strength of 243 posts. During the subsequent rightsizing drive, as many as 100 posts were slashed. Later, 48 posts were added keeping in view the increased workload. In 2010, an MIS Wing was added with an initial strength of an MIS Manager and 6 staff members. The FTO's



At the advisory level, it is a lean and flat administrative setup

investigation staff including Senior Advisor, Advisors In-charge of Regional Offices and the subject specialist Advisors are mostly well reputed retired senior officers of the FBR and the Judiciary. At the advisory level, it is a lean and flat administrative setup as can be seen from the diagram below:



13

How a Complaint is Filed

Complaints can be filed at the relevant Regional Offices at Karachi, Lahore, Quetta or HQ office at Islamabad

- (1) A complaint may be filed in accordance with the provisions contained in Section 10 of the FTO Ordinance, 2000 read with Regulation No. 3 of the FTO's Regulations 2001 preferably on FTO-Form "A" available free of cost at the Head Office and Regional Offices. Form 'A' can also be downloaded from FTO's website: www.fto.gov.pk
- (2) Complaints can be filed at the relevant Regional Offices at Karachi, Lahore, Quetta or HQ office at Islamabad. However, complaints pertaining to Khyber Pakhtunkhwa Province are filed at Islamabad till such time that the Regional Office at Peshawar becomes fully operational.
- (3) It will be stated in the solemn affirmation attached with the complaint that-
 - (i) previously no complaint on the subject was filed with the FTO Office;
 - (ii) a representation to a senior officer of the Revenue Division or any of its departments in respect of the allegations contained in the complaint was made, but either no reply thereto was given within a



reasonable time or representation had unjustly been turned down, or no representation was made.

- (4) The territorial jurisdiction of the Head Office and Regional Offices is as specified in the Schedule to FTO's Regulations, 2001 which may be modified by the Hon'ble FTO by an order in writing from time to time: provided that the Hon'ble FTO may direct that a complaint falling within the territorial jurisdiction of one Regional Office may be investigated at any other Regional Office or the Head Office.
- (5) On receipt of a complaint, the concerned official in the Registry shall enter the particulars of the complaint in the daily register giving it a diary number and issue a receipt thereof, if the complaint is present personally, and forward it to the Registrar.
- (6) The official receiving the complaint shall assist the complainant in filling out the FTO-Form "A", if such assistance is requested.

14

How to Contact Us

Citizens may contact the FTO Office at:



Federal Tax Ombudsman Secretariat

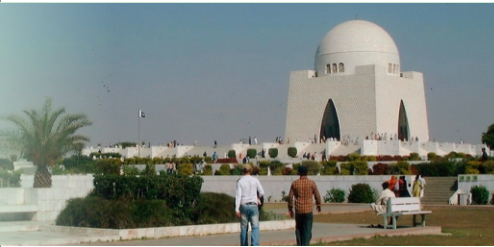
Headquarters, Islamabad

5-A, Constitution Avenue Islamabad.

Tel: 051-9212316, 051-9202447,

Fax: 051-9205553

Email: info@fto.gov.pk, Web: www.fto.gov.pk



(i) Regional Office, Karachi

4th Floor, Shaheen Complex, M.R. Kayani Road, Karachi. Tel: 021-99213586-90

Fax: 021-99213583,

Email: ftokhi@fto.gov.pk



(ii) Regional Office, Lahore

Bungalow No.186-A, Scotch Corner, Upper Mall, Lahore. Tel: 042-99201825,

042-99201895, Fax: 042-99201893,

Email: ftolhr@fto.gov.pk



(iii) Regional Office, Quetta

House No. 141, Shabaz Town, Phase-I,

Samungli Road, Quetta. Tel: 081-2863258

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