

## THE NEED FOR ADMINISTRATIVE ACCOUNTABILITY\*

*Accountability through Administrative Courts is a dire necessity to take care of administrative dysfunction, writes MASOOD HASAN*

Are we not aware that when corruption and nepotism continues to expand beyond their elastic limits, something gives leading to a complete breakdown, then revolutions do take place. We need to apply ourselves strenuously and systematically to brake and then reverse this trend. It is clear that the bureaucracy bears the major responsibility for all our major debacles. Martial Law, on several occasions, has merely acted as a catalyst for the next. Is it possible for any kind of political traditions to be generated when Martial Law has been our lot for approximately half our existence? We have now been told that the current crisis has also reached out to our judiciary. Further, look at the spectacle of horse-trading and the keeping of legislators on several occasions in "protective custody"! Are we not looking for judicial solutions to non-judicial problems? Judicial "solutions" concern acts of commission which belong to the past, ie spilt milk. Just try to unspill it! Our concern must, therefore, be for the future. Neither audit nor law can be of any help, as they are concerned with history, ie concerning events that have occurred---which means their methodology considers only penal measures, ie punishments. But we need prevention through gentle but persistent motivation.

All bureaucrats must be more than amply aware that during their tenure in any job generally there had been an increase in corruption by the time they have left that very job. Politicians can hardly be blamed when they had no effective say in the affairs of the country during our extended Martial Law periods.

Added to all this, over the years change has been impressed willy-nilly on us on account of the sudden increase in price of oil, Russian occupation of Afghanistan and the free flow of Kalashnikovs and narcotics, the immediacy of TV such as seeing a revolution actually in progress as in Romanian and last but not the least, the quickly somersaulting politics of personalities in the country. Have we become completely insensitive to even attempting to think through the results of our actions?

We have a foreign debt burden of about \$150 per capita, whose annual servicing consumes a considerable portion of our budget, then our defence requirements consume 38 per cent of the same budget. Our effective literacy rate is yet abysmally low. We can only *survive* by a massive increase in investments in education and also by improving the effectiveness of governmental operations. Such operations depend on decision-making structures, on effective systems and procedures and on the human component.

We must never forget Discipline strengthens Faith (if one has it) and it helps to preserve Unity. Since all types of government need a bureaucracy what can be done to help it to perform as we profess it should?

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Effective accountability of the executive can only be from within the executive. If nothing else the past 46 years should have proven this. If the military (Army, Navy and Air Force) are better disciplined it is because accountability is from within. The approach is basically preventive rather than punitive (judicial).

In a manufacturing unit the production manager never controls the staff or service function called Quality Control (QC). QC reports in parallel higher up the hierarchy coming ultimately under the chief executive---who is responsible for the success or failure of his charge. It works because he knows he cannot upset the applecart without upsetting himself. After all we are looking for equity and propriety, not merely the literal interpretation of a procedure.

Internal accountability was recognized in the Provisional Constitution of 1972 which laid the basis for Administrative Courts. Article 216 (which was later mutilated beyond description) reads as follows:

- “1. Notwithstanding anything hereinbefore contained, the Federal Legislature may be 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 the jurisdiction of such Administrative Court or Tribunal extends.

We need such an institution to help protect the bureaucracy by ensuring service conditions. It makes outside interference though not impossible, but certainly increasingly difficult over a period of time. Our Constitution needs incorporation of the abovementioned Article, after all is there any right minded person who is not ashamed and appalled of what is being witnessed generally nowadays---at the bureaucratic level, at the political level and at the judicial level.

There has to be a qualitative shift in our thinking. More of the same will only yield much more of exactly the same. So let us not keep harping on proven ineffective traditional remedies. The government's functions need sympathetic and humanitarian improvement. The brand of accountability through independent Administrative Courts is a dire necessity to take care of administrative dysfunction. It must never be forgotten that an executive, manager or administrator worth his salt should always attempt to make a decision at the right time. The approximately correct decision at the right time is far far, better than the correct at the wrong---there is no benefit of hindsight which post-mortems are concerned which are the delight of those who prefer to use audit or a judicial approach to sit in on judgement!

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