

Renewal of the Public Sector in Nepal for Good Governance

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Abstract

The Nepalese public sector is based on the old model where power is centralized at the political level and the governance is rendered impersonally through subordinated officials. There has been no change in it even after the advent of the multi-party democracy. The author explains how a yawning gap has come to exist between the old-fashioned public sector management in Nepal, the new Constitution, the ideal of the liberal society and the changed global environment. With so much of anachronism to correct and with so much novelty of good governance to aim ahead, the author alarmingly terms the task as the 'renewal' of the public sector system. As a prelude to his renewal agenda, the author makes a number of comments on the HMG Transaction of Business Rules (TBR) which has long forced the Government to live and work within the trammels of a closed system despite its pledges to obtain 'wider participation of the people'. He points out the scanty and archaic institutional arrangements in the TBR purported to support the Cabinet through its Constitutional role and liabilities. He considers that a complete overhaul of the TBR, a discontinuity with the past hangover and the Parliament's legislative initiative in designing an innovative public sector management would make a starting point for construction of good governance in Nepal. The author then identifies five cardinal factors that might usher an environment of good governance in the Nepalese context, and discusses their possible approaches in the existing situation.

1. The Early Set-up

Public sector reform suggests timely changes in the government's mode of performing executive business which would obviously involve questions of power structuring, agency arrangements, process delineating and reaffirming values in the changed context. In Nepal, this may constitute a big task, as it tantamounts to rethinking in the basic model of government

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management which has been continuing largely in the same state ever since it was introduced by the Butch Commission way back in 1952. The task would also include resetting the governmental style of business handed down by the thirty years of Panchayat regime as well as resolving the dilemma and distractions in governance now in the face of sudden economic and political liberalisation after the advent of the multi-party system of government.

The problem is as old as this, because over the time the notion of reform in the public sector management was almost restricted to meeting only urgencies where something was already broke. Yet, the public sector reform, especially after the advent of multi-party democracy, does not suffice only to open the administrative impasse but needs to address the changed political set-up as well as people's increasing aspiration for good governance - a desire to secure utilisation of governmental power and resources in a way it meets the wishes of the people. That is why, the reform of the public sector needs necessarily to be driven by public forces which would mean the active support and interests of political bodies, citizens' representatives, professionals and consumers. Conversely, where such public forces are weak or not sufficiently organized the public sector reform process can just stagnate or slacken off. The status of Nepal's public sector reform can be exactly spotted at this.

2. The Administrative Power Structure

The corridor of power in Nepal is marked by the old style of centralization at the political level and rendering governance impersonally through subordinated authorities. The state drags this tradition over eight years of democracy without being sure of its continued utility for and compatibility with the multi-party system, the liberal views and the principle of good governance, which altogether anticipates a new mode of government.

Constitutionally, the Cabinet is thought to be the centre of power. But in practice it retains only a selective list of business under its jurisdiction and divides a bigger chunk to the individual Minister. Even on its own list, the Cabinet in practice acts more as an approval authority rather than a governing body. The Cabinet in all its actions and demeanour so far does not seem to assume the stature of a governing body but only follow the individual leadership of the Minister: the horses trail the cart rather than the cartman driving it. The collective responsibility of the Cabinet in such a situation has been a farce.

The country has already undergone the experiences of three different types of Cabinet composition, namely, under the single party majority government, the coalition of multi-parties and the minority government - the last two types being by far the most dominant. The problems of fulfilling the Cabinet's collective responsibility or performing its governing role in each of these types have been variedly complex, giving rise to the needs for varied institutional arrangements - both political and administrative - to cope with them. The coalition and the minority government, particularly, would demand a more complicated and innovative arrangement. The HMG Transaction of Business Rules (TBR) which is the main institutional instrument to set an operational frame for the public sector business - specially the Cabinet - bears only a scanty provision in this respect.

The collective responsibility of the Cabinet as mentioned in Article 36 sub-clause (4) of the Constitution may be viewed as an aggregate of Cabinet's unanimity, institutional solidarity and collective initiative for good governance. But by and large it is so far limited to a display of political unanimity before the Parliament; the other two are utterly overlooked as they happened to be things of less political ignition in the House. They are of less political concern, no doubt, but they carry a far

reaching implication for rendering good governance to the people.

There is no systemic device in the *TBR* to forge collective responsibility of the Cabinet in terms of developing mutual concern and understanding on major sectoral and multi-sectoral issues for promoting its solidarity. Similarly, there is no institutional mechanism which would lead the Cabinet to policy initiation on matters of national, multi-sectoral and strategic significance. It is dismaying to note that the *TBR* is simply silent about Cabinet's areas of initiative. The *TBR* is, as it were, literally devoted to the transaction of individual Minister's business rather than addressing total responsibilities of the Cabinet.

One can therefore argue why the *TBR* should not formally provide all appropriate institutional devices to address various liabilities of the Cabinet created by the Constitution. The *TBR*, for example, could set up within it institutional arrangements to cause Cabinet's initiative on the generation of proactive and long range policies for the Government, build inter-sectoral understanding, tolerance and support among Ministers and agencies, and search consensus among multi-parties allies or supporters in the coalition and the minority set-ups. The *TBR* could as well visualize the degree and the manner in which public tasks may be accomplished through non-political, independent, autonomized or even non-state actors for suiting people's needs, taste and convenience.

Departmental system of governance where the political leaders with the help of bureaucracy undertake the responsibility of financial, economic, juridical, organizational and managerial responsibilities sets a universal model in the Nepalese public sector. This however may be limited only to the government's core functions of highly political, sensitive and policy innovative nature letting others run less politically and more

professionally for efficiency, accountability and public service. Hence, a move towards decentralization can be conceived both in terms of internal arrangements within the government as in *routinization, agencification or corporatization* creating independent (less political) accountable units, and as external power sharing as in *autonomization, self-government or privatization* (including public sector's use of NGOs and market) putting direction and control directly in the hands of stakeholders, beneficiaries and customers.

The decentralization policy as part of the policy of good governance should, thus, emanate from the TBR in keeping with the Directive Principles of the Constitution. Once the policy vision is laid down it will be the function of the public sector management to sort out public tasks to different specific bodies and ascertain their character in terms of financial, economic, juridical, organizational and managerial frames of reference. In the absence of such a policy projection in the TBR there will remain a paradox of the Constitutional Directives on decentralization on the one hand and the Cabinet's commitment to centralized system of accountability on the other.

Quite the opposite, the TBR has sought to allocate the bulk of the governmental power over bureaucracy by delegation. So the delegation goes down the hierarchy through the Secretary, the Special Secretary, the Joint Secretary, the Director General, the Director, the Under Secretary and the Section Officer. Hence almost all the policy advising and executive authorities in the HMG function in the capacity of a delegatee, without wearing a public appearance: the Minister is at times put, most hypocritically, to face and answer to the public for the pure acts of bureaucracy. That is why, the accountability does here always revolve round the political process and never percolates down to the level of bureaucratic performance.

This has, in turn, led the Minister to think himself always

fully justified to intrude into any delegation, division or autonomization of authority. That is why, in the present state, acts of decentralization are not being substantiated by a political will to autonomize programmes with an introduction of public control. There is no such situation created either, by way of public sector management by legislation even after eight years of multi-party democratic system, as the integral system of accountability at the Ministerial level continues as before and the TBR has been the leading instrument in conducting governance. In fact, the integral type of accountability to be borne out solely by the Minister is more a vestige of the previous regimes than the present Constitutional requirement. But the Parliament has not yet legislated for a breakaway by asserting its role of public sector management under Article 35 Sub-clause (3) of the Constitution.

Organizationally, the whole Ministerial portfolio poses as a monolithic unit before the Parliament and the public, although it provides clear-cut organizational units - in some cases by laws - for different levels of functions. As a matter of fact, the Government carries an ambivalence about the functional distinction of policy, execution, autonomous operation and field implementation. The Ministry, at the same time, divides functions and combines responsibilities with the Department and subordinate offices. Majority of policy works of the Ministries get underway on Departmental or subordinate level's initiatives and lot of Departmental executive programmes are conducted under Ministerial control.

The public sector management of Nepal aiming to meaningfully structure governmental power within and between different echelon assign varied roles and objectives to each and institute appropriate accountabilities and public control system around them is perhaps one such area of the government that has received the poorest attention both from

politicians, professionals and people's representatives.

The present structure of political and administrative authorities at the centre and the machinery to allocate and transact their business date back to half a century ago when an interim political set-up was agreed upon by the then revolutionary political forces under the Interim Government of Nepal Act, 1951, pending a permanent Constitution to be framed by an elected Constituent Assembly. Thoughts on District and Regional level offices, however, were initiated later during sixties. Government Corporations and the Development Boards popped up mostly during sixties. The elected local bodies although appeared in the scene as early as this time have not grown to the stature of the local government even now.

Over the long journey in the nation's life thus far, many political ideologies succeeded to take the helm of the country's affairs, but none of them cared to visualize holistically the management of the public sector. Also, it is noteworthy that every new Constitution or political system that was adopted by the nation as a better one for the country has seen change in political modalities only and not in the management of government which so far remained entirely an executive choice: all the regimes that happened in the country so far virtually followed the same old rut on matters of major public sector issues.

3. Myth of Parliamentary Control

Parliamentary control through debates and Committee scrutiny has long been believed to be a driving force in the Westminster model of democracy to ensure efficiency and economy of the government. This model presumes in the government full trust of the people - or at any rate, the majority of the elected representatives of the people - to understand and execute public needs and wishes resounded by the Parliament

believed to be the conduit of people's opinions and preferences. It also entrusts to the government the norms and standards with which to judge the efficiency and economy of its services up to public satisfaction.

However, experiences of the public sector performance in many developed and developing countries have shown that the government has in many instances fallen short of this expectation much to their people's disappointment. This has amply manifested in Nepal, too, within eight years of parliamentary system. Far too often, the political leaders are found to operate at an apathetic distance from the people, engrossed in party politics, parliamentary manoeuvres, spoils and vested interests. Even formulation of development programmes is seen as political issues; their executions are entrusted to an anonymous civil service; and the services are managed in a way more to ensure managerial convenience and satisfaction than to match people's interests. The traditional mechanism of Parliamentary democracy to leveraging the executive government through policy process has fetched limited result both on country's development and delivering good customer's service to the people. As a matter of fact, there is to be found a growing realization on the part of the people and their representatives that there is only a limited degree to which the Parliament could through its debates and committee proceedings exercise its control over the government's performance.

4. Approach to Good Governance

It can hardly be expected of the government caught in the narrow conservative traditions to render benefits of good governance to the people. For the elements of beneficiality in the governance are to be derived from successfully implanting within the public sector system such democratic institutions,

values and culture as decentralized public accountabilities and public control system, public service values, norms of competitive efficiency, doctrines of people's choice and partnership with civil society.

Public sector management is therefore a complex of political process, professionalism, public interaction, market forces and cooption of civil institutions. With the promulgation of the new Constitution pledged to its lofty Directive Principles and State Policies, the centralized, stereotyped and closed traditions entrenched in the public sector of Nepal have to yield place to innovative, liberal, democratic institutions. In this sense, renewal of the public sector for good governance seems to be both consequential to and a process of consummation of the democracy promised by the Constitution.

5. A New Look

At least five main issues seem to stand out for serious thought in the renewal programme of the public sector in Nepal to-day:

- making more intimate application of democratic principles and management techniques to promote accountabilities in the public sector.
- offering greater transparency and freedom of choice to citizens to encourage them to make an impact of their demands on governance
- effecting public service orientation in all relevant moods and manifestations of the public sector actors
- bringing out initiatives for improved efficiency in bureaucracy

- calling for greater role of the parliament in the legislative management of the public sector

A little elucidation of these issues might better set out the breadth and gravity of the problem .

5.1 Executive Accountabilities :

The public sector accountability in Nepal based on the myth of executive responsibility has resulted in the notion of the monopoly of the political process : the Minister is thought to be responsible for all the contents of his political portfolio equally and in the same manner. The whole Ministerial portfolio runs as a single departmentally managed programme irrespective of whether or not political supervision is of relevance to all the content activities.

A lot of advantages of better management seem to have been forgone in this course: there is very little consideration made of the beneficial application of such diversified techniques in the public sector as managerial freedom, professionalism, statutory autonomization, corporatized governance, management of enterprise, demand-driven programmes, government by market, public service orientation, and so on. Efforts may therefore be made for better management of public sector programmes by such enquiries as:

- whether Ministerial accountability should not be concentrated on fulfilling political processes needed to managing government by policy objectives,
- whether the system of political process relating to the formulation, administration and monitoring of policy objectives applicable to executive programs should not be defined indicating the scope, authority and accountability

defined indicating the scope, authority and accountability of the respective political authorities,

- in what way the civil service can be made neutral and still amenable to public political commitment of the government.
- whether execution of clear-cut policies as also all such recurring programmes as have come down to a routine operation can not be autonomized by statutory regulations
- whether there are to be found within an executive programme isolable fields of operation where independent accountable units could yield better results
- whether there are places where the executives need to be subjected to the interaction and influence of citizens or public bodies
- to what extent the programme needs to be directed by market forces
- whether certain programme does or does not demand the thinking, doing and treatment of a corporate being in its execution
- whether the programme is of such national importance as may be executed under the monitoring of the parliament and public bodies
- whether the programme is such that it should be operated with certain standards of public service orientation

The public sector executives of Nepal can to a great extent be put to accountabilities by managing through such enquiries.

5.2 Greater Freedom of Choice:

Public sector management should also consider to let the people have certain measures of choice in the matter and style of their governance, as this would lend elements of beneficiality to it for gaining necessary popular support. People's freedom of choice demands that the government make them choosers of various possible alternatives in respect of programmes, products and processes, as also of providers, services, quality and costs. The idea is not to liquidate the public sector concept of pursuing national strategy, long term plan, equity, and social justice, but rather make the public sector programmes demand-driven within the public sector framework.

The freedom of choice to the people is to be provided by different forms of organisational and process decentralisation - such as privatization, corporatization and autonomization - that might bring the public sector programme closer to the people and make it amenable to citizens' influence. Taking away public sector activities in various forms to the private handling is a straight way to expose them to the customers' influence. The other way, however, is to bring in market forces and decentralized system to operate inside the public sector processes, making bureaucracy oriented to the sanctity of price mechanism, customer's choice and consumers' sovereignty.

In Nepal, privatization, corporatization and autonomization are being attempted to a certain degree. Yet these may have been completed in forms and formalities only without necessarily resulting in needed freedom of choice to the people. In Nepal's context, it becomes necessary to examine how far the Government's present selection of areas and modes of privatization, corporatization and autonomization have succeeded to bring influence of people's choice on the public sector concern. For it is not enough just to push the execution of business nearer the people but it is also essential to set up

institutional devices to facilitate and bring to effective use the choices of the people in governance.

Furthermore, there seems to be a lot of scope to activate people's choice within the public sector by reorienting present rules of business processing and decision making in the government which are presently aimed to apply mostly bureaucratic rationality. What is now needed as the new dimension in the public sector is the application of the people's choice in the transaction of business wherever it can add an element of beneficiality for the people. Some examples of the public sector business where certain standard requirements of people's choice can be commonly set may be given as follows:

- formulation of schemes, laws, regulations, plans and projects relating to the administration, regulation and development of specific groups, classes or communities
- designing and administration of public goods and services aimed to cater to the basic needs of the people in different social, cultural and environmental situation
- mode of awarding public sector opportunities to the private sector
- formulation and execution of programmes designed to facilitating, promoting and regulating private sector institutions as partners in governance
- delivery of services to the people both in relation to their basic rights and also for help fulfil their statutory or civic obligations to the state

Nevertheless, transparency in the whole governmental process is a must to allow freedom of choice to the citizens. In

the Nepal's context, there is a big task to dispel opaqueness in the government, both systemic and behavioral, which was a fashion of the public sector policy during thirty years of the Panchayat regime.

However, the position of citizens' attitude, ability and organisational strength lie at the crux, without which they can not avail of the freedom at all. So, there still remains another big task to educate, strengthen, organize and empower them which constitutes a new horizon in the public sector renewal programme in Nepal

5.3 Public Service Orientation:

Public service orientation is setting the value of service for the public as the sole motivation and purpose for the public authorities. The word *public service* has been so vastly and variedly used that it has ceased to remind us the original semantics of the term: The idea of orientation is concerned with all the public sector thoughts and dealings and is the vital concept of government's duty to respect people's rights for public services.

Based on this concept, the public service authorities must have a mind, skill, technology, resource and capacity to take into account what services the public want as of citizen's rights in the given social and economic situation, and in what degree of accessibility, speed, manner, extent and quality these need to be served. Besides services to the people in fulfilment of their rights, there is also a duty of the government to render services to the people to help them fulfil their citizens' obligations, as civic and social beings, such as payment of taxes, registration of birth, death, succession, tenancy, land and other properties, etc. and also to qualify themselves for certain developmental and basic benefits from the state such as agricultural, industrial and trade promotion benefits as well as senior citizen's and widow's

benefits, medical and educational assistance, disaster reliefs, etc..

So public service orientation has different implications for different levels of the government and for programmes in different situations. Starting from a demand for indoctrination of public service value in the staff it sends out implications for the politician, the exchequer, the organisation man and the professional to grow sufficiently sensitive and humane to the basic needs of the people. Thus, the public service sensitiveness is to find a place in every professional's code.

There is an another dimension of this orientation which is a way to look at governance from a common man's angle. The governmental departmentalization, hierarchy and several sophisticated management constructions and stipulations may have to dissolved when it comes to providing interrelated basic services to a common man, specially when he or she happens to be illiterate, deprived, forlon and far flung. Here public service orientation would mean integrating related services at the point of delivery and also help the beneficiaries with an enabling attitude and emotion of a patron !

The public service orientation has therefore to come forth as governmentwide common standards in certain respects, while it has also to be specific to the peculiarities of programs in other respects. The ingredients of service orientation have to be established after scrutinizing the programmes and the type of beneficiaries. For without knowing fully the implications of the service orientation of various programmes and in various situations one cannot drive the public sector to the state of delivering good governance.

5.4 Competitive Efficiency:

Improved efficiency in the government is always a desired objective. In the context of Nepal, this becomes one of the critical

factors for delivering good governance. Because, limited national resources of Nepal have never been well taken into consideration in the structural design of the public sector. Similarly, performance has never been tied to the expenditures; staff are highly unmotivated and unproductive; and spoils are strewn all over the service. On the other hand, the regulation relating to decision making is highly generalised as well as centralized; there is very tight elbow room for any enthusiastic manager to take initiative and risk as well as use discretion. The evaluation of the use of authority is made mostly in a juridical fashion rather than in the line of management auditing. The whole structure is hierarchically bound giving no freedom for individual accountability, initiative and risk. The result is that the executive accountabilities are always intermingled within the hierarchy.

There was an attempt to resolve the issue by identifying key performance areas in every Ministry and Department and working out areas of activities and responsibilities for every individual manager against them. A detailed performance sheet for each position holder was charted out showing also their cross relationships and responsibilities. This was a very courageous initiative taken by the Administrative Reforms Monitoring Committee (ARMC) in the implementation of performance management scheme in 1993. The performance management would pave the way for staff evaluation which would again provide the base for motivation and career development schemes. However, the whole plan died out because of the lack of political support with the the dissolution of the then ARMC. Similarly, decentralization of the financial rules allowing sectoral flexibilities and management auditing system also were shelved in the cold storage because of the same reason. The demand for good governance invariably calls for all of these and many more such measures to be instituted with a consensus of political parties this time.

5.5 Legislative Management:

The public sector modelling in the context of Nepal is basically a legislative management of the Parliament in the sense that the framework in which it is to operate should be designed and stipulated by legislation. The Parliament is to lay down the structure and relationship in which the politicians, professionals, public and private institutions and private people should function in the fulfilment of the executive responsibilities as stated by the Constitution.

It may be noted in this connection that in respect of the executive responsibilities the Constitution of the Kingdom of Nepal (Article 35) envisages legislation to set conditions under which the government should be run, indicating a parliament's role of public sector management. Such laws may not only fix different set-ups for different types of functions in the public sector but also define their degree of hierarchical and independent responsibilities. Incidentally, no substantial legislation towards the management of public sector has come forth so far. Although, generally, legislative businesses are supposed to come to the floor on government's initiation, it is only ridiculous to lie in wait for a government initiative on an issue like this.

The public sector management has so far been the sole responsibility of the executive government. Therefore, the legislative instruments of management have been mostly in the form of subordinate legislation predominantly guided by the administrative needs rather than the demand of the citizen. A demand side approach in the public sector is what is most lacking here.

6. Renewal Programme

The public sector renewal programme in Nepal would therefore comprise reorientation of the Cabinet's responsibilities and their ways of fulfilment, restructuring of Ministries, Departments and subordinate offices for setting in public accountabilities and control, reaffirming democratic, professional and ethical values in the public sector bodies, and an induction of non-political and non-state bodies with their competitive advantages in the sphere of governance.

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