

Alternate Dispute Resolution - Free and Speedy Complaints Redressal Framework using Technology: Ombudsmanship at Proverbial Doorsteps in Pakistan

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Abstract

Ombudsmanship is the framework to provide the speedy administrative justice to poor man which is originated in Sweden in the 19th Century and the modus operandi with modernized arrangement of public grievance redressal. Pakistan has thirteen different Ombudsman Institutions at both Federal and Provincial level with limited public accessibility. This paper presents a collaboration framework for extending the outreach of Ombudsmanship at proverbial doorstep of complainants. This framework has three main components as collaborative arrangements, Proceedings and Resolution of the complaints that increased the public trust. A pilot project titled Swift Complaint Resolution (SCR) was constructed and executed by Federal Ombudsman Secretariat to materialize the concept of speedy redressal of complaints. The SCR project first affirmed the strength of the components of the framework. The concept of SCR was first presented in the Federal Advisory committee for Administrative Justice, which comprised of highest level of the Parliamentarians, Public Officials, NGOs and Civil Society where presented guidelines to be adopted for the free and speedy redressal of grievances at proverbial doorsteps in tehsils and district headquarters ultimately to the extended to the union councils. In SCR, the complaints were decided within 25 days even though the Law permitted 60 days that is itself a record in any judicial /quasi-judicial forum.

Keywords:

Grievance Redressal, Networking of Ombudsman, Proverbial doorstep, Collaborative Framework, Collaboration of Ombudsman, Intra Public Sector Collaboration

1. Introduction

Government of a country always want to keep his citizen happier and prosper with the provision of high-class justice and dispute resolution services (1; 2). So, the dispute resolution services were also extended against the government institutions by establishing of grievances redressal system as Ombudsman, a more modernized modus operandi for public complaints (3). In Pakistan, since 1983, the redressal services are being provided by the Federal Ombudsman (Mohtasib) office (4) both at provincial and federal level (5). This institution is known as ‘poor man’s court’ for its rectifying powers against the maladministration of the government agencies. The success of this particular notion of Mohtasib is reflected in the creation of different Ombudsman’s Institutions in public sector of Pakistan like harassment, tax, and insurance etc. That is the conceptual extension of the system of administrative justice. Nonetheless, now is the time to

extend this service closer to people in a physical sense. The benefits of free and speedy justice can be further extended by taking the system as close to the doorstep of the citizen as possible. In addition, there is a requirement to ‘bundle up’ the all the extended redressal services at both Wafaqi and Provincial Mohtasib Offices in one place near to citizen, without sacrificing the autonomy of any of these offices (6).

The complexities as well as time and costs involved in formal delivery of justice, besides arduous cases load on courts makes it logical to think alternatively in provision of justice in simpler and quicker ways. The idea of speedy justice is successfully applied in a number of developed countries in various forms. A large percentage of the cases lodged in Australian and British Courts are being settled through alternative processes thereby saving cost of the parties and sparing time of the court. The courts, all parties have now accepted that this alternative process term of speedy resolution of complaints and reduction in workload of the courts (5).

Extensive experience of Federal Ombudsman’s office demonstrates that a significant volume of litigation arises due to the maladministration by the government agencies. This significant volume of litigation can be reduced by applying different filters & checks adequately at Ombudsman Offices. “Despite all the efforts at the highest level, the existing justice system is faced with many challenges and has not been able to provide speedy and affordable remedy to the common man in Pakistan. It is common knowledge that an average criminal case takes years while a civil suit takes decades to finalize” (6). According to the Judicial Statistics of Pakistan published by Secretariat, Law and Justice Commission of Pakistan in its annual report 2020 has shown the following figures and pendency as shown in Table1 and Figure 1.

S.No.	Name of Court	Pendency on 1.1.2020	Pendency on 1.1.2021
1	Supreme Court of Pakistan	42,998	46,998
2	Lahore High Court Principal seat at Lahore	108,830	112,509
3	Lahore High Court, Rawalpindi Bench	19,438	17,525
4	Lahore High Court, Multan Bench	40,091	44,207

5	Lahore High Court, Bahawalpur Bench	13,640	13,935
6	High Court of Sindh, Principal Seat at Karachi	60,139	59,381
7	High Court of Sindh, Bench at Sukkar	8,566	6,738
8	High Court of Sindh, Bench at Hyderabad	11,748	11,425
9	High Court of Sindh, Bench at Larkana	3,467	4,140
10	Peshawar High Court	40,795	41,832
11	High Court of Balochistan	4,849	3,988
12	Islamabad High Court	15,885	16,288
13	Federal Shariat Court	176	178
	Total	370,622	379,144

Table 1: Pendency of Cases in High Courts and Supreme of Pakistan (7).

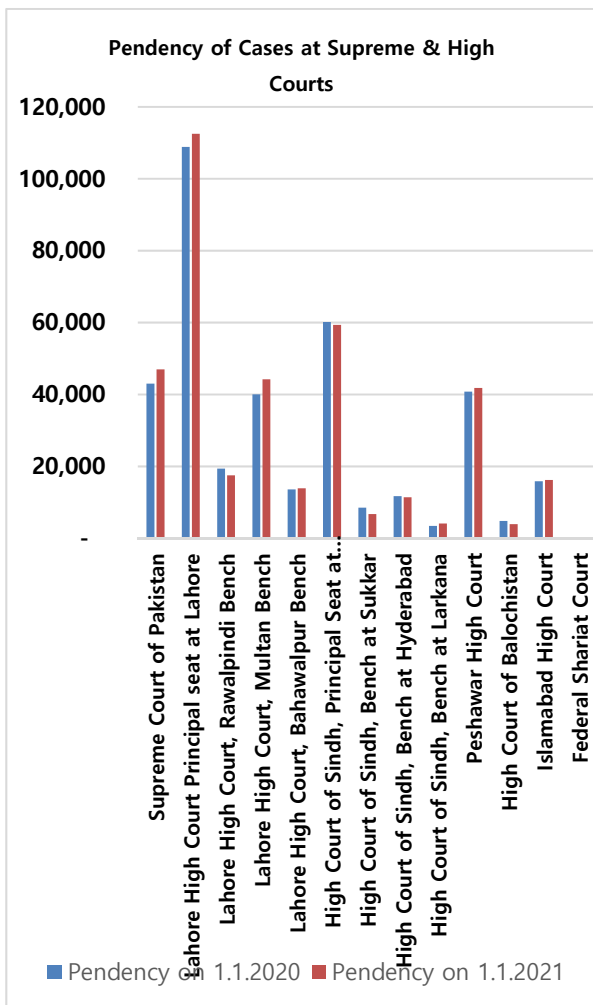


Figure 1: Pendency of Cases in High Courts and Supreme of Pakistan (7).

The pendency of cases in district courts of all provinces of Pakistan is as follows in Table 2 and Figure 2

S.No.	Name of Province	Pendency on 1.1.2020	Pendency on 1.1.2021
1	Punjab Province	1,108,461	1,362,423
2	Sindh Province	93,960	115,815
3	KPK Province	196,238	230,474
4	Balochistan Province	13,776	16,034
5	Islamabad	41,329	48,244
	Total	1,453,764	1,772,990

Table 2: Pendency Cases in District Courts Province wise in Pakistan (7)

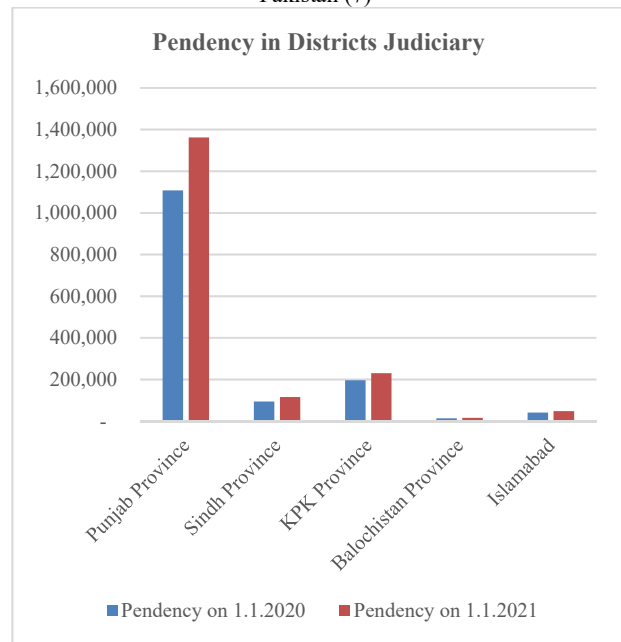


Figure 2: Pendency Cases in District Courts Province wise in Pakistan (7)

The office of Wafaqi Mohtasib (Ombudsman) Pakistan was established in 1983 through a Presidential Order (4). Wafaqi Mohtasib’s office is mentioned at “Serial No.13 of Federal Legislative List Part-I of Fourth Schedule of 1973 Constitution of Pakistan”. The Mohtasib has jurisdiction over maladministration as defined in P. O. 1 of 1983 done by federal government agencies.

Article 33 of P.O. No 1 of 1983 provides; “The Mohtasib shall have the authority to informally conciliate, amicably resolve, stipulate, settle or ameliorate any grievance without written memorandum and without the docketing any complaint or issuing any official notice. (2) The Mohtasib may appoint for purpose liaison counsellors, whether honorary or otherwise, at local levels on such terms and conditions as Mohtasib may deem proper.” The sharing of latest technology in Ombudsman office of Pakistan has created the great impact on the redressal of complaints (8). These offices are also handling their complaints in almost same way (9) without sacrificing the autonomy so they may

collaborate for speedy justice at proverbial doorstep in PGRS.

The Office of Ombudsman is not only providing free of cost justice but also in an expeditious way. The average cost at Federal Ombudsman Office comes to Rs.400/- per complaint, which is borne by the Government. The objectives of this study will be achieved by answering the following research questions;

RQ1: How to extend the outreach of Ombudsmanship at proverbial doorstep in PGRS using technology?

It is proposed that a common place be created for Federal Ombudsman and Provincial Ombudsman at district headquarters initially, it could be the district regional office of the Provincial Mohtasib where initial hearings are conducted and announce on the spot decisions.

This study is organized in four sections. Section 1 provides the history of the Public Grievance Redressal System (PGRS), concept, rationale and legal context supported from the previous literature. Section 2 provides the research methodology. Section 3 provides the construction of the framework and implementation through pilot project. Section 4 provides the conclusion followed by future work and limitation sections.

2. Research Methodology

There are different lines of actions in which study can be conducted based on the fundamental epistemology (the way in which knowledge can be obtained) i.e., interpretive, positivist and critical research philosophical paradigms (10; 11; 12). The interpretive research is used to search and understand the context within which decisions and actions are performed for this study. Further, the qualitative research method is used for natural and social settings (11; 10; 13; 12) of this study in which participatory consultative approach (14; 15) is used. This process gave the feedback of the community and stakeholders. Applied research method with case study problems (16) (Yin, 2003) are applied to find practical hurdles in socio-economic implementations. The study is completed in two major phases.

Phase 1: The Construction of Framework: Federal Ombudsman of Pakistan called the proposals from the eminent people of Pakistan for the outreach Ombudsmanship at proverbial doorstep. A special committee constituted by Ombudsman including Ex-Chief Secretary, Ex-Chief Justice of Peshawar High Court, Federal Secretary and an IT professional analyzed these proposals. This committee presented a draft proposal to Ombudsman, which was again sent to the people who earlier submitted the proposal for their consultation and feedback. The committee again accommodated the positive feedback and finalized the components of the outreach framework. The eminent members of the Federal Advisory Committee include Dr. Ms. Asma Jahangir, S.I.;

Barrister Mr. Wasim Sajjad, N.I.; Senator Farooq H. Naik, N.I.; Prof. Dr. Ijaz Nabi; Mr. Hameed Haroon, H.I.; Dr. U.A.G. Isani; Dr. Ishrat Hussain, H.I.; Dr. Masoom Yasinzai; Malik Asif Hayat, H.I.; Mr. Moeen Afzal, H.I.; Mr. Chief Justice (R) Muhammad Raza Khan; Mr. Muhammad Saeed Mehdi; Mr. S. M. Munir, S.I.; Mr. Shakil Durrani; Mr. Shoaib Sultan Khan; Senator (R) Mrs. Shama Perveen Magsi.

Phase 2: External Validation and Implementation of Framework - Case Study Methodology: Number of meetings were held by Federal Ombudsman for implementation of the mechanism for extended outreach. After extensive debate implementation of the mechanism was started. The pilot project named Swift Complaint Resolution (SCR) was started to materialize the concept of enhanced outreach. In SCR the optimal process and timeline for complaint resolution were designed. The components of the framework were evaluated in SCR Project. The results of SCR project proved to be excellent and encouraging for further extension of the project.

3. Results

3.1 Phase 1: Conceptual Framework Development

Considering the dire need of the systematic guidelines for the outreach of Ombudsmanship at proverbial doorstep, a conceptual framework was developed. The key elements collected from consultative approach were arranged in three main components 1) Arrangements 2) Proceedings and 3) Resolution as shown in Figure 3.

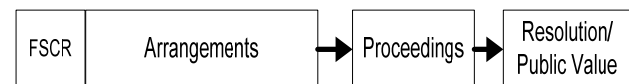


Figure 3: Theoretical Phatak Framework for FSCR

Structural Validation of Framework- Consultative Approach (Feedback/Opinion) of Experts on Proposed Phatak Framework for FSCR

For structure validation, text analysis of the feedback of the experts was carried out using NVivo. The needs and ways to improvement of Ombudsmanship at proverbial doorstep are shown in Figures 4, 5 & 6 which indicated the use of technology, collaboration, resources to create the public value by improving the service delivery. Frequency of technology & collaboration relating to years of experience of the participants are shown in Figures 7&8. TSQ of Service Delivery & technological collaboration are shown in Figures 9&10. The impact of technology and collaboration on Ombudsmanship at proverbial doorstep is shown in figure 11.

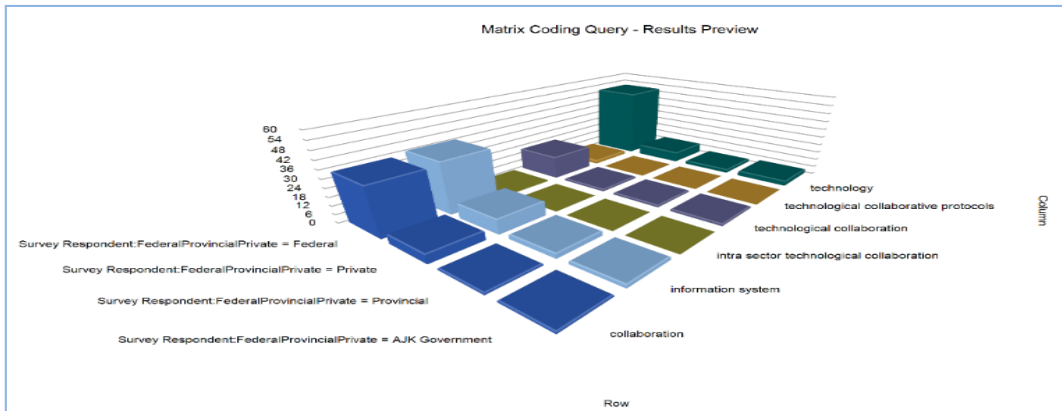


Figure 4: Word Cloud for needs of Improvement



Figure 5: Word Frequency Model- Ways of Improvement

sector	collaboration	organization	process	improve	benchmark	integration	technolog	latest	ombuds	share
				practices	solution	systems	training	whole	adopt	collabor
		public	use	sharing	enhance	resource	used	well	abund	adopt
technology	system		using	software	human	bench	increas	link	proces	propertax
		resources	best	available	identify	config	advan	design	help	impro
		performance	organizations	intra	impleme	core	also	even	new	provi
may	information				develop	among	exper	opera	servic	strong
					infrastru	get	better	finan	order	servic
					operatic	help	cost	good	physic	strear
										within
										acc
										achie
										activ

Figure 6: Word Frequency Model- Ways of Improvements

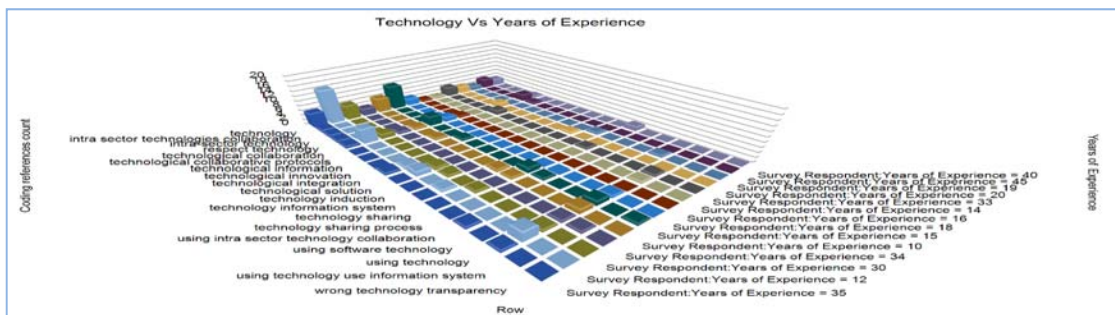


Figure 7: Frequency of Technology- Years of Experience

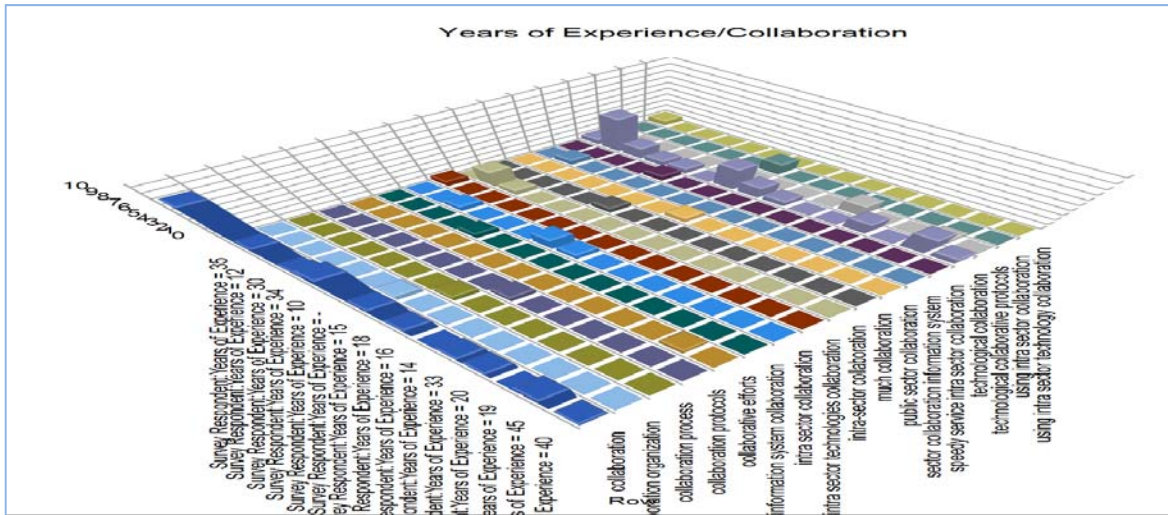


Figure 8: Frequency of Collaboration- Years of Experience

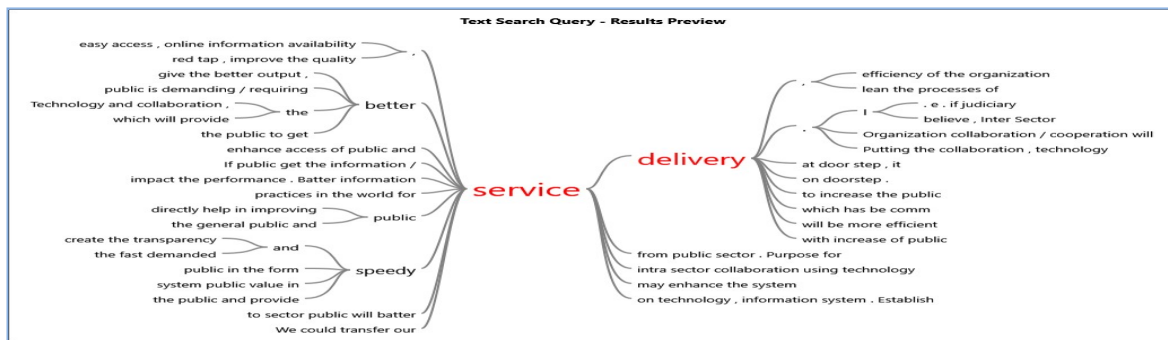


Figure 9: TSQ-Service Delivery

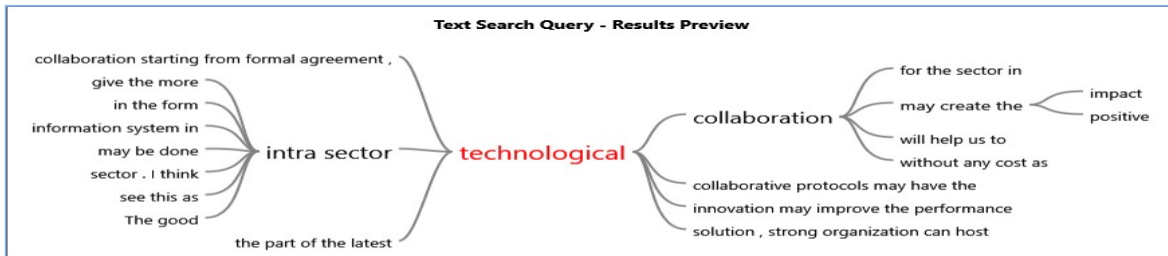


Figure 10: TSQ of Technological Collaboration



Figure 11: Impact of technology and Collaboration

After the collection of the key elements of outreach from the proposals of different experts, these key elements were then sent back and discussed openly in meetings for materialization of the concept. The three

components are elaborated with key elements as shown in Figure 12.

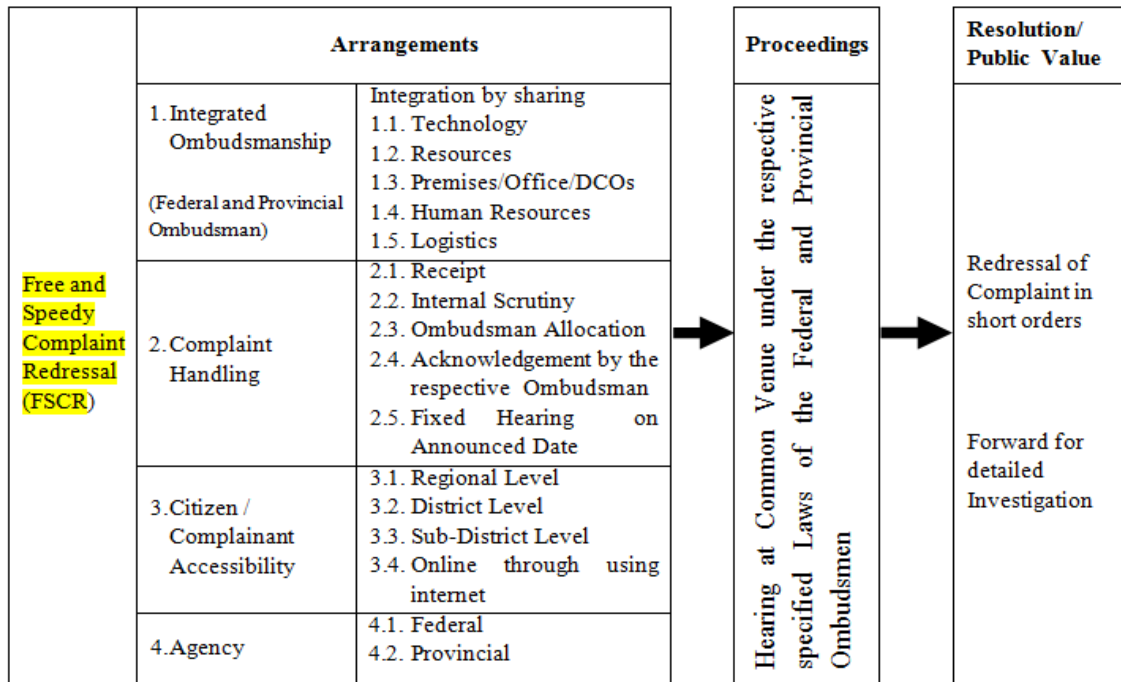


Figure 12: Elaborated Phatak Framework for FSCR

3.1.1 Arrangements

Prior and effective arrangements are a prerequisite for success of the FSCR. It includes the four main elements including stakeholder (Representative of Ombudsman, Complainant and Agency) for FSCR.

3.1.1.1 Integrated Ombudsmanship

Each Ombudsman will be integrated by sharing of 1) Technology 2) Resources 3) Premises with other Ombudsman 4) Human Resources and 5) Logistics. The resources will be shared at place nearest to proverbial doorstep of complainants. The role of technology is considered as important as explained in public sectors (17; 18; 19; 20; 21; 8)

3.1.1.2 Complaint Handling

Every complaint should be handled properly from 1) Receipt 2) Initial Scrutiny 3) assigning to respective Ombudsman i.e. if it belong to Federal then to the Federal or else to the Provincial Ombudsman and 4) Fix Hearing by concerned Ombudsman’s authorized officer. The complaints will be registered near to proverbial doorstep of complainants.

3.1.1.3 Complainant Accessibility

It is the most important element of the arrangements. The office will be set up where complainant can easily access the office 1) Regional Level 2) District Level 3) Sub-district Level and 4) Online access to Ombudsman institutions where complainant can lodge his complaint using internet software (22).

3.1.1.4 Agency

As complaint is against an agency so the presence of the respective agency either federal or provincial in locality is necessary.

3.1.2 Proceedings (Ombudsman Complex at District Level)

Hearing proceedings of the complaints will be held at common venue under the specified Law of the Federal and Provincial Ombudsman. The representative of each ombudsman will visit the common Ombudsman Complex and finalize the proceeding of the complaint according to the governing Law. After hearing the case he will announce the final decision on the complaint or transfer for detailed investigation to the Officer in the nearest Ombudsman’s Regional Office.

3.1.3 Resolution of the Complaint / Public Value

Moore discussed and inferred that the public value can be created by the collaboration of different public sector organizations in public interest. Single organization cannot create it in a sector (23; 24). Logically it is connected to manage the resources, delays, costs effectively, and meeting the speedy justice needs of complainant by dealing with the strengths and weaknesses of collaborating organizations. The complaints will be resolved at the proverbial doorstep while sharing the common venue at district and sub district level of Pakistan.

3.2 Phase 2: Implementation Phase-Case Study Analysis

3.2.1 Introduction of Case

We selected Federal Ombudsman of Pakistan, which deals with the public complaints against mal-administration on the part of government agencies at federal level.

3.2.2 Pre-Implementation Problems in PGRS

The Federal Ombudsman Secretariat has only twelve regional offices throughout the Pakistan due to its financial and operational constraints. It is almost impossible to extend its outreach with its limited resources. So public has limited access and awareness of

Ombudsmanship. There is no access to the people living in far-flung areas. The complainant has to come either to the regional office or the Head Office of Federal Ombudsman. The SCR pilot project was launched in January 2016 for framework implementation and validation.

3.2.3 Information System Development - Web-based Software

Technology has eased the life of human beings for a speedy and transparent access to information. In this regard, using technological collaborative framework for PGRS of Pakistan (8) the Complaint Management Information System was extended for SCR project. Ninety-three virtual offices were created at subdivision level (also physically established) for hearing proceedings and monitoring.

3.2.4 Swift Complaint Resolution (SCR) Pilot Project

The SCR pilot project was launched on 27 January 2016 based on effective outcomes of technological collaboration among the Ombudsman offices (8). In first phase, the project was started in 38 districts and was later extended to 138 Districts and 435 Sub-divisions throughout the country. The optimal process and timelines were developed as shown in Figure 13.

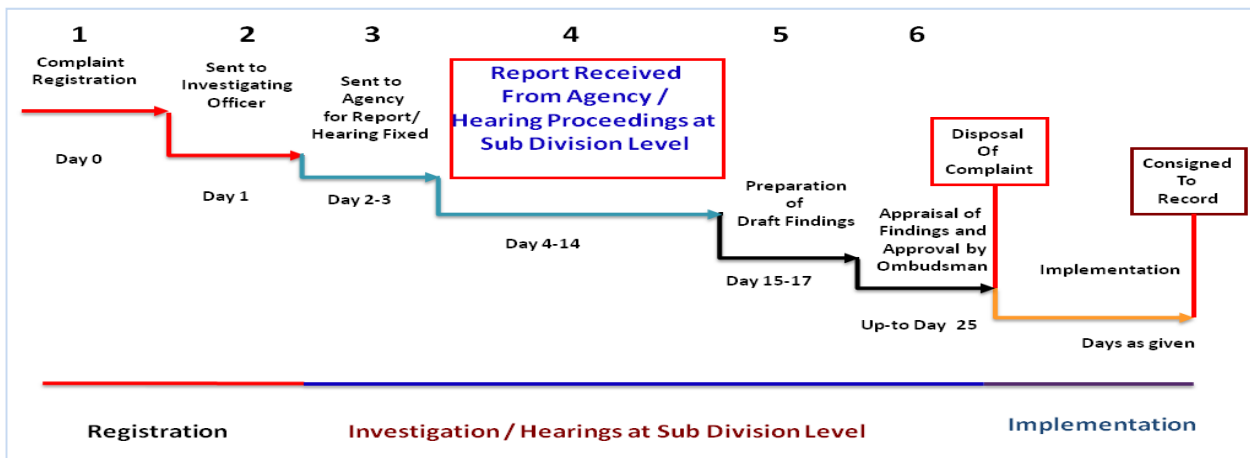


Figure 13: Optimal process/Timeline for SCR

Total 13,430 complaints were heard at subdivision level. More than 99% complaints were disposed of within

25 days and the remaining 109 complaints were returned for detailed investigation as shown in Figure 14.

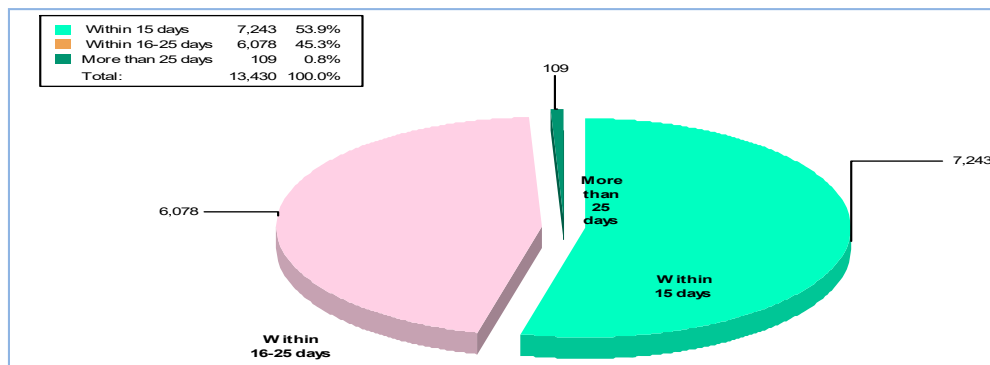


Figure 14: Disposal of Complaint in SCR Pilot Project

3.2.5 Case Analysis

For steps explained above, every required document was recorded for every single element of the

framework. The framework for PGRS of Pakistan is shown in Figure 15

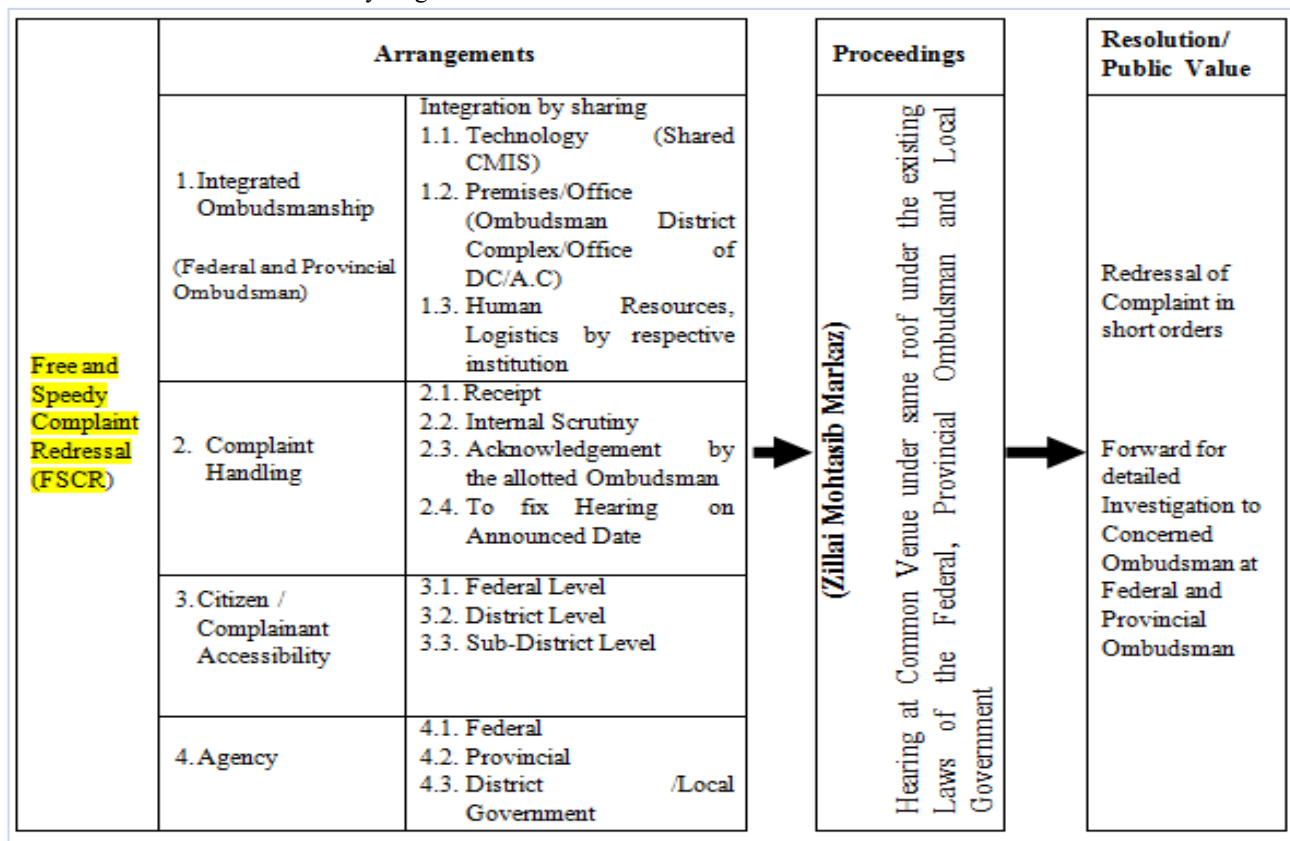


Figure 15: Collaborative Phatak Framework for FSCR of Administrative Justice

3.2.5.1 Arrangements

A letter from Federal ombudsman was written to all Provincial Chief Secretaries for the allocation of temporary office for hearings. The provincial governments graciously provided the space for conducting the hearings at sub district level for FSCR.

3.2.5.1.1 Integrated Ombudsmanship

The available resource are shared i.e. Federal Ombudsman shared the state-of-the-art CMIS with other Provincial Ombudsman and, in response, the Provincial Ombudsman made the district offices and staff at the

disposal of Federal Ombudsman's team. Federal Ombudsman Secretariat made its own logistic arrangement to visit the districts and sub districts. The sharing of technology has emerged as prominent dimension of the framework (8).

3.2.5.1.2 *Complaint Handling*

Every complaint was registered, scrutinized by registrar and marked to tehsil officer for fixing of hearing before visit to Tehsil Office. The optimal process and timeline for SCR are strictly observed in this regard.

3.2.5.1.3 *Complainant Accessibility*

The complainant easily accessed the office at District and Sub-district Level as he was informed about hearing date beforehand. Hearings list was published on website for online access.

3.2.5.1.4 *Agency*

Federal Agency Representative was informed about the hearing date and venue through legal notice.

3.2.5.2 *Proceedings (Ombudsman Complex at District Level)*

Proceedings of the complaints were conducted at common venue i.e. Provincial ombudsman Office or DCO office under the specific Law of the Federal and Provincial Ombudsman. The representative of Federal Ombudsman visited the districts and sub districts and finalized the proceedings of the complaints. After hearing of the case, he recorded decision on complaint or transferred for detailed investigation to the Officer in the nearest Ombudsman's Regional Office.

3.2.5.3 *Resolution of the Complaint / Public Value*

Complaints were heard and resolved nearer the doorstep of the complainant within 25 days of complaint registration at Federal Ombudsman Secretariat. The complaints were resolved while sharing the common venue in district and sub districts of Pakistan.

4. *Conclusion*

Administrative justice is the dire need of public along with speedy resolution at proverbial doorstep. The FSCR collaborative framework is the effort to draw the guidelines for the ombudsmanship outreach to do administrative justice at nearer to the origin of complaint. This framework has enabled the Ombudsman institutions to work together to improve governance of the agencies by removing the maladministration at its origin, nearer to proverbial doorstep. The representative of each Ombudsman will decide the case according to Law of that office. The SCR project is performing excellently and providing the relief to common man nearer at district and sub-district level. Under this project more 99% complaints

were resolved within 25 days of its registration. This framework has provided the guidelines for the synergy of the resources of different ombudsman at district level to improve the justice. The integrated module of CMIS has provided strong monitoring dashboard with its impact on society. The success of SCR Pilot Project of Wafaqi Mohtasib has enlighten the way to the speedy justice near to doorstep. It is dire need to extend the cooperation at the Federal and Provincial Mohtasibs for alternate dispute resolution to achieve the inexpensive and speed resolution of the grievances at near to doorsteps of the complainant.

5. *Future work*

This framework was implemented in Federal Ombudsman of Pakistan. It could be applied in all Provincial Ombudsman for full coverage of administrative justice against both federal and provincial agencies. Political blessings will play critical role in Implementation. The present government has made the arrangement to redress the complaints through Prime Minster's Citizen Portal and report their grievances. These arrangements can be integrated for future evaluation and extensions.

6. *Limitation*

The Phatak Framework was implemented in limited district due to volume of the complaints within limited budget and shared some offices of the Provincial Ombudsman. The sub divisions are chosen on the basis of the most number of complaints. The human efforts and traveling were little considered which may affect the implementation at district level.

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