

What Constitutes Better Governance?^{*}

by Masood Hasan

It appears our decision makers are now on the track called restructuring which is actively pushed by the World Bank et al. What does restructuring mean? Does it mean best practices; alliances; institutional up-gradation; right-sizing; down-sizing; devolution; bench marking; transparency; base lining; streamlining; corporatisation; centralizing; reengineering; outsourcing; de-centralizing; golden hand-shaking; accountability, human resource development...., or a cocktail of some or all of them?

All the above terms most probably represent a means to an end. Since we all agree that current governance is not good, changes must be made to improve current ways of doing things. The key ingredients of organizational endeavour are:

- A. the decision making structure
- B. the individuals who man their positions and
- C. the standard operating systems and procedures (SOP).

A – In Pakistan since partition we have changed the organizational structure of almost all our institutions starting with One-unit. Some government activities were hived off to “semi-autonomous” institutions like POFs and WAPDA. New departments were created, others eliminated and yet others merged.

As this was happening centralization of some and de-centralization of others came about. In the federal government, for a short while, the secretary made all decisions on money matters. Complications arose on account of the many new activities due to considerable increase in development works. Some organization structures included anti corruption departments---even for brand new set ups!

B – The second aspect concerns the human component of reorganizing. Mr. A was changed for Mr. B and B for C. Some individuals were made OSDs, some suspended, some sacked, a few called it a day. No attention was paid to integrating training with career-progression. Training was relegated to the *khudda line*. The increasing pace of technological developments left traditional or incremental thinking far behind. Adjustments made were too little and too late. The net result was too many square pegs in round holes.

C – The third aspect of system and procedures represents the essential organics, the nervous systems and blood supply of organizations. Little or no attention has ever been paid to this, the most essential operative function which makes or breaks any organization. Lack of understanding of this, compounded by inadequate organization structures and absence of accountability of personnel led to continuous running down of several earlier well run systems eg PIA.

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Additional complexities were generated because of frequent military takeovers. Whilst the military comes to the fore during war (a transitional process) it is not trained to handle peacetime civil operations unless all the standard operating procedures (SOP) are well defined, cut and dried. This puts a premium on conformity.

When in fact, under normal peacetime conditions, a great deal of flexibility is required to adjust to changes on account of force-majeur ie what the competition may be doing. There are no SOPs for transitional states. There are only principles that have to be followed. Further, lack of appreciation of commercial discipline is a major reason for poor governance. If a Procurement Manual has to be written-up, the cycle ending with acceptance, could take up to one year in large systems. Then of course there is the sorely neglected maintenance function to keep any Manual up-dated.

So what do we mean by restructuring? All three aspects above-mentioned or a combination of any two or only one? It is so easy to confuse the symptoms with the disease, the effect with the cause.

However, the objective must be to improve performance or effectiveness or productivity or profits. We need to be reminded that force (orders) can only be physically transmitted through an adequately designed structure. Further, it is the organic SOPs that ensure the movement of reasonably accurate information through the organizations nervous system which is all sustained by its blood supply. However, it must be accepted that the paths followed are not always fixed on account of emergencies or other untoward happenstances. This is where relevant training helps personnel in the judicious exercise of discretion.

To assist in this direction the necessity to introduce a new way of determining accountability is required which brings in the concept of 'prevention' rather than 'punishment' only. The law and audit fail at this point because their remit starts after a wrong has been perpetrated, never in advance. They deal only with acts of commission and not the usually more serious acts of omission. Further, if the evidence is not available the case is dismissed. Even though it may otherwise be common knowledge that all the wrong things have been done.

In Britain about 700 years ago because of the development of new activities principally on account of the export of the black-faced sheep wool to the Netherlands for conversion into cloth, introduced disputes of a nature that the law was totally unfamiliar with ie, there were no precedents. Realizing that this would generate insuperable difficulties with due process, disputes involving equity and morality were sent to the Chancellor for adjudication. The Chancellor cut short legal procedurals, exercised his grey matter and pronounced judgment on cases where there was no precedent. After 200 years of this process, the Chancellors court was absorbed into Britain's judicial system and today is taken care of by the Chancery Division of their law courts. A tradition had been set up to deal with cases involving what we would nowadays call white-collar crime, requiring judicial activism (JA) of a moderated quality.

Without such tradition Pakistan got derailed in the early 50s by the 'doctrine of necessity' which is an extreme of J. Its author regretted this much later but the damage had been done. It will take far too long for us to build up in our existing set up healthy relevant tradition. Napoleon was less patient. As a brilliant administrator he ensured the separation of the three pillars of state ie the legislature, the judiciary and the executive. This meant there would be no judicial review of administrative decisions. This necessitated its own hierarchy of courts. At its apex sits the Council of State with lower echelons of Administrative Courts which generate evidence when not available through its rapporteurs. This means accountability of the executive resides within the executive.

There is nothing wrong with this concept – if it were all military establishments and private/public companies, the world over, would be in the wrong. We know they are not. Under this system the easy issuance of stay orders will be one of the first casualties, because Administrative Courts (AC) get into action at once. Here the state would be the defendant. Equity would be inexpensive. ACs would have powers to fine and to assess and ensure damages be paid. Such a system will provide the administrator with service stability but at the expense of his personal accountability, without harking after constitutional service guarantees. This is how it should be.

When a particular way of executing work has not been able to maintain its original level, leave alone improvements, for so many decades a qualitatively different approach is required, otherwise despite going in for "restructuring" of the decision making edifice and changes in personnel, the bottom line will give us more-of-the-same.

We do need, as never before, to revisit our half century odd of nationhood with an open mind to help us to make a change for the better, howsoever easy it is to retain the abominable status quo, particularly concerning accountability and procedurals.

It should be an eye opener that the Advocate General of the USA announced on TV on September 13, 2001 the doing away with lengthy due process in life-claims of essential-services personnel who lost their lives in trying to save others at the Trade Towers holocaust. This announcement was made on the basis of both equity and morality. Given the administrative environment in the USA there is little chance of its misuse but it does show an immensely obvious, humanitarian response to a colossal tragedy.

In Pakistan we are immune to this. Just look at what has happened to NDFC depositors who by no stretch of imagination were involved in what went wrong. Widows, pensioners and other retired persons will be the worst sufferers. We need to put our organics (systems & procedures) in order in such a way that there is transparency which is not illusory but real.

It needs to be understood that a decision is a moment in the operation of the SOPs and can be changed many times, but any process is extremely difficult to alter without ensuring several requirements. Decisions are like a Balance Sheet whereas the SOPs are like a Trading Profit & Loss statement.

Those who talk of implementing “restructuring” as a panacea should understand that each organization’s case is unique hence hand tailoring or customization is required. Further no foreign model quick fix solution will ever deliver the goods.

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