

**Accountability : how fair and reliable?\***  
**by Masood Hasan**

*The canker that is eating up from within in a termite-like fashion is that of corruption of all sorts. Can our rulers deliver the goods by using the old processes to getting the business of government carried out? It can be helped if the processes are made transparent. Do our rulers have the courage to get the civil bureaucracy to have their departments ISO 9000 certified? An affirmative answer with equally affirmative action taken will help boost our flagging morale.*

OUR failure can be expressed in a few words---our inability to implement anything in a systemic fashion. Whatever the number of variables in law there are countless more in the implementation process. Further, the judicial aspects enter the picture after the event. We need to go in for a new approach to holding those accountable who head the implementation agencies---government or semi-government.

That justice is blind has been dinned into our ears for ages. However, neither equity nor morality can ever be blind as they demand a careful look at man-crafted laws which are imperfect and cannot take into account new problems arising out of technological advancements.

Towards the end of the year 1200, England started exporting wool to Europe to be processed into cloth, where the relevant technology had been developed. The problems that arose on account of litigation at that time as also those introduced by change in technology, were unable to be resolved satisfactorily by the Common Law Courts in England. Rules had proliferated and the blind application of the law led to injustices.

A new approach was required to deal with such cases. These cases were shifted over to the chancellor who was not bound by due process, hence could cut through it and exercise his common sense, based on equity and morality, to arrive at a judgment. This

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process went on for 200 years, when the chancellor's court was absorbed into the judicial system of England. Such courts are now known as the 'chancery division'.

There are two disciplines that must stick to precedent and not make violent changes in their ways of work ie law and audit. When very quick changes are made in audit it leads to innovative accounting which spells disaster. Where judicial activism comes into being we get the "doctrine of necessity". The late Chief Justice Munir in his book From Jinnah to Zia admitted that it was not quite the right thing to have been done. We are suffering from its consequences to this day.

In the recently conducted NAB workshop in Islamabad on the many faces of corruption it was generally agreed that there are several difficulties, making it impossible in many cases, in implementing court judgments. It is clear, the law to be effective must go beyond the determination of the rights and obligations of individual and collective bodies and move on to a definition of how such rights and obligations can actually be enforced. Such enforcement must be done in a systematic, consistent and transparent manner to avoid nepotism.

This shows that the implementation processes are not functioning properly in Pakistan. Take the example of most of our five-year plans. We have difficulty in implementing even a bad policy consistently!

There are three aspects that need recognition: the first, that in order to implement a judgment, a decision or a plan, the organization must have a structure to enable it to do so. Force can only be transmitted through a structure. In Pakistan we have found that the existing structures or restructuring the same has not helped. Recall 'One Unit' which was a change of structure. It did not work. The reasons had more to do with the third aspect. The second aspect is the human element. Whenever a new regime comes in, a big shuffle takes place, the faces remain the same.

The third aspect is the systems and procedures of an organization (S&P), which represents the organic side of an organization. Systems are wholesale dealing with strategies and procedures are the retail aspect where the physical movements actually take place. This is the level where implementation is proven to be successful or unsuccessful.

Should we not, therefore, pay attention to the proceduralists? In government, since the formation of Pakistan very little work has been done in the systematic modification of proceduralists (SOPs). That is not to say that changes have not been made, of course, they have. Look at the new Income Tax Ordinance 2001 which has replaced the Income Tax Ordinance (ITO) 1979, now updated by introducing more than 100 amendments through the Finance Ordinance 2002. This speaks volumes on the inadequacies of the original ITO of 2001 which was finalized after throwing it open for discussions and seeking public opinion.

Experts were happy that their concerns would, therefore, be addressed particularly on the complexities they had been expressing about ITO 1979. However, they were more than disappointed to see that the new ordinance had created new confusion rather than clarifying the existing ones. The plethora of amendments in the newly born ordinance, with back and forth references to the ITO of 1979, has helped to make matters worse.

The ordinary tax payer will still be requiring the help of experts for dealing with the taxation matters and will continue to be hounded by the taxation authorities. With 20 per cent computer selected cases for detailed investigations per year, in just five years all tax payers will have been investigated, as in the past.

In over half a century of our existence we have often gone in for restructuring. The mother of all restructuring was "One Unit", the latest: the district administration. Creating conditions for successful restructuring calls for something new. The terms right/downsizing, streamlining, corporatization, decentralizing, outsourcing, rationalization etc, etc are meaningless unless the restructured skeleton is clothed with the required organics

(nervous and blood systems) in the form of the essential procedural (SOPs), which tells one how to operate.

The procedural (operative/tactical level) must be made consistent with the system (policy-strategy level). Therefore feedback is required to ensure that no procedural develop antagonistic to the system. This is easier said than done, because no crime is committed by not doing anything. Our system of accountability ensures this. This means the sins of administrative omission which are extremely harmful will continue unabated. This must be changed if we are to make the new district administration (DA) effective.

When a system has not worked at all for half a century, why should it be expected to work tomorrow? In fact, with the devolution and the frequent modifications made by the NRB, the avenues for corruption will open up further, because no attempt has been made to build a foundation of prevention. In the final analysis it is prevention that will bring success, not simply increasing incessantly, penal measures.

Sole reliance on punishment leads to the generation of immunity. At one time it was news if a motor car was hijacked at gun point, now we take it in our stride without batting an eyelid even if someone is killed. We have to make a break with the past if we are to get out of the corruption syndrome.

Lack of preventive measures had led to disjointed increase in procedures, many of them adding up to administrative problems. As a result there has been the tendency to centralize the authority because delegation becomes the equivalent of abdication.

On account of the lack of systems analysis, the devolution plan has given rise to a lot of adhocery. The policy decision to delegate financial autonomy to meet district administration responsibilities has not been translated into practice via the necessary procedures as no manuals have been produced. A time-table is necessary to ensure that financial matters are dealt with systematically. The milestones require definition.

The first casualty is the lack of coordination between various interlinked agencies. This leads to different approaches by different officials at the same level in similar departments. Over a period of time there will be a patchwork of conflicting approaches.

We need to understand that the driving force is technology. With technology change comes inevitably. Unless there is adaptation to change we reap failure. The essential characteristic of technology is of incremental improvements, but in accord with an overall strategy. This approach is the only way for us to adopt so as to adapt or later to go in for another round of tumultuous turbulence and turmoil. Given our economic situation, which includes lack of job opportunities to the growing number of educated unemployed, do we have any alternative? Just being happy with seven billion dollars reserves is like having a lot of water stored at a height but cannot be converted into electricity because there are no means to move the water through turbines to a lower level.

Our problems are going to increase further when the international playing field is going in for further leveling with reduction of tariffs, and imposition of ISO 14000. We need to increase the productivity of existing assets including agricultural land and processing units because the initial capital investment has already been made.

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