PROF. DR. EHSAN RASHID MEMORIAL LECTURES

INSTITUTIONAL REFORMS IN PAKISTAN

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1. Governance, Institutions and Development

The link between good governance and, economic and, social development has been well established in the last few decades. Although, it is hard to have a precise definition of governance there is a wide consensus that good governance must lead to broad-based inclusive economic growth and the social development. It must enable the state, the civil society and the private sector to enhance the well being of a large segment of the population. If this definition is accepted then the economic growth in Pakistan is likely to become unsustainable; if a widespread perception persists that majority of the population has not been gaining from the recent growth. This perception, whether right or wrong, erodes political support for continuation of the present economic policies and reforms.

Why does this perception persist? The main reason is that the overall governance structure through which economics policies are intermediated and translated into economic and social benefits for the vast majority has become corroded and dysfunctional. The governance structure of any country consists of Judiciary, Executive and Legislature. If access to institutions of governance for common citizens is difficult, time consuming and costly, the benefits from growth get distributed unevenly as only those who enjoy preferential access to these institutions are the gainers. How far is this true, can be gauged by reference to the current state of Governance prevailing in the region but particularly applicable in Pakistan? The 1999 and 2005 reports on Human Development in South Asia aptly to summarize the situation in the following two extracts:

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> "South Asia presents a fascinating combination of many contradictions. It has governments that are high on governing and low on serving; it has parliaments that are elected by the poor but aid the rich; and society that asserts the rights of some but perpetuates exclusion for others. Despite a marked improvement in the lives of a few, there are many in South Asia who have been forgotten by formal institutions of governance. These are the poor, the downtrodden and the most vulnerable of the society, suffering from acute deprivation on account of their income, caste, creed, gender or religion. Their fortunes have not moved with those of the privileged few and this in itself is a deprivation of a depressing nature".
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> *[Human Development South Asia Report (1999)].*

> "Governance constitutes for {ordinary people} a duly struggle for survival and dignity. Ordinary people are too often humiliated at the hands of public institutions. For them, lack of good governance means police brutality, corruption in accessing basic public services, ghost schools, teachers absenteeism, missing medicines, high cost of and low access to justice, criminalization of politics and lack of social justice. These are just few manifestations of the crisis of governance".
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> *[Human Development in South Asia report,(2005)]*

In face of this overwhelming evidence of failure of institutions of governance; empirical work across countries suggests that economic performance is greatly determined by the quality of institutions. Differences in the quality of institutions help to explain the gap in economic performance between the rich and poor nations. In addition to the findings linking institutions with aggregate growth there is some association between the distribution of income and institutional quality, with unequal distribution of income being associated with a lower quality of institutional development.

How have institutional reforms been successfully carried out elsewhere? One of the key factors is that civil servants of high professional caliber and integrity are attracted, retained, and, motivated and allowed the authority and powers to act in the larger interests of public at large. This can be accomplished by introducing a merit-based recruitment system, continuous training and skill up-gradation, equality of opportunity in career progression, adequate compensation, proper performance evaluation, financial accountability and the rule-based compliance.

Another important factor is the responsiveness to the public demands. The World Bank (1997), in its report, asserts that governments are more effective when they listen to businesses and citizens, and work in partnership with them in deciding and implementing policy. Where governments lack mechanisms to listen, they are not responsive to peoples' interest. Decentralization can bring in representation of local business and citizens' interest.

Is there any evidence about a particular form of government that has been relatively successful in implementing these reforms? In Pakistan, as elsewhere, it has been demonstrated that nature of the government - military, democratically elected, nominated, selected – has not mattered much. There is no systematic correlation between the reforms of underlying institutions and a particular form of government. The challenge of reforming these institutions is formidable as the vested interests wishing to perpetuate the status quo are politically powerful. The coalition and alliances between the political leadership and the beneficiaries of the existing system are so strong that they cannot be easily ruptured. The elected governments with an eye on the short term electoral cycles are not in a position to incur the pains from these reforms up-front; while the gains accrue later on to a different political party. The authoritarian governments are not effective as they do not enjoy legitimacy for sustaining reforms. Changing institutions is a slow and difficult process requiring, in addition to significant political will, fundamental but tough measures to reduce the opportunity and incentives for powerful groups to capture economic rents.

The imperatives of globalization in the 21st century have added further impetus for governance reforms. The pathway for countries as how they can successfully compete with other countries and surge ahead is clearly laid out. The successful countries can bring about an improvement in the well being of their population through markets, trade, investment and exchange. But the state has to play an equally important role in nurturing and creating markets that foster competition and provide information about opportunities to all participants, acting against collusion and monopolistic practices, building capabilities and skills of people to engage in productive activities, setting the rules of the game in a transparent manner, and, adjudicating and resolving the disputes in a fair and equitable manner. To perform these functions the capacity, competencies and responsiveness of the institutions of state have to be upgraded along with the rules, enforcement mechanisms, organizational structures and incentives.

According to Acemoglu and Johnson, (2003) good institutions ensure two desirable outcomes - that there is a relatively equal access to economic opportunity (a level playing field) and that those who provide labor or capital are appropriately rewarded and their property rights are protected.

The above analysis and the future needs do clearly point out that institutions play a critical role in economic performance and distributional consequences. The

question arises: How can these institutions be made effective and functional in the context of Pakistan so that majority of the population opportunity can engage in fruitful market activity and improve their well being through their own efforts and through the interventions of the state? Before the agenda for reforms in Pakistan is spelled out it is essential that historical evolution of governance is traced out to understand the context in which this agenda is to be implemented.

2. History of Governance in Pakistan

Pakistan inherited a well functioning structure of judiciary, civil service and military, but relatively a weak legislative oversight at the time of its independence. Over time the domination of civil service and military in the affairs of the state disrupted the evolution of a democratic political process and further weakened the legislative organ of the state. The judicial arm, with few exceptions, plodded along sanctifying the dominant role of the military and the civil service.

The institutions inherited by the British rule were quite relevant for the requirements of rulers of those times. Following independence, those requirements expanded in scope and content while the level of expectations from the public and their elected representatives was heightened. But these inherited institutions failed to adapt themselves to meet new challenges of development and the social changes; and respond to the heightened expectations and aspirations of free people. The "business as usual" mode of functioning, the approach, and attitudes of the incumbents holding top and middle level positions in the bureaucracy and manning these institutions did not endear them to the political leaders or to the general public. Several Commissions and Committees were formed in the first twenty-five years after independence for reforms of the administrative structure and civil services. Some changes were introduced during the Ayub Khan's regime in the 1960s to improve the efficiency of the secretariats but the tendencies for centralized control and personalized decision making got worse in this period. The reluctance to grant provincial autonomy to the East Pakistan – the most populous province of the country – so remote physically from the hub of decision making i.e., Islamabad led to serious political backlash and eventual break-up of the country into two independent nations.

Pakistan continued to suffer from what has been termed as "Confused Federalism" in which weak local and provincial bodies are unable to match the ability of the Central Government to mobilize resources and provide services. Whether it is health or education or highways or agriculture, the Federal Government has much larger programmes under implementation than the Provincial or Local governments. Although the money is spent in the provinces or districts the inability to identify, design, approve and implement these projects caused resentment among the provincial governments.

In 1973, a populist government headed by Z.A. Bhutto took the first step to break the steel frame of the Civil Services by taking away the constitutional guarantee of the security of the job. He also demolished the exclusive and privileged role of the Civil Service of Pakistan (CSP) within the overall structure of the public service.

The next twenty-five years witnessed a significant decline in the quality of new recruits to the Civil Services as the implicit trade-off between the job security and low compensation ceased to operate; and the expanding private sector including multinational corporations which offered more attractive career opportunities. The erosion of real wages in the public sector over time also led to low morale, demotivation, inefficiency and resort to corrupt practices among the civil servants at all levels. The abuse of discretionary powers, the bureaucratic obstruction and the delaying tactics adopted by the government functionaries are all part of the maneuvering to extract rents for supplementing their pay. In real terms the compensation paid to higher civil servants is only one-half of the 1994 package. The low wages means that the civil service no longer attracts the most talented young men and women. Some of the incumbents of the Civil Services, in their instinct of self preservation, fell-prey to the machinations of the political regimes in power and many of them got identified with one or the other political party. They also benefitted from the culture of patronage practiced by the politicians. During the nineties, replacement of one political party by the other in the corridors of power was followed by changes in the top bureaucracy. This growing tendency of informal political affiliation for tenaciously holding on to key jobs was also responsible for the end of an impartial, neutral and competent civil service responsive to the needs of the common man. Loyalty to the Ministers, the Chief Ministers and Prime Minister took ascendancy over the accountability to the general public. The frequent takeovers by the military regimes and the consequential screening of hundreds of civil servants led to subservience of the civil service to the military rulers, erosion of the authority of the traditional institutions of governance and loss of initiative by the higher bureaucracy.

The 2001 devolution plan gave another major blow to the Civil Service of Pakistan as the posts of Commissioners, Deputy Commissioners(DC) and Assistant Commissioners(AC) were abolished and the reins of District Administration were transferred to the elected Nazims. To ordinary citizens, the government was most tangibly embodied in these civil servants. It was the DC and AC that they approached on a daily basis. The substitution of the civil servant by an elected head of the administration is quite a new phenomenon and will take some time to sink in. While this transition takes place the check and balance implicit in the previous administrative set up have become redundant. The police as a coercive force have therefore assumed greater clout. The opportunities of collusion between the Nazim and the police have multiplied and in many instances alienated the common citizens and diluted the impartiality of the administration at grass-roots levels. The sanctity

of private property rights has been threatened in several cases where the Nazims have given orders to make unauthorized changes in the land records in the rural areas in collusion with the government functionaries to benefit themselves and their cronies. The District Administration is yet to grow as autonomous institution in face of a hostile environment of centralizing administration, and inequitable resource distribution.

3. Reforms Agenda for Pakistan

The governance reforms agenda for future should therefore be designed to aim at restructuring government and revitalizing institutions to deliver the core functions of the state i.e., provision of basic services – education, health, water sanitation and security – to common citizens in an effective and efficient manner and to promote inclusive markets through which all citizens have equal opportunities to participate in the economy. The restructuring should lower transaction costs and provide access without frictions by curtailing arbitrary exercise of discretionary powers, reducing over-taxation, minimizing corruption, cronyism and collusion; and, ensuring public order and security of life and property.

To achieve sustained economic growth a competitive private sector has to be nurtured and relied upon. Therefore, a major area of reforms in Pakistan is to create space for the growth of new entrants in the private sector by removing constraints created by the state in their entry and smooth operations. Despite the pursuit of policies of liberalization, deregulation, delicencing and disinvestment during the last fifteen years, the overbearing burden of government interventions in business life cycle looms large. The difficulties faced by new businesses in acquiring, titling, pricing, transferring and possessing of land, in obtaining no objection certificates from various agencies, in getting water and gas connections, sewerage facilities, reliable electricity supply, access roads, in securing finances for green field projects or new enterprises using emerging technologies are still horrendous and nerve wrecking. The powers of petty inspectors from various departments/agencies are so vast that they can either make or break a business. The growing trend towards "informalization" of the economy particularly by small and medium enterprises is a testimony to the still dominant nature of the government. Over 96 per cent of the establishments reported in the Economic Census 2005 fall in this category. The attitude of middle and lower functionaries of the government in the provinces and districts towards private business remains ambivalent. Either the functionaries harass the business to extract pecuniary and non-pecuniary benefits for themselves or they are simply distrustful, hostile or hesitant towards private entrepreneurs. The multiple agencies involved, too many clearances needed and avoidable delays at every level raise the transaction costs for new entrants. Unless the ease of entry and exit is facilitated the competitive forces will remain at bay and the collusive

and monopolistic practices of the large businesses will continue to hurt the consumers and common citizens.

The second area is the absence of accountability for results. There is both too much and too little accountability of those involved in public affairs in Pakistan. On one hand, the plethora of laws and institutions, such as, Anti Corruption Bureaus, National Accountability Bureau, Auditor General's reports, Public Accounts Committees of the legislature, parliamentary oversight, judicial activism and the Ombudsman system have created an atmosphere of fear, inertia and lack of decision making among the civil servants. On the other hand, instances of rampant corruption, malpractices, nepotism and favoritism and waste and inefficiency have become a common folklore in the administrative culture of the country. Too much emphasis on the ritualistic compliance with procedures, rules and form has taken the place of substantive concerns with the results and outcomes for welfare and justice.

Introducing transparency through simplification of rules and regulations, codification and updation, and wide dissemination through e-governance tools such as a dynamic website, information Kiosks, on-line access to the government functionaries can help in enforcing internal accountability standards, while at the same time making it convenient for citizens to carry out hassle free transactions. Strong pressure from organized civil society advocacy groups on specific sectors or activities from the media, the political parties, private sector and think tanks can also compel the government departments and Ministries to become more accountable for the results.

The third area of reforms has to do with the size, structure, scope of the Federal, Provincial and Local Governments; the skills, incentives and competencies of the civil servants. The entire value chain of human resource policy, from recruitment to compensation needs to be reviewed and redesigned. Similarly, the division of functions and responsibilities between the different tiers of government has to be clarified and delineated. The elongated hierarchy within the Ministry/Division has to be trimmed down and the relationship between the Ministry and the executive departments, autonomous bodies, has to be redefined.

The governance agenda outlined above should not be considered as a technocratic exercise as it is essentially a political exercise that takes into account the existing power relationships in which the polity is rooted. The balancing of diverse interests of various stakeholders involves many politically tough choices which cannot be made by the technocrats. The sustainability of reforms requires broad consultation, consensus building and communication to articulate the long term vision. People should see beyond immediate horizon and buy into the future changes. Concerns, criticism and skepticism should be addressed. The scope, phasing, timing, implementation strategies, mitigation measures for losers from the reforms should be widely discussed and debated. If things do not proceed the way they were conceptualized, corrective actions should be taken in light of the feedback received.

Citizens' charters, citizens' surveys and report cards, citizens' panels and focus groups should be used as instruments for receiving regular feedback about the impact of reforms on the society and its different segments.

Care should also be taken to ensure that governance reforms are not perceived to be driven by external donors. The resistance against these reforms by internal constituencies is invariably quite fierce to begin with but any semblance that they are being carried out under external pressure will lead to their premature demise. The argument that externally motivated reforms ignore the context and constraints and are therefore unsuitable gets currency and stiffens the resistance. However, there is no harm in looking at the successful experience of other countries, gain insights or learn lesson from these experiences and apply them in the specific circumstances of Pakistan with suitable modifications.

4. Guiding Principles for Reforms

The Government established the National Commission for Government Reforms (NCGR) in April 2006 and mandated it to prepare proposals for governance reforms in Pakistan. The Commission decided that the following broad principles will underpin reforms in each area of responsibility:

A) Civil Services

a) Open, transparent merit – based recruitment to all levels and grades of public services with Regional Representation as laid down in the constitution.
b) Performance – based promotions and career progression for all public sector employees with compulsory training at post induction, mid-career and senior management levels.
c) Equality of opportunities for career advancement to all employees without preferences or reservations for any particular class.
d) Replacement of the concept of Superior Services by equality among all cadres and non-cadres of public servants.
e) Grant of a living wage and compensation package including decent retirement benefits to all civil servants.
f) Strict observance of security of tenure of office for a specified period of time.
g) Separate cadre of regular Civil Services at the Federal, Provincial and District levels co-existing with contractual appointments.
h) Creation of an All Pakistan National Executive Service (NES) for senior management positions drawn through a competitive process from the Federal, Provincial and District level Civil Servants and outside professionals.
i) Introduction of three specialized cadres under the NES for Economic Management, Social Sector Management and General Management.

B) Structure of Federal, Provincial and District Governments

a) Devolution of powers, responsibilities and resources from the Federal to the Provincial Governments.
b) Establishing inter-governmental structures with adequate authority and powers to formulate and monitor policy formulation.
c) Clear separation of policy making, regulatory and operational responsibilities of the Ministries/Provincial departments.
d) Making each Ministry/Provincial department fully empowered, adequately resourced to take decisions and accountable for results.
e) Streamline, rationalize and transform the attached departments/autonomous bodies/subordinate offices/field offices etc., into fully functional arms of the Ministries for performing operational and executive functions.
f) Reduce the number of layers in the hierarchy of each Ministry/Provincial department.
g) Cabinet Secretary to perform the main coordinating role among the Federal Secretaries on the lines of Chief Secretary in the Provinces.
h) Revival and strengthening of the Secretaries Committee at the Federal / Provincial Governments to become the main vehicle for inter-ministerial coordination and dispute resolution among various ministries.
i) District level officers interacting with the general public in day-to-day affairs should enjoy adequate powers, authority, status and privileges to be able to resolve problems and redress the grievances of the citizens.
j) Police, Revenue, Education, Water Supply, and Health are the departments which are highly relevant for day-to-day lives of the ordinary citizen of this country. The internal governance structures of these departments, public grievance redressal systems against these departments and checks and balances on the discretionary powers of the officials have to be introduced.

C) Business Process Re-engineering

a) All laws, rules, regulations, circulars, guidelines issued by any Government ministry/department/agency should be available in its most up-dated version to the general public free of cost in a user-friendly manner on web-page and, in electronic and print forms at public places.
b) Service standards with timelines for each type of service rendered at the Districts, Police stations and Union levels should be developed, widely disseminated and pasted at public places in each department.
c) Rules of business at the Federal, Provincial and District Governments should be revised to make them simple, comprehensible empowering the Secretaries /Heads of Departments/District Coordination Officers to take decisions without

multiple references, clearances and back and forth movement of files. Post-audit of the decisions taken should be used to ensure accountability rather than prior clearances.

d) Financial, administrative, procurement, human resource management powers should be revisited and adequate powers commensurate with the authority should be delegated at each tier of the hierarchy.

e) Estacode, financial rules, accounting and audit rules, fundamental rules and all other rules in force should be reviewed systematically and revised to bring them in line with the modern management practices.

f) E-government should be gradually introduced in a phased manner. Technological solutions, hardware and software applications are easy part of the process but the most difficult aspect is the training and change in the culture, attitude and practices. E-government should be driven by business needs rather than crafted as an elegant technical solution.

5. Proposed Approach

There are several ways to approach the task assigned to the National Commission for Government Reforms (NCGR). One option is to spend several years in preparing a comprehensive blueprint and plan for bringing about the desired changes covering all aspects of the structure, process and human resource policies of the government. This option has the disadvantage that ground realities might change by the time when the report is ready. Political support for reforms under this approach is most likely to wane as high costs are incurred upfront in pushing through complex, unpopular and difficult decisions but the benefits of reforms do not become visible in the lifecycle of the political regime, in power. The advantage of this option is that all deficiencies and weaknesses are addressed simultaneously in a comprehensive manner.

The second option is to prepare a long term vision and direction in which reforms should aim and move but combine this with an opportunistic approach whereby easy to implement changes are taken-up first and the more difficult reforms are taken-up later. The disadvantage of this option is that changes introduced may be imperceptible and the time taken for the whole process to complete may be too long. But the advantage is that incremental changes that create a win-win situation for all stakeholders including politicians have a much better chance of getting accepted and being implemented. The Commission has adopted the second option as the modus-operandi for its working.

The preference for this option which is less elegant and imperfect lies in a dispassionate reading of the past history of reforms in this country. A large number of erudite Commissions and Committees have virtually spent thousands of man-years in seeking out views and opinions from a diverse set of opinion makers and public

at large, prepared elaborate diagnostic studies and presented very sensible set of recommendations. But, except for some tinkering here and there most recommendations were not implemented because of the lack of political will and courage.

The sequencing, phasing and timing of various reforms and their implementation will be guided by the speed at which consensus is built among the stakeholders and the decisions are made by the top policy makers but it is important to lay down the overall directions in which these reforms will move.

While comprehensive reforms will be implemented incrementally a second track will also be followed in which some quick win reforms will be implemented from time to time, as an opportunity presents itself. For this purpose, the Commission will follow a more flexible route. For example, it has decided to focus on four major areas where interaction between the ordinary citizen and administrative machinery of the government is most intense. These four areas are:

1. Police and enforcement of laws.
2. Land Revenue Administration.
3. Education.
4. Health.

The Commission has formed four sub-committees to review and examine the efforts being made by the government, private sector and civil society in each of these areas and come up with solutions that will make the existing system more efficient and responsive to the need of public in the immediate or short run. The Commission has also formed another sub-committee to recommend revision in the Rules of Business for removing impediments in functioning the government departments/ministries/agencies and empowering the head of departments to deliver results.

The preliminary recommendations of the sub-committees were presented to focus groups of stakeholders drawn from diverse segments of the society – Secretaries Committee, political leaders, businessmen, NGOs, academic refined civil servants etc., – for soliciting their feedback and views. After incorporating the feedback, the sub-committees finalized their recommendations which were then discussed by the Commission and then presented for consideration and decisions by the Steering Committee. The high powered Steering Committee is co-chaired by the President and Prime Minister and consists of the four Chief Ministers. The Committee has decided to provide a legal cover to the Commission so that recommendations approved by the Steering Committee are implemented by the Federal and Provincial Governments without further review.

The Commission will also act as a facilitator and conduit them for reforms formulated by the Federal Ministries/Provincial Governments; and table them after its own analysis for decisions by the Steering Committee.

To conclude, those who agree that there is a need for these reforms, have serious reservations about their implementation. They contend that these reforms cannot be implemented in real sense unless the bureaucratic actions are insulated from political interference. According to this school of thought the problem of mal-administration and poor governance stems from this interference. It must be recognized that in the democratic form of governance, elected leaders will have to respond to their political constituents and the associated vested interest. The accountability for results rests largely on these politicians and not on the civil servants. If the interference of the politicians is aimed at serving the narrow parochial interests of few individuals or groups rather than the broader collective interests of their constituencies they may end up paying a heavy price at the time of next elections. Their opponents, the opposition parties and the media scrutiny will keep a watch on their actions and expose them before their constituents. With the passage of time and successive purges at the elections the impulse to interfere in the affairs of civil servants, for personal and parochial factors, will be contained and replaced by the urge to pay greater attention to the collective interest of their constituents. No system is perfect and some elected leaders as well as civil servants will continue to misuse their powers and authority but extent of such misuse will be reduced with greater accountability.

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