

## Why Good Governance Eludes Us

by Masood Hasan<sup>\*i</sup>

*"In a world increasingly rushed to death, the long range waits on the immediate. What is **urgent** takes priority over what is merely **important**, so what is **important** will only be attended to when it becomes urgent, which may be too late" – H J Halle*

### PART I

Traditionally, self-reliance has meant being able to do it all oneself. We are aware that there is hardly a person in the country who would deny the need for being self-reliant. In any case there is a gap between pious thought and self-reliance howsoever it may be defined.

Does self-reliance mean having unlimited money? If it did, Saudi Arabia should have no problems. Does it mean having a reasonable number of technologically competent manpower? If it does, Pakistan should have no problems (our countrymen do very well abroad without additional education and with very little training). Does it mean having an abundance of minerals? If so, Zaire should be self-reliant, but it is not. If we look at Japan, with a high density of population having to import large quantities of petroleum as well as grain to feed itself is self-reliant. Germany does provide a close parallel as it also suffered wholesale destruction of its physical facilities during World War-II. Of course, this does not mean there has to be a shortfall of natural endowments in order to be successful. The USA is well endowed naturally and is also self-reliant and not to forget its import bill is "much more than it export." This means one does not look for self-reliance merely in terms of money or mineral wealth or by counting the number of heads or by exporting more. The origin must surely lie elsewhere, indeed, where does it lie? Understanding self-reliance is to understand good governance.

Achieving self-reliance means change. However, to bring about change we should pay heed to Einstein's observation that "Without changing our patterns of thought we will not be able to solve the problems we created with current patterns of thought." What changes are required at the ground level is always where success or failure is determined. However, it is those who control the workings of man-made systems at the higher reaches that need, in the first instance, to recognize some unfamiliar concepts in order to introduce some doubt in their minds that the current way of doing things cannot deliver the goods. It is the thinking of yesterday that has conditioned today, equally the thinking of today will condition tomorrow. It should also be borne in mind if drastic changes have to be made that there is the initial transient turbulent phase followed by the routine steady state phase, and that the requirements of both are not the same. Further, it is only when a reasonable number think on these lines that a critical mass can be built up ensuring sustainability of the "new" movement. The alternative is to await

---

<sup>\*</sup> Masood Hasan has held top executive positions in the private sector and in the public as a Federal Secretary Ministry of Defence Production and Chairman Federal Management Development & Inspection Commission in the CMLAs Secretariat. He is also visiting faculty to institutions of higher education and training and has been a consultant to international agencies.

the appearance of a charismatic powerful leader who gets things done, short circuiting an evolutionary movement. Such a leader ignites a revolution in thinking with all that goes with it.

Some questions that we need to ask ourselves are

1. Does simple work over the years in expanding organizations throw up problems that are no longer amenable to the commonly or traditionally accepted ways of solving them?
2. Is it possible to work out a strategy that is both helpful to change as well as providing for institutionalization of changes made?
3. Is judicial and/or audit accountability sufficient to keep an organization on the right path or is there any other way of defining what type of controls can be effective?
4. Are there any short cuts for underdeveloped countries to ensure the path of most resistance eg from R&D to acquisition is made easier?

There is no question that independent of the type of political system, capitalistic, socialistic, communistic or any other that the government has willy nilly to work through the bureaucracy, there is just no other way. Therefore, whatever can be done to make the executive more productive must be seriously considered.

### Qualitative Shift

Consider the vast expansion in all activities since partition. Starting with an annual budget of Rs 100 crores and a population of 35 million. We now talk of a budget of nearly two trillion rupees and have more than quadrupled our population, Let us look at some of our activities. We observe in performing work, particularly at the mid and lower levels that results obtained are not the same as, say 40 years ago eg the same type of crane unloads the same type of crates, gunnies, drums or containers at Karachi port; for the crane driver, the recording clerk etc the work is much the same. The railways transport human beings from, say Lahore to Karachi; for the ticket clerk, the engine driver, the cashier etc the work is much the same. Considering electricity distributed to a customer; for the meter reader, the maintenance technician, the complaints clerk etc the work is much the same. Considering pension cases, the procedure for retiring employees is much the same yet in the examples given above we are all very well aware of a massive operational deterioration over the years. Why is this so, after all the basic work of shifting levers/recording reading/salaries, cash receiving/dispersing, recording complaints .....has **not** basically altered ie at the level where the physical transactions actually take place, which is also where the productive work gets done, which is also where the overall successes/failures of an organization are well and truly laid. To put it in another way why is it that the methods used in the 1960s for solving problems are no longer delivering the goods today? Is this not thrown up in many ways, culminating in frustration or even exasperation eg even though the route mileage of the railways has not really increased but through much more intensive use of the facilities over the years new problems have been thrown up that have been so difficult to resolve. Also consider our internal revenue system, under the four heads – Excise Duty, Sea Customs, Sales Tax and Income Tax, the total annual turnover in 1948 was about Rs 200 million, today under the same heads it amounts to over thousands of times more!. We are also aware short term curative actions at least on four occasions were supposed to have set the system right. Has it? Consider our utility billing, who does not have a bitter experience on that topic? Hardly a customer does not have pungent views yet month after month one hopes for improvement ...and, of course, other examples could be given.

An analogy might be some assistance, as this is one way of approaching the unknown from the known. Supposing it is necessary to move stones from point A to point B and time is of no consideration. It could take 30, 40 or even 50 years. A contractor could employ 5, 10, 100, 200 or even 250 labourers to do the job. If the number of labourers were to exceed 250 he would find it very difficult to remember all their names. However, up to this number he could at a

glance know at all times who was absent without leave, who was working very efficiently, who was malingering, who was a victim of domestic trouble ... in dealing with this small number of individuals, because of its small size, As a result all problems could be fully and efficiently encompassed by a single brain that had full knowledge of all the physical transactions.

Hence control is as efficient as could be. However, if the same stones had to be shifted in a few months, may be 100,000 labourers would be required, may be 50,000, may be 5,000. If the contractor attempted to use the same methods as he had previously used he would never be able to accomplish the task. In fact it doesn't take much to see that he would very quickly fall flat on his face. He may have to put up a temporary labour colony (with all that goes with it). He may have to run a transportation service (with all the workshop and maintenance and procurement/stocking problems). All the thousands of workers would have to clock-in for work (which would require comparatively sophisticated arrangements), may be 3 shifts, 7 days a week. Again who would report to whom, additionally, there would be problems of hygiene, as also problems of feeding the workers.....

In both the above cases the expected results required are exactly the same, ie stones at point A must end up at point B, yet the problems thrown up in achieving the same results are of a **totally different** nature ie a qualitative shift has taken place in the nature of the difficulties doing **exactly** the same type of work ie shifting the stones. At what stage this qualitative shift took place, as the size of the effort intensified, no one can say but most certainly it did. One can jump across a small nallah in one's stride but try jumping across river and that too if one can't swim!

We have to accept that this qualitative shift has taken place in several organized activities. Therefore, it would be logical to assume that this shift would call for a corresponding shift in our methods/attitudes towards work, towards our methods of training, towards our methods of evaluation, towards our methods of coordination, towards of methods of control, towards our methods of planning, towards our methods of recruitment and above all towards our methods of acquiring information.

The reader will readily note that all these non-productive activities are concerned with servicing the system to assist the mid and lower levels to take care of the physical transactions and these have not altered, as brought out earlier..... This entails the introduction of support, services or staff functions. And last but not least in understanding that the more that power (authority) is concentrated at the top of the pyramid the more self-defeating it becomes. The necessity for decentralization becomes paramount. With decentralization the requirements for control alter because no longer does one person in "carry it all in his head." It is here that acceptance of the value of centralizing information through a Management Information System support service leads to confidence in delegation of authority, not abdication! Information is thus singled out for special consideration because in **all** administrative/executive officers are only handling information and making decisions and nothing, but nothing else. Of course, the quality of a decision is directly dependent on the quality and time of receipt of the relevant information.

In an organization where the qualitative shift has not taken place, ie a small organization, the top man can through personal contact keep tabs on all activities. As such, his subordinates can funnel upwards information that the top man can check/counter clerk/ validate in good time so that corrective action is taken before the veritable horse bolts from the proverbial stable!

In large organizations, we are well aware, the top man has insufficient time to go into all problems in detail. This has, over a period of time (because of a lack of understanding the qualitative shift leads to problems galore), forced subordinate units to decide **in their wisdom** what information should be funneled upwards to the boss, for him to make **his** decisions to discharge his responsibility upwards! Giving the subordinates the best of intentions, it is unfair to expect them to do justice in pushing upwards what is really relevant information ie relevant to the requirements of the higher level. It is the top man in each organization who must decide what he requires and this has, in our existing conditions, become a veritably difficult job. Just as

a heavyweight wrestler can lift weights well enough, his ability to design a crane should be suspect. Likewise a good decision maker's ability to **design** an efficient decision making system could be equally suspect. The expertise required for each activity is different. We need to understand this.

### **Technology & Administration**

Considering that the old world is familiar with the direct management of things that can be touched, seen or be felt that such as stone, wood or iron and that too, in "reasonable" quantities. The world of today is characterized by the need to first: understand and second: to manage complexity such as exists in an air defence or a tax administration system. This means paying more attention to the **method**, hence paradoxically immediately less to specifics. This arises because a qualitative shift has taken place in the nature of problems being exhibited by activities/problems. This means our approach has to reflect this shift adequately. In dealing with problems of size involving large numbers of individuals or machines or both. Problems thrown up are certainly complex with interlinks or crosswalks that have to be unearthed painstakingly to achieve sound comprehension (this activity is systems analysis). All complex problems that have not been understood, hence mismanaged, causes similar reactions including frustration – dissatisfaction – anger – inefficiencies – losses – reorganizations – replacements. **Knowledge** is the tool for handling all this. But it is easy to weigh a "thing" unlike attempting to measure or weigh knowledge. Yet we do equate purchase of knowledge with purchasing of "carrots and radishes". Little wonder the results leave much to be desired! This approach can never move in the direction of effectively reducing frustrations or complaints in our daily work. Even though such problems may be "solved" on paper but this is not reflected in practice ie at the level where the physical transactions actually take place.

As a result, there is little demonstrated demand or evidence for incorporating planned technological change as a regular **process**. **Technology being broadly defined as know-how to solve problems all sorts: commercial, industrial, administrative, technical or non-technical** in man made systems. To change an unsatisfactory way of doing things, it is necessary to understand how the unsatisfactory way functions in detail and to understand the obstacles to change and the potential leverage point(s) that would require preferred attention to condition change. The need for systems analysis is indicated. This amounts to a "baal-ki-khal" approach which for the computer buff is "binary."

Technology cannot be limited in its use to a mere description of physical artifacts. It encompasses both machines and the **process** or **methods** used in the production of goods and services and performance of social functions which includes the **process** of administration. It is "how we do things" as well as "what we use to do with them". Therefore, technology embraces not only the numeric lathe, computers and computer software and highway construction, but also the assembly line, analytical statistics, dams design, streamlining of systems and procedures and problem-solving techniques employed.

Attempting to introduce new technologies ie "plugging" them in as it were without making necessary preparatory changes in the organizational and work-flow aspects of the socio-technical system – which is what the government is – often has adverse rather than positive effects. The necessity of on-the-job general supervisory/coordinate training (not in vogue) needs acceptance. Technological inventions such as motor cars, electricity, television and the other modes of electronic communication, the production line, process industries, pesticides and IT are profoundly influencing our lives. They have dramatically influenced how we think and provide some of the inputs that go into the public debate.

In Ashby's terms government must develop "**requisite variety**" ie responses to equal the variety of important functions in its environment. **If systems /governments do not develop requisite variety they simply cannot survive.** Rules and regulations governing work flow may have been adequate when laid out originally but may no longer be so eg Foster and Whiffin's

recommendations of 1863 (Queen Victoria's time) laying down the single entry cash accounting method which is yet followed in a number of institutions and we know with what results. Our education system is also not taking note of new inputs. Something needs to be done about it considering the time constant or horizon for implementation of an education policy which may be 12 years. This is much longer than the tenure of those seeing it through.

Technology generates changes in society and the natural environment that cause governmental responses that though adequate at one time are totally inadequate at another. In order to steer, government must continually increase its repertoire of responses relative to changes in its domain, this usually leaves the law gasping to catch up. It seems imperative that government attempt to supplant the current methods of incorporating change with more systematic methods. The old, haphazard methods representing "tradition" are just not working adequately and they never will. This means creating a predictable process of information flows. It follows that the government must develop a capacity to effect "anticipatory responses" which can be contrasted with the more typical reactive response that currently characterizes our contemporary institutions ---- keeping one or two steps behind instead of ahead of problems. This follows from a typical law and order non-developmental "tradition", a relic of colonialism and feudalism. Typically we can spot all the wrong answers but equally typically do not pose the right questions.

The basic reason for so few scalar economies is that the **government tends to employ the same methods for providing a service no matter what their size, no matter whether the processes used are simple, complex or hi-tech hence without regard to what might be.** As organizations grow in size (even doing the same work) the qualitative shift takes place in their problems which amongst others must also be reflected in their organizational structures as well as information flow patterns. **Many of our large organizations unfortunately are simply replicas of small organizations or vice versa,** similar to the broad sweep of the law. As wages and salaries increase without corresponding increase in productivity, costs for providing government services also increase. The need for multidisciplinary analysis as systematized in the early stages of World War II, in the first instance, in the military establishment is required. The lessons learnt were transferred to the civil side after the war ended. This interchange between the civil and military establishments continues apace in the outside world.

Consider that our macro-economics, strategy, planning and wholesaling are all very effective, the economic indicators announces this. But when it comes to the micro-economy, the tactics, the implementation and the retailing function, expected results are just not obtained. This is leading to wealth circulating at the top years ago 22, now 2200 families. We must ensure that wealth moves from the top to the bottom ie vertically. A major cause for the fruits of a better overall economy not being distributed is caused through corruption.

### **More on Technology**

We need, in the first instance, to understand the relationship/differences between science and technology, though both do use the scientific/empirical method.

The development of the steam engine provides insights in the methodology of technology. Briefly, the original concept arose out of using the explosive power of gunpowder to create a vacuum. It was suggested in 1690 that it may be harnessed to move a piston. This led to Savory, an army engineer using pressure to move a piston, his engine was used for low water lifts to pump out water because mechanical engineering technology had not developed sufficiently. Later an ironmonger/plumber (Newcomen) made a blown up version of this engine. Later, an internal jet was introduced for cooling and atmospheric pressure moved the piston. The efficiency was that the cost of pumping was 15-30% of using horses. The engine achieved 4 horse power.

In 1767 Smeaton, an instrument maker raised it from 4 to 7-12 horse power ie an increase of 200 to 300%. However, there was no new invention on his part, he merely improved on Newcomen's materials of construction by boring better cylinders.

In 1775, Watt, also an instrument maker got into the act after he was asked to put a Newcomen engine in order. Watt supplied the engine with a separate condenser, steam moved the piston and a governor for control was introduced. The result was the duty that Smeaton had achieved of 12 was doubled to about 24 HP. Later the introduction of the two-stroke engine upped output by 50% to 36 HP.

During the 1800-1830 period machines with more than one cylinder were introduced in which the output was increased by 200-300% bringing it output to about 100 HP. Below is another example.

### Computer

It would also be useful to look at the development of the computer. Babbage in the UK invented it, but it could only be of practical use when the vacuum tube was invented, about a century later. It then became a practical (though somewhat expensive!) artifact in the immediate post-World War II period. This first generation machine has gone through several generations, the third in the 1960s, we are now with the fifth or is it the sixth or seventh generation? In the 1960s memory chips accommodated 16 bits, in 1972 1000 bits, in 1964 128,000 bits now the world has 256,000 bits and more and is looking to yet much more in this move towards increasing micro-miniaturization. Just as the steam engine drove the development of thermodynamics, the computer is driving computer science. The difference, of course, is what took the steam engine a century is taking the computer far less time!

Let us also look at what is developing in information technology right now. Consider expert systems ie after working out the systems architecture computer programmes are required for solving complex problems where prior experience is almost essential such as in medical diagnosis, geological prospecting or tax planning. Such systems are also built up in an **incremental** fashion iteratively. This is hi-technology in which resources are invested in an **intangible** which requires maintenance and can be depreciated In Pakistan we yet have problems in assessing technology involving tangibles! However, it can be seen that incrementing is how technology does progress. There is no good reason why it should not continue in this fashion. Remember that in achieving 100 HP a number of **incrementally cumulative** steps were made in over a century.

Technology, by and large does progress incrementally, each improvement adding on to the existing inventory of achievement, if only for the good reason that existing assets cannot be written off overnight without creating chaos. There have been very very few genuine quantum advances in technology, a good example is that of the transistor. It happened because the same organization researched and developed it and then brought it into production. Another important point to observe is that improvements could only be made when there was **intimate knowledge of the physical transactions** taking place at the level where success or failure was spelt out ie at the operative level, in no uncertain terms. These two important points have application to a host of other situations which should help technologists to understand why there are so many obstacles to progress. To repeat the definition of **technology** is very simple, with reference to man made systems, **it is the know-how to solve problems all sorts.**

With comprehension of detail, **the devil really is in the detail**, more or less recognizable as a fully exploded mechanical engineering piece part drawing that cannot be exploded any further. To alter a system, detailed knowledge of how it functions in all its glorious detail is essential otherwise the chances of enunciating unimplentable policy are greatly increased. However, if the correct approach is followed it leads to the identification of:

- what obstacles can thwart progress
- where the potential leverage points for attack are located

The above is **concerned with the applications, not necessarily with an understanding of science**. However, lest it create misunderstandings it is true that there needs to be interaction between technology and science. Over a period of time one spurs the other. For example, when the power of the steam engine had got to what appeared to be its limit in 1830, it stimulated the development of the science of thermodynamics. The movement is, therefore, a two-way street. We may be more accustomed to science contributing to technology (usually outside Pakistan) but post – 1830 the need to build better steam engines certainly advanced thermodynamics. As pressure or rotating speeds increased metallurgy, corrosion, chemistry and other disciplines were involved. Technological evolution usually makes better scientific instrumentation possible which can be a major factor in advancing science itself.

Technology is usually industry oriented and is exceedingly complex because it deals with two types of efficiency firstly, with the physical and secondly, with the economic. Physical efficiencies are always less than 100% and economic efficiencies must exceed 100% for continued successful operations to stay afloat. Usually in the final evaluation where technology plays a premier role, economic efficiencies must take precedence over the physical. Technologists must make themselves aware of this fact of life because the fruits of technology are used in the economic environment which is to do with the wants of people who are a part of the social environment. The problems of technological advancement, unlike science concern a universe over which it may have no control whatsoever.

With continuing technological advancement and continued poor governance it will not be long before we cease to count altogether.

Consider internet and the electronic mechanisms involved to keep pace with others in this, our global village. Electronic commerce, with its lower overheads will increasingly shape our lives. It will need consideration of the legal status of non-analog transactions ie digital say, through e-mail. It will also concern taxation and also taking care of fraud etc. But success as in other and more so in this field is dependent on accepting the non-traditional or new ways of doing things. Our mind set generally is unprepared. Technology offers solutions which we pay lip service to, but reject by the way we act. We need to prepare the relevant infrastructure and move over from the thinking of the direct management of things which may be solid and can be weighed to the substitution of machines by the electronic environment. This includes

*“new insights into symbol generation, transmission and its logical manipulation. This has led to invention of sensors such as radar and sonar in symbol transmission to the phone, radio and TV, in symbol logical manipulation to the increasingly productive use of the computer ----- the creation of software, where training has the upperhand. A better understanding of the role information plays focuses on the fact that it is the interaction between the subsystems rather than the efficiency of each part that controls the output”.* Some thoughts on Self-Reliance & Missing Links, Masood Hasan (Proceedings Vol IV Symposium). The Institution of Engineers, Pakistan, 23<sup>rd</sup> Annual Convention Lahore March 1980.

With an understanding of the nature of technology and its methodology it should become clearer as to how a policy can be converted to results at the ground level, where the physical transactions take place. We now move on to a third factor.

### **Accountability**

However even with an understanding of the nature of technology and the qualitative shift there is yet a third important factor, and that is the need to hold functionaries appropriately accountable for policy implementation at their respective levels.

A brief recountal of our colonial (not Islamic) heritage will not be out of place. Around the year 1200 England started to export black faced sheep's wool to Europe because the technology to convert it into cloth existed in Holland. Commercial transactions do attract legal intervention for a variety of reasons. Wool was no exception. In fact the expression "spinning a yarn" is not without good reason! Differences arose on account of, amongst others, valuation for purposes of customs duty/excise etc. Valuation could be related to colour, fibre quality, lanolin content ..... and each characteristic may involve technical knowledge of experts. Further, that time was the essence of transactions must not be forgotten Cases were adjudicated by common law courts involving very uncommon (to it) facts.

If there are eleven variables there are nearly 3.7 million ways of putting them together. No compendium of laws or rules could possibly have **all** the definitions neatly laid out to assist the lawyers and common law judges. As a result many of the judicial court judgements were unjust and the Lord Chancellor's version of ijtehad was to take away such cases to his court. He dispensed with due process, used his grey matter and concentrated on equity and morality (in the absence of the life blood of the legal profession ie precedent) and handed down equitable justice. After about 200 years this method was absorbed in their legal system. Later, Thomas Egerton Brackley, better known as Lord Chancellor Ellesmere, secured in no uncertain terms the independence of the Chancery Court through James I in the face of opposition from the CJ Sir Edward Coke. The Chancery Court was "*originally set up as a tribunal to decide cases not served by common law --- to correct its rigidity and insufficiency --- and it came into rivalry with the common law courts. When it granted relief against judgements of common law in 1616, a conflict with Ellesmere's antagonist, Sir Edward Coke CJ of the King's Bench, ensued and was resolved only by the King's decision in favour of equity (Earl of Oxford's case). Thereafter the equitable jurisdiction of the Court of Chancery was unquestioned*" (*Encyclopedia Britannica 15<sup>th</sup> Edition Micropaedia II 217*). The amalgamation of the courts in 1873 in the Judicature Act reconfirmed the three divisions Queen or King's Bench, the Chancery and the Admiralty etc".

We, in Pakistan have yet to do our ijtehad! It is clear the imbroglio involving our CJ and the executive would have been obviated because the Supreme Court accepted for adjudication, reportedly some 6000 cases. As a result many decisions trod on the soft corns of the executive with this suo moto action. It is clear that the proper separation of the three pillars ie judiciary, legislature and executive does not exist. In fact if the executive were truly independent, the independence of the judiciary would follow! This statement is indeed no oxymoron! The judiciary had been placed in an anomalous situation, pronouncing judgements in cases that should **never** have gone to them in the first instance. More than one Chief Justice has commented as such in the past (*see Dawn Sept 29 2002 on Administrative Function*).

Resultantly, the consequential judicial activism has led to terrible but entirely predictable consequences. After all the clash had to come sometime.

It is relevant to look at the Napoleonic approach. Napoleon had absorbed Islamic ideas during his forced sojourn in Egypt for a little over a year, per kind favour of Lord Nelson who sank his fleet in Aboukir Bay. In France, the three pillars are kept cleanly apart. In Pakistan the executive is happy that the process of judicial review exists because it lets them off the flexible administrative hook on to the "rigid" judicial hook. This means, once the judiciary steps in it follows due process which at best is sorely limited. The limits are burst through judicial activism. Because judicial courts do not have the resources to appoint professional investigators to investigate the usual lack of evidence and where technicalities are involved (as in the black faced sheep's wool example) and with the absence of precedent the chances for unjust decisions exist. In the past we were thus landed with the doctrine of necessity, which its originator decried in his book "*From Jinnah to Zia*". Look at its disastrous results.



When the Holy Prophet (pbuh) heard complaints made by citizens, he did **not** do so as Chief Justice **nor** as Auditor General he did so as presiding Chief Executive Officer. Later the caliphs followed his example. The Omayyad caliph, Abdul Malik bin Marwan formalized this process, which meant accountability of the executive resided **within** the executive, as it does in France and countries with the Napoleonic disposition. This means having a Council of State headed by the Prime Minister as the highest forum of appeal equivalent to the Islamic Mazalim (complaint courts) of old. The Moghal kings worked the same way which meant good governance, hence ruled for hundreds of years. Jehangir's first act on assuming kingship was to install the chain of justice and it is well known that the king, as CEO delivered judgement on the complaint of an old lady against the powerful Muqarrab Khan. There is nothing strange about this. After all, all our private and public companies, MNCs, armies, navies and air forces the world over ensure executive discipline within the executive, wherein merit and timeliness are usually of supreme consequence.

We need, therefore, to enforce Article # 216 of our Interim Constitution of 1972 (Article # 212 of our current constitution has decimated Article # 216) which reads as follows:

*“Administrative  
Courts and  
Tribunals*

*(1) Notwithstanding anything hereinbefore contained, the Federal Legislature may by Act establish one or more Administrative Courts or Tribunals to exercise exclusive Jurisdiction in respect of:*

- (a) matters relating to the terms and conditions of persons in the service of Pakistan, including the award of penalties and punishments;*
- (b) matters relating to the imposition, levy and collection of any tax, duty, cess or impost;*
- (c) matters relating to claims arising from tortious action of Government, any person in the service of Pakistan any local or other authority empowered by law to levy any tax or cess and any servant of such authority acting in the discharge of his duties as such servant;*
- (d) matters relating to industrial and labour disputes; and*
- (e) matters relating to the acquisition, administration and disposal of any property which is deemed to be evacuee property or enemy property under any law.*

*(2) Where any Administrative Court or Tribunal is established under clause (1), no other Court, including the Supreme Court and the High Courts, shall grant an injunction, make any order or entertain any proceedings in respect of any matter to which jurisdiction of such Administrative Courts or Tribunal extends”.*

In Article 212 items 1 b and 1 d have been knocked out an addition made further .... *”and all proceedings in respect of any such matter which may be pending before such other Court immediately before the establishment of the Administrative Court or Tribunal shall abate on such establishment: Provided the provisions of this clause shall not apply to an Administrative Court or Tribunal established under an Act of a Provincial Assembly, unless, at the request of that Assembly made in the form of a resolution, Majlis-i-Shoora (Parliament) by law extends the provisions to such a Court or Tribunal.*

*(3) An appeal to the Supreme Court from a judgment, decree, order or sentence of an Administrative Court or Tribunal shall lie only if the Supreme court, being satisfied that the*

*case involves a substantial question of law of public importance, grants to appeal"*

Over the years the institution of Administrative Courts in France has increasingly commanded respect and is a strong protector of the rights of citizens wherever administrative arrogance is displayed. Such courts like the Mazalim courts are not handicapped by any jurisdictional or procedural niceties. In Finland or Sweden there are Supreme Administrative Courts similar to the French Conseil d'etat with its hierarchy of courts. In France the main features of the methodology of the Administrative Courts are as follows:

1. *Their procedure is inquisitorial ie, administrative court judges are not just umpires, they go into the propriety of the administrative decision and collect information through their own rapporteurs, if necessary --- thereby reducing the possibility of injustice due to lack of resources on the part of the citizens to engage expensive lawyers, or in getting relevant information from government departments.*
2. *Their judicial review is comprehensive ie the court not only goes into the facts and law, but also into the motives, be they personal, political or social. The onus of proving the bona fides lying on the administrative authority.*
3. *The court insists that subjective satisfaction must be justified externally, that administrative decisions must be justified face to face.*
4. *The court's jurisprudence is creative and dynamic; that is, the Court is not bound by precedent or bogged down in jurisdictional issues. The underlying principle is to secure a proper, ethical and decent standard administrative behaviour --- "administration shall not lie".*
5. *The Conseil is marked for its independence and fearlessness even though it is constituted within the Civil Service Structure.*
6. *The Conseil has gone farthest in extending the vicarious liabilities of the State. Damages have been frequently awarded against the State, because in France there is no immunity of the State against claims arising out of wrongful assault, battery, false arrests, malicious prosecution or interference with contracted rights, in many cases the Conseil has awarded damages against the State.*

*The success of this system lies in the fact that the Conseil is part of the Executive, coming directly under the Prime Minister. Where doubts or difficulties arise as to jurisdiction in France, there is a Tribunal of Conflicts which is composed of representatives of the Conseil and the Judiciary in equal numbers under the presidentship of the Grade des Sceaux (Ministry of Justice). He normally does not attend, but if there is a deadlock he uses his vote. It may appear improper for a Minister to have this power, but this is probably the best solution as no independent Chairman could be drawn from the Judiciary". Administrative Courts and the Ombudsman Masood Hasan, Pakistan Times May 23, 1972.*

When we consider the tremendous expansion of organized activity that has taken place in all walks of life in Pakistan within few years we realize that the procedures (in all their glorious detail) are by and large not defined because by the time one gets round to a definition, further modifications are required. It would appear that we just simply cannot catch up with ourselves. The concept of continuous (as opposed to periodical) evaluation imposes tight administrative discipline on individuals running organizations. This discipline can never be enforced by a court of law. This discipline can only be enforced by a branch of the executive armed with the authority to penalize the offending official.

In short, we need to go in for a retrofit of our concept of administrative accountability. It is only through such an approach, given our ways of working, to provide the good administrator or manager with service security by ensuring administrative accountability.

A new beginning has to be made if Pakistan is to ever have an efficient bureaucracy that can be held accountable. This is the best source guarantee that is required because authority on the one hand and accountability on the other are two sides of the same coin. Delegation becomes meaningful as it will not amount to abdication, resulting in meaningful decentralization, empowering those at their own level of responsibility by providing matching authority.

Habits make good servants but bad masters. Our colonial heritage of hardly 100 years, is no match for what led to Islam's early expansion. Certainly not through the sword, but in ensuring equitable behaviour with the different people-types in the Empire. *"The area of this state, according to historical evidence, was no less than three million square kilometers. In other words the average expansion was some 845 square kilometers per day (within the ten years Madinah had become the capital). This expansion was achieved partly through peaceful means and partly through war. In addition to details of the battles waged we have details of the number of casualties. The average number of enemies killed in the course of conquests ..... works out to less than two per month. In ten years less than two hundred and forty men were killed. The number of Muslim casualties was much less .... This was a lesson for contemporary rulers for it provided a practical example of avoiding unnecessary bloodshed by the Prophet (pbuh)".* (The Emergence of Islam, Muhammad Hamidullah, translated/edited by Afzal Iqbal. Islamic Research Institute, Islamabad --- State and Administration, p 199).

It is also relevant to recapitulate Akbar's dictum ... "For the rulers worship consists in the dispensation of justice and the improvement of the realm" having firm belief in the oft-quoted maxim of Muslim statecraft that "a policy can endure despite disbelief but it cannot last without justice" (Nizamul Mulk). Likewise a hadith of the Holy Prophet (pbuh) can be recalled "A moment spent in the dispensation of justice is better than seventy years of devotion". Akbar also said "If I were guilty of an unjust act I would rise in judgement against myself. What shall I say then of my sons, kindred and others?" The Moghal emperors regularly appeared, even if not feeling well, in the jharoki-darshan and the diwane khas wa aam. It appears our forbears understood better why our work methodology was to be called the Rules of Business and not the Rules of Administration! A businesslike approach is the call of the day. It certainly irked the British to see Hindus cherishing with nostalgia the memory of their erstwhile Muslim and Moghal rulers. In the 1857 freedom fight against the British the Hindus high caste initiated the same at Meerut which was later joined by the Muslims.

To summarize, there are three more important aspects requiring conceptual acceptance to permit movement in the right direction. The **first** is that of the Qualitative Shift, the **second** is an understanding of the methodology of technology and its relationship to science so as to use it as a means for progress rather than end in itself. The **third** is that of accountability for obtaining results. We should compare our inherited Anglo-Saxon model with the French, which is fully consistent with Islam in which ensures the three pillars of state are all kept at arms length. Doesn't the current political impasse tell us of the results arising out of suo moto judicial action (activism) by the Supreme Court? The judicial ship of state is like a majestic 500,000 tonne tanker negotiating an about turn, the radius which could be many kilometers and at a lumbering rate. Whereas the administrative vehicle may have to make a quick reversal of direction in double quick time. The law is looking backwards at an act of commission **after** something goes wrong and only when brought to its attention. Its approach is and must be precedent based. Whereas administrative requirements may arise out of the needs of new and more complex unforeseen situations affecting the future. It may have to --- in order to avoid seizing up of the administrative engine, through lack of adequate tolerances or lubrication (of the good kind!) --- ensure the administrative **process** is held intact and not to waste time in cutting the Gordian knot of disjointedly incremented procedures and obtain results. The approximately correct action at the right time is infinitely better than "absolutely" correct at the wrong! Precedent thus, is not sacrosanct in order to honour the letter of man made obviously inadequate law. Whilst only three concepts have been explained, that is not to say that they are

enough. There is much more, including concepts of professionalization of knowledge, the build up of complexity in organizations, the multidisciplinary approach, training types, the need for mapping of systems involving the stakeholders, Then there has to be comprehension of the requirements of different administrative cultures, the inductive and deductive methods, the form and content of problems and above all how all this can help in navigating the difficult passage of continuous change. We must recognize that our flawed approach has fallen under it's own verdict. It's doctrine has not been converted into the reality we have wanted. Recognition involves having the intellectual integrity/capacity to accept failures with goodwill and grace. Only then will the sympathetic management process, tailored to each systems requirements, be oiled in. The broad brush "judicial" approach has not worked for 60 years. Why should it work tomorrow?

## PART II

What is the use of theory if it refuses to work. It usually refuses to work because of incorrect assumptions made. Further, exposure or transparency is what we do not want as it may embarrass us. Witness the very few (if at all) PCVs filled up for five anniversaries after a project is completed to check long term evaluation with special reference to assumptions made. Short term evaluation arises out of the PCIII's or Quarterly Progress Reports. Information is the basis for action, this has been pointed out by Stafford Beer in "Platform for Change" in the chapter on "*Argument of Change (Homo Gubernator)* p28 that Norbert Wiener, the founder of Cybernetics realized what a great leveler --- information is "systems exist and run and are controlled, by virtue of an information content. When Wiener, the ranking mathematician, set out to measure the information content, he came up with a formula which was the exact negative of the expression used for entropy....." (for entropy read disorder or chaos), So disorder is taken care of by "injections of information". It is through mapping of systems that current status is defined. Therefore, the routes as work flows need to be traced out. They are fixed, hence predictable. This is condition precedent to journeying ahead if you are not to lose yourself. There are many techniques to map. The best involve the stakeholders. After all it is of no use using a 100 year old map of Lahore to move from Mochi Darwaza to an address in Defence Housing Authority, you'll never arrive. The compendium of systems with it's detailed procedures (which require being kept current) is the route map of how work flows in an organization ie. how results are obtained. Such an exercise happened to be carried out in Pakistan Ordnance Factories (POFs) in the mid-60s of the last century which laid the basis later, for computerization. The author had done the systems donkey work as a private consultant and later, when POFs reported to him got those recommendations implemented. This is surely a unique experience! Good practice indeed produces excellent theory. The concepts elucidated in Part I formed the foundation to achievement many years later. The foundation has laid involving the stakeholders in mapping.

Again, consider the now obsolete T59 tank, with about 10,000 parts. 4000 were made in the Chinese aided factory in Taxila known as HIT (earlier it was P-711 then HRF) and 3982 in the private sector. It is significant it was an 80% deletion by number, not value. It would be difficult to identify any organization in the country that has achieved this, considering the complexity of the tank. It was necessary, as a part of the methodology, consistent with concepts in Part I, to place commercial discipline on top of military discipline (an unbeatable combination) rather than having it the other way around which would have resulted in failure as experienced in many other projects. Again SUPARCO fired the first missile and reverse engineered the 122 mm multi-barrel rocket ammo in the mid-1970s in which the application of the concepts brought out earlier led to success.

Once again, the assembly of the first MFI-17 trainer aircraft better known as the Mashak was accomplished within 16 months of signing the contract with Saab of Sweden. By introducing the proper processes as had been done for the assembly of the MFI-17 (which later shifted from

Risalpur to Kamra) 30 aircraft which had been condemned to the scrap heap were recovered. This was a by-product of the systematic way of doing things.

More examples could be given. Since the T59 case was a major success it will be relevant to bring out the following points:

1. It was necessary to restore the shaken confidence of sub contractors, that they get paid promptly as per commercial discipline.
2. Acceptance by the government that resources spent on development may have to be completely written-off. This develops trust. In passing it may be mentioned that in 32 defence projects in the 50s and 60s in the UK some 500 million pounds sterling had to be written off but the national balance sheet benefited through spin off benefits!
3. Setting up a central agency to provide technical assistance to private organizations in a variety of disciplines including metallurgy. This central agency (which started up in three garages!) expanded later to include the groups given below:
4.
  - a. Development
  - b. Paper particulars
  - c. Administration
  - d. Stores
  - e. Quality Control

Some of the subgroups include data processing, cost evaluation, technical coordination, technical documentation, drawing and design, technical library, product display (a well laid out museum), contracts, original samples, local purchase, fabrication, machine shop, inspection, physical and rubber and board/felt and metallographic testing laboratories. **This enumeration gives a small idea of the complexities involved in acquiring systematic ways and means**, which amounts to good governance. Such are the ways of technology. To be noted all these functions are meant for support to the cutting edge, also known as staff functions.

5. Generating mutual confidence in the users and civil manufacturers that, if properly organized, it is possible to get things done successfully in the country, when but a few years prior to this activity there was scant practical application of this later realized potential. Over the years these vendors/sub-contractors are presently doing good business in the automotive sector. This has helped the national exchequer and generated employment opportunities in a sustained fashion.
6. Recognition, informally at least, of the several necessary back and forth imovements of information at various levels to propel the effort to a successful conclusion. This calls for a lot of patience that commercial discipline demands.
7. That it was possible to collect data from the hundreds of vendor firms of what effect defence financing had permitted them to expand into other lines of civil activity which otherwise may not have happened or if it did it would have taken a much longer time. Unfortunately, this aspect has fallen by the way side, not unexpectedly! We are not applied research oriented, leave alone fundamental research.

Consider the purchase of an old Daphne submarine and it's subsequent refitting abroad. This project was subject to an advantageous commercial contract which made it possible later for the navy to do better than what was done in France, later in Karachi.

Further, the purchase of the Exocet missile and the approach to funding for development improvements within the manufacturing delivery period was linked to a royalty. Contractually this is on record for the first time.

It is also of interest to state that the author as sole arbitrator of all defence procurement contracts and in that capacity had many difficulties in obtaining the required evidence to move in various matters. It was only after he exerted his executive authority as Administrative Head/Chief Accounting Officer of the Ministry of Defence Production that the same was available to him very quickly. Thereafter it was possible to proceed. The conclusion is that it was only on account of executive authority that matters moved. It would be worth considering very carefully whether any other external agency could have moved in a similar fashion and obtained results? The need, therefore, is to ensure accountability of the executive resides within it. This is an imperative, if we are to progress.

Can the methodology used by successful project implementation by the Ministry of Defence Production be replicated elsewhere? The answer is a resounding yes provided we have learnt to distinguish between the form and content of a problem. Problems assume few forms, but the content of no two problems are hardly ever alike eg an auditor in his office and a submarine spotter in an aircraft are both subject in their work to similar sampling and observational errors. The auditor with many vouchers to examine and the spotter an expanse of ocean. Both are involved in **search** procedures, which is the form of the problem.

The examples given above are based on good governance and the methodology or processes involved are transferable to apparently dissimilar activities. The author who had qualified in process engineering (chemical engineering) had had no exposure to armaments. Yet in the 1973-78 short period had successfully laid the basis of several defence related capabilities. Some produced spin off benefits in the private sector. Systematic efforts need to be put in, in this direction, combined with relevant post-experience training programmes of the general/coordinative training on-the-job of which we have precious little.

*“As the correct solution of any problem depends primarily on a true understanding of what the problem really is, and wherein lies its difficulty, we may profitably pause upon the thresh-hold of our subject to consider first, in a more general way, its real nature, the causes which impede sound practice, the conditions on which success or failure depends; the directions in which error is most to be feared. Thus we shall more fully attain that great prerequisite for success in any work --- a clear mental perspective, saving us from confusing the obvious with the important, and the obscure and remote with the unimportant”.*

A Mellon Wellington (The Economic Theory of the Location of Railways 1877).

---

<sup>1</sup> Printed in “Monthly Kissan ” of July, August and September 2008

August 2007