

A Roadmap for Governance Reforms

Tuesday, 14 April 2015 10:09

by Dr Ishrat Husain

Pakistan has been facing a unique and difficult dilemma for quite some time. Government leaders of the day are unhappy that they are unable to deliver upon the commitments they had made to the electorate at the time of the elections. Policy-Performance Gap is widening every day, Decision making is slow and implementation of decisions almost non-existent. Credibility of each successive government is eroding rapidly among the public at large creating trust deficit in the political leadership. The citizens and society are highly disenchanted and dissatisfied as they are unable to access basic services the state has to provide to each citizen – Security of life and property, administration of justice, education, healthcare, water, sanitation, infrastructure, electricity, gas, prices stability etc.

If each crisis that Pakistan is facing today – energy shortages, low tax revenues, losses of public enterprises, corruption, poor law and order, arms, drug smuggling, non-availability of land, housing and transport – is carefully dissected and examined, the root cause will be found in governance deficit and institutional decay. Civil services have lost their dynamism, vigour and sense of mission. Parliament is not properly exercising the vigilance over the Executive Branch and holding them accountable for results, the court system is overloaded and congested with millions of cases lingering on for long periods of time. Institutions of restraint such as the Election Commission, Auditor General of Pakistan, Public Services Commissions etc. have become controversial.

At the same time, the rising numbers of educated middle class and growing urbanisation, the intrusion of electronic and social media in the daily life, the demonstration effect emanating from a globalised economy have raised the expectations of the society. The capacity of the state to meet these expectations is becoming weaker every day.

The frustration of the ruling political parties and the dissatisfaction of the general public can both be reconciled if serious governance reforms are undertaken and institutions are strengthened. The problem has however, become even more difficult as informal institutions of governance in Pakistan have also weakened. Nepotism, favoritism and corruption have become entrenched social norms. Trust and social

capital ,on the other hand which play a positive role are eroding rapidly. Social polarisation of 'US' versus 'THEY' has become part of our norms reinforcing tendencies of adversity, confrontation and hostility.

A road map built after consultation with the stakeholders, observations, inspections and visits to many districts throughout Pakistan, studies and analyses been prepared for governance and institutional reforms. What has been lacking so far is the political courage to implement these reforms and a visionary leadership that sees beyond the next electoral cycle.

Why has there been an unwillingness or resistance to implement these reforms if every Government feels the heat and wrath of the general public and is unable to perform. The reason is that the proposed reforms attack the existing system based on patronage, loyalty, connections, mutually benefitting bargains and deals and narrow personal and parochial interests.

The new system that cannot replace the existing system overnight or even in a few years lays down merit, hard work, ethical behaviour and reward for performance as the underlying principles. The benefits of this system will not accrue to the party in power during its tenure but the costs are upfront and would have to be borne by the party that initiates the reforms process. The ordinary politician who has to face his constituency would not be able to place his supporters in lucrative government jobs, award juicy contracts to them, get officers loyal to him appointed as DG, SP, Tehsildar and SHO. From his viewpoint these reforms are an anathema because he loses all the levers of control which he exercises through this patronage system. This disconnect between the costs to be incurred by elected politicians in the form of losing their privileges, power and self immediately as a result of these reforms and the benefits that are invisible, diffused and uncertain and will accrue in distant future is the primary reason as to why no government has bitten the bullet and implemented the long term structural reforms agenda.

Before we take up as what this entails and the reform agenda contains , we have to specify the boundaries between the state and the market. There is now a broad agreement that the Government in a developing country has to:

- (i)provide external and internal security for the people,
- (ii)collect taxes,
- (iii)manage the public finances,
- (iv)conduct foreign affairs,
- (v)maintain a stable macroeconomic environment including a sound and healthy financial system,
- (vi)make available the basic infrastructural facilities,
- (vii)develop an education and training system capable of supplying the skilled manpower,
- (viii)encourage as well as undertake research and development and

(ix)ensure an enabling regulatory framework for private sector and community participation in development.

Proposed Reform Agenda

The governance reform agenda for the future should aim at restructuring government and revitalising institutions to deliver the core functions of the state to common citizens in an effective and efficient manner and to promote inclusive markets through which all citizens have equal opportunities to participate in the economy. The restructuring should lower transaction costs and provide access without frictions by curtailing arbitrary exercise of discretionary powers, reducing over-taxation, minimising corruption, cronyism and collusion and ensuring public order and security of life and property. The proposed reforms should take place along the following lines:

- To achieve sustained economic growth a competitive private sector has to be nurtured and relied upon. Therefore a major area of reforms in Pakistan is to create space for the growth of new entrants in the private sector by removing the constraints created by the state in their entry and smooth operations. Despite the pursuit of policies of liberalisation, deregulation, de-licensing and disinvestment during the last twenty years the overbearing burden of government interventions in business life cycle looms large. The difficulties faced by new businesses in acquiring, titling, pricing, transferring and possessing of land, in obtaining no objection certificates from various agencies, in getting water and gas connections, sewerage facilities, reliable electricity supply, access roads, in securing finances for green field projects or new enterprises using emerging technologies are still horrendous and nerve wrecking. The powers of petty inspectors from various departments/ agencies are so vast that they can either make or break a business. The growing trend towards “informalisation” of the economy particularly by small and medium enterprises is a testimony to the still dominant nature of the government. Over 96 percent of the establishments reported in the Economic Census 2005 fall in this category. The attitude of middle and lower functionaries of the government in the provinces and districts towards private business remains ambivalent. Either the functionaries harass the business to extract pecuniary and non-pecuniary benefits for themselves or they are simply distrustful, hostile or hesitant towards private entrepreneurs. The multiple agencies involved, too many clearances needed and avoidable delays at every level raise the transaction costs for new entrants. Unless the ease of entry and exit is facilitated the competitive forces will remain at bay and the collusive and monopolistic practices of the large businesses will continue to hurt the consumers and common citizens.

- The 18th amendment to the constitution and the 7th NFC award are welcome watersheds in Pakistan inter-governmental relations and have brought about the necessary decentralisation from the Federal to the Provincial Governments. But this devolution remains incomplete until the local governments are delegated the administrative, financial and legal authority and powers. The elections to more effective rather than subservient Local Governments and the constitution of the Provincial Finance Commissions are urgently and badly needed. The proposed Local Government legislations except in the province of Khyber Pakhtunkhwa are retrogressive in nature. Twelve departments devolved under the 2001 Local Government ordinance and restoration of the originally drafted Police ordinance 2002 with the revival of Executive Magistracy would make the system more effective. The Provincial governments should have the powers to set standards and hold the Local Governments accountable for results and performance. A robust audit system to ensure financial discipline at the local government level has to be put in place.

- Federal-Provincial interactions in formulating national policy matters have no formal anchor after the 18th amendment. National Council of Ministers, consisting of the Federal and Provincial Ministers working under the aegis of the Council for Common Interests (CCI) should formulate the national policies for the transferred subjects. The Federal Government would maintain the responsibilities for international relations and inter-provincial coordination in these subjects. In view of the new challenges that are facing the country, some new ministries are proposed within the revised structure. Ministries for Energy, Technology Development, Regulatory Affairs, Human Resource Development, Social Protection, Infrastructure Development, Special and Underdeveloped areas, should be set up by merging some of the existing ministries and replacing others. The existing autonomous bodies and attached departments, corporations, companies, councils, institutes, subordinate offices at the Federal Government should either be retained, regrouped, merged, privatised, wound up or liquidated or where appropriate, transferred to the provinces.

- One of the lingering legacies of the past that has contributed to sub-optimal utilisation of civil servants and demoralisation of the majority among them has to do with the existence of superior and non-superior services. The concept of the Superior Services should be replaced by equality of all services at all Pakistan, Federal and Provincial levels. Terms and conditions of all the services in matters of recruitment, promotion, career progression, compensation, would be similar. The specialists and professionals working in non-cadre positions would be brought at par with the Cadre services in terms of promotion and career advancement. To provide equality of opportunity to all deserving civil servants, National Executive Service (NES) and Provincial Executive Services (PES) ought to be constituted to man all the Federal and Provincial Secretarial positions. Any officer serving the Government at the Federal or Provincial level or autonomous body in Grade 19 or equivalent and other professionals meeting the eligibility criteria can appear at a competitive examination held by the Federal or Provincial Public Service Commission. Those qualifying at this examination will be selected to the NES. To redress the grievances of the smaller provinces for lack of representation at higher decision making level, provincial and regional quotas will be introduced for entry into NES. The NES will have three streams – General, Social Sector and Economic, thus promoting some limited specialisation among our top civil servants.

- As most of the interaction with an ordinary citizen takes place at the District level and the present level of functionaries consists of ill-trained, poorly paid, unhelpful, discourteous individuals enjoying arbitrary powers, a new set up is required at the District level. District Service consisting of all employees serving in Grades 1-16 should be constituted . These employees will serve in the districts of their choice throughout their career. Direct recruitment to Grades 11 and above will be made on merit through the Provincial Public Service Commission. The District Service will consist of two cadres – generalist and technical. This will minimise the political pressures for transfers and postings as two thirds out of 2 million employees working in the provinces will remain in their respective District Governments. Training in technical and soft skills will be made mandatory for all members of the District services. The District Government has to be strengthened by establishing administrative linkages between the Union Councils, Town Committees / Tehsil Councils and District Governments. Executive magistrates will need to be revived. In case the system of District Nazim is revived, which ought to be, Law and Order, Disaster Management and Land Record Management should be taken away from his purview and transferred to the Deputy Commissioner. This office should

be transformed into that of a District Chief Operating Officer with enlarged scope of duties. The devolution of development activities projects, programmes and departments was working satisfactorily until 2007 and should remain with the District Governments.

Civil Services would be organised at four tiers:

(i) All Pakistan Services

(ii) Federal Services

(iii) Provincial Services

(iv) District Services

- All Pakistan Services should consist of the National Executive Service, the Pakistan Administrative Service and Police Service of Pakistan. The Federal Services will comprise the Pakistan Foreign Service, Pakistan Audit and Accounts Service, Pakistan Taxation Service and Pakistan Technical Services with sub cadres. Direct recruitment to other existing services through the Central Superior Services examination will be discontinued in a phased manner. The Provincial Services will include the Provincial Executive Service, Provincial Management Service, Provincial Technical Services and Provincial Judicial Service. All direct recruitment to positions in Grade 17 and above will be merit-based with due representation to the regional and women quotas. Recruitment in all cases will be made only by the Federal and Provincial Public Service Commissions through open, transparent, competitive examination and interview process. BPS Scales will be applicable to Education, Health, Police and Judicial Services as they will have special scales of their own. Those serving in these departments in the backward districts will be given premium scales. All posts would enjoy security of tenure. If an officer is transferred before completion of the specified tenure the Government has to provide a reason in writing. The aggrieved officer will have the justiciable right to the appeal to the Tribunal/ Courts.

- One of the main weaknesses of the present system is that once you have entered the Civil Service at a young age, there is no compulsion to upgrade your skills or knowledge. Career advancement is divorced from skill and knowledge acquisition and application. Promotion and Placement policy should be aimed at rewarding those who perform well and demonstrate potential for shouldering higher responsibilities. Promotion policy should lay down the criteria including the weight given to PER, Training and Skills acquisition, rotation of assignments, diversity of experience, complexity of jobs, etc. for each level. Training of all Civil Servants at all levels – Cadre or Non-Cadre should be mandatory and linked explicitly to promotion to the next grade. For this purpose, the existing training institutes will be made autonomous and provided the requisite human and financial resources. Professional training for engineers, scientists, accountants, health experts, educators, economists, etc., will be introduced and new institutes established to fill in the gaps.

- A fair and equitable compensation system cannot work well unless it is accompanied by an objective performance appraisal system. The current system of Annual Confidential Report (ACR) has outlived its utility and should be replaced with an Open Performance Evaluation Report (PER) system in which the goals and targets are agreed at the beginning of the year, key performance indicators to measure

the achievements are established and an open discussion is held between the appraisee and the supervisor on the identification of development needs to carry out the work. Mid-year review is held to assess progress and provide feedback and the annual evaluation is held jointly through a discussion between the appraisee and the supervisor. The appraisee can then sign the report or appeal to the next in line supervisor against the findings of his immediate supervisor. This way the PER will be used mostly as a tool for the development of the individual to meet the needs of the organisation. Poor or underperformers should be particularly focused upon to facilitate them to achieve better performance outcomes.

- About 100 key public sector institutions in the country such as PIA, WAPDA, PSO, OGDC, Pakistan Railways, etc. have a critical impact on the economic and social outcomes. There have been serious questions about the appointments of Chief Executives of these organisations. Even when competent individuals were appointed, their detractors or other aspirants who lost out, carried out malicious media campaigns and virtually paralysed the Chief Executive from making effective decisions. To overcome this tendency, the governance structure has to be made more transparent and merit-based so that the right man is chosen as the Chief Executive of the organisation through a well laid down process. A special Selection Board will screen, interview the candidates and prepare a short list for consideration by the Prime Minister. This process will minimise arbitrary discretionary powers in appointments, attract capable candidates for these key jobs and discourage the trend of hurling frivolous charges against the selected candidates. Once appointed, these Chief Executives should be given operational autonomy, a fixed tenure and a set of objectives and goals. They should be held accountable for results.

- Corruption among the majority of Civil Servants cannot be curbed by moral persuasion but providing them adequate compensation package. The present compensation structure whereby the officers are grossly underpaid in relation to their comparators and do not earn a decent living wage has given rise to poor morale, a sense of indifference in work, and an attitude of apathy. None of the reforms proposed above can succeed unless the compensation package offered to the officer cadre is substantially upgraded. Officers in Grade 17-22 are poorly paid while the employees in Grade 1-16 better paid than those in the private sector. There is excess employment in the lower grades and therefore all vacancies in these grades (except Education, Health, Police and Judiciary) should be frozen and the saving used to increase the salaries of the officers. This will keep the wage bill of the Government within the limits of fiscal deficit. Although this is a politically difficult decision, but it should also be remembered that high fiscal deficits results in high rates of inflation that undermine popular support for the political party in power. After all, Government employment accounts for less than 6% of total employment in the country and makeshift employment in the public sector cannot satisfy the voters.

- The world is moving swiftly towards Information and Communication Technology that is bringing benefits to the lives of the common citizens. E-Government tools and development in digital technology offer promising prospects for improving the efficiency of government, reducing the costs of transactions, conveniencing the ordinary citizens, introducing transparency and reducing discretionary powers and corruption and tracking the performance and output. Despite such potentially powerful impact of E-Government the resistance, reluctance and contrived delay in its adoption are fierce. A modest beginning has been made in an ad hoc manner but a concerted effort steered and guided by the top leadership at the Federal and Provincial governments is lacking. Unless serious attention is given by

the country's leadership the pace will remain uneven, the impact will be marginal and the opportunities foregone will be tremendous. Training of those already working in the government in electronic filing, messaging, sharing and exchanging of documents, retrieving, reporting and archiving will make the transition from paper- based environment quite smooth. Transparency achieved through E-Government will also help in curbing corruption and exercise of arbitrary discretionary powers by Government functionaries.

- Another source of grief to the citizens is caused by uneven and discriminatory application of the government rules, regulations and instructions. As these rules are not known to anyone except some limited number of lower functionaries, they exploit their power of hoarding this knowledge for their benefits. Multiple and conflicting rules exist on the same subject as there has been no systematic weeding out exercise undertaken. The multiple rules, regulations, instructions and circulars existing in the manuals should be weeded out , updated and compiled in form of a concise and accurate manual. The Establishment Manual and the Finance Manuals deserve priority attention. These manuals after updating and revision should then be uploaded on the websites of the Government of Pakistan so that they are accessible to the public at large.

- One of the reasons for inefficiency in the disposal of government business is too much concentration of powers in the hands of the Ministries of Finance, Law, Establishment Division and Planning Commission. The Ministry of Finance had agreed to replace the outdated concept of Financial Advisor organisation by the Chief Financial and Accounts officer in each Ministry working under the direct control of the Principal Accounting Officer (PAO), who is the Secretary of the Division. The full powers for reappropriation within the approved budget ought to be delegated to the Secretary of the Division. The Secretary can further delegate some of the financial powers to the Head of Executive departments or other officers in the Ministry. The Ministries / Divisions will bear the full responsibility and accountability for their actions, achievements and failure and will thus enjoy the powers to deploy the financial and human resources in the most effective manner. The line ministries should be fully empowered to spend their budgetary allocations subject to the PPRA rules, with internal controls and audit being done and the support ministries ensuing that the rules and procedures are being complied with.

In addition to these medium and long term reforms in the structure, processes and policies, four areas that affect our daily lives – Education, Health, Police and Land Administration should also be reformed.

- Governance reforms in education are badly needed to uplift the literacy in the country. These reforms should begin with a clear division of responsibilities between the Federal, Provincial and District Governments in the delivery of services. While the Federal Government will focus on higher education financing, regulations and standards and curriculum, the Provincial Governments will be responsible for College Education, Technical and Vocational Education. The District Governments will have the exclusive powers to manage and operate primary and secondary education upto matric. Examination reforms will be carried out to bring the standards of various boards at par. Management and teaching cadres should be separated and the career paths for the two cadres would not discriminate against the

teachers. Curriculum at all tiers from school to the higher education should be developed at the National level jointly by the Federal and the Provincial Governments.

- To bring about coordination and ensure uniformity in standards of public, private and not for private schools, a District Education Board should be established in each district. The Board will consist of eminent persons enjoying a good reputation in their communities and will have the District Education officer as the Secretary to the Board. The Board will be assisted by the School Management Committees which will be empowered to oversee the school's functioning. Head Teachers will enjoy more administrative authority in running the schools and disciplining the teachers and arrange inspection of schools periodically. Management and teaching cadres should be separated and the career paths for the two cadres would not discriminate against the teachers. To provide financing for talented students to pursue studies at top institutions in the country, Endowments funds at the Provincial Governments should be topped up every year out of the budget. Student vouchers or stipends should be available to meritorious children from the poor families to attend private schools of their choice. Private-public partnerships in the form of "Adopt a School" programmes should be encouraged and given incentives. To promote increased female enrollment at primary schools, only female teachers be employed whenever possible.

- Most of the problems in health care delivery arise not from financial constraints but due to poor management practices. Health management cadre should therefore, be separated from teaching and service providers in each province and the Federal Government. Only those having the aptitude should be recruited as health managers and trained at the National and Provincial health academies. The District, teaching and other specialised hospital should have their own autonomous Board of Directors and should be given autonomy in administrative, financial, legal and human resource matters. Health, manpower, development, particularly in the nursing and paramedical professions, require urgent attention for quality and volume increase. Health Regulatory framework should be made more effective and also set up at the Provincial level.

- There is almost a consensus that the law and order and security problems that have worsened in the recent years have arisen due to inefficiency, corruption and politicisation of the Police force. The original Police order 2002 had been compromised by amendments that weakened the functioning as well as the accountability of the Police. Legislative amendments and revised disciplinary rules are needed to allow Police officers to perform their duties in accordance with the Police order and to remove the discretionary powers of the Police. The reversal to the Old Police Act after 2008 has, in fact, aggravated the situation as Police has become highly politicised. Police force should not fall under the purview of the Civil Servants Act (except those belonging to the Police Service of Pakistan) as it impedes internal accountability. Disciplinary rules should be framed under the Police Order. The Provincial Police office should be organised along functional lines and the powers should be delegated according to the Police Order. Police stations should be merged, upgraded and headed by a directly recruited officer in Grade 17 with full responsibility for Watch and Ward, Investigation and Operations. Training, allowances, mobility, logistics support, lodging and boarding, medical facilities and welfare of the Police Force fall short of their requirements and create demoralisation, too. These should be reviewed and

strengthened. Traffic Police in all large cities should be organised and operated on the lines of the Motorway Police.

- Land records as maintained by the Patwari are the single largest source of disputes and litigation in the country. The attempts to create a digital database of land records have remained halfhearted except in Punjab where some progress has been made.

- Land revenue assessment and collection, adjudication and dispute resolution should remain under the District Government but the maintenance and update of land records should be taken away from the District Government and placed directly under the Board of Revenue. Patwari should be replaced by Revenue Assistant in BS 11 and above and recruited through Provincial Public Service Commission. Colonisation of Government Lands Act 1912 should be revised for better and transparent allocation and utilisation of state land.

- Another area that needs to be addressed is the absence of effective accountability for results. There is both too much and too little accountability of those involved in public affairs in Pakistan. On one hand, the plethora of laws and institutions such as Anti-Corruption Bureaus, National Accountability Bureau (NAB), Auditor General's reports, Public Accounts Committees of the legislature, parliamentary oversight, judicial activism and the Ombudsman system have created an atmosphere of fear, inertia and lack of decision making among the civil servants. On the other hand, instances of rampant corruption, malpractices, nepotism and favoritism and waste and inefficiency have become a common folklore in the administrative culture of the country. Too much emphasis on the ritualistic compliance with procedures, rules and form has taken the place of substantive concerns with the results and outcomes for welfare and justice. The NAB should be an independent body reporting directly to the Prime Minister and its Chairman should be selected by the Prime Minister and the Leader of the Opposition jointly on basis of competence, integrity and independence. Investigation and Prosecution responsibilities of white collar economic crimes and corruption should be entrusted to the NAB. Accountability courts should be manned by honest judges who are free from influences and pressure. The Provincial Anti-Corruption Establishments should also be reorganised on the lines of NAB.

- Introducing transparency through simplification of rules and regulations, codification and upgradation and wide dissemination through e-governance tools such as a dynamic website, information kiosks, on-line access to the government functionaries can help in enforcing internal accountability standards while at the same time making it convenient for the citizens to carry out hassle free transactions. Strong pressure from organised civil society advocacy groups on specific sectors or activities from the media, the political parties, private sector and think tanks can also compel the government departments and Ministries to become more accountable for the results.

Governance agenda outlined above should not be considered as a technocratic exercise as it is essentially a political exercise that takes into account the existing power relationships in which the polity is rooted. The balancing of diverse interests of the various stakeholders involves many politically tough choices which cannot be made by the technocrats. The sustainability of reforms requires broad consultation, consensus building and communication to articulate the long term vision. People should see beyond the immediate horizon and buy into the future changes. Concerns, criticism and skepticism

should be addressed. The scope, phasing, timing, implementation strategies, mitigation measures for the losers from the reforms should be widely discussed and debated. If things do not proceed the way they were conceptualised, corrective actions should be taken in the light of the feedback received. Citizens' charters, citizens' surveys and report cards, citizens' panels and focus groups should be used as instruments for receiving regular feedback about the impact of reforms on society and its different segments.

The above set of recommendations, if implemented earnestly, will generate much needed sense of confidence among the ordinary citizens of the country, relieve undue pressure on our politicians for chasing the officers of various departments and bring dividends to the political parties in power in the Federal and the Provincial Governments.

CONCLUSION

Weak Governance structure and Institutional infrastructure of Pakistan can be traced to the elitist capture of the state, excessive centralisation of power by both the elected and military rulers, chronic political instability, politicisation of the civil services and until recently collusion between the power structures – the politicians, the Army and the judiciary. The conflicts that took place at times between these power structures were not rooted in benign balancing act for the larger collective good of the society but assertion of the authority by different actors for advancing their own parochial interests. Unlike other societies, the cost Pakistan is paying for poor governance and institutional decay is relatively very high and poses an existential threat.

The agenda for reforms carved out in the light of historical experience, lessons drawn from other successful examples of developing countries, changing nature of Pakistani scene, the best practices and the various characteristics peculiar to Pakistani situation forms a logical sequence to the 18th amendment to the Constitution and the recent National Finance Commission award. The underlying thought behind this agenda is to shift the present paradigm of Loyalty and Turf protection among the Civil Servants to a different paradigm of competence and cooperation. This will help overcome the concerns of both the political leaders frustrated with their poor performance and the Citizens dissatisfied with lack of access to public services. The polarised politics of identity and widening income inequalities and regional disparities can also be subdued if social justice and equality of opportunities for everyone can be assured. The urgent need is to realise that the entire value chain is to be addressed rather than isolated pieces. The reform agenda will reach to its culmination point over next several years but a beginning has to be made now. A consensus among all the political parties around this agenda will ensure the sustainability of these reforms even when political power shifts from one party to another.

The Author is Director, Institute of Business Administration Karachi and former Governor State Bank of Pakistan