

GOVERNANCE REFORMS AND CORRUPTION CONTROL

The Setting

A pioneering work by two American scholars David Osborne and Ted Gaebler on “Reinventing Government” published in 1992 has revolutionized the conventional precepts of conducting the business of governance. Their conclusions are based on meticulous observation and in-depth research on successful governments in the United States and elsewhere. The authors have challenged the Weberian model of bureaucracy, and suggested paradigmatic shifts like entrepreneurial government, public-private governance nexus, transparency, accountability, value for quality, and so on. The work on redefining the role of the government was not confined to precepts alone. It was manifested in practice through the establishment of the National Partnership for Reinventing the Government in the Clinton-Gore administration.

The national effort to redefine government gradually began to get global recognition when the Management Development and Governance Division of the UNDP in its first discussion paper on, “Public Sector Management, Governance and Sustainable Human Development” elaborated on the nature and relationships between governance and sustainable human development. The paper defines the term “governance” as *“the exercise of political, economic and administrative authority to manage a nation’s affairs”*. The first ever acceptance that “governance is not the sole province of the state” has made it possible to extend the scope of the work to the private sector and civil society. Governance is often understood in its limited scope. However, with the adoption of the UNDP’s definition of governance, its dimension has broadened. The state is a matter of collective responsibility of its citizens; hence all the actors within the state will have a role to play. The realization on the part of state actors that the business of governance is a collective responsibility has made it possible for state agencies to transfer the responsibility of national development to the private sector and civil society.

Since the 1980s a vast majority of the Asian countries have undergone changes in the political front. Countries with controlled economies have started to leap towards market economy. Dimensions of development have shifted towards sustainability. High priority has been accorded to the initiation of self-entrepreneurship to address the challenges of unemployment and poverty. Feeling of collectivism and group harmony is being replaced by individualism. In a similar vein in the civil service, conventional precepts are substituted by contemporary practices. It seems that, in every sphere, new methods have been put in place to cope with the ever-increasing challenges of time.

After the change in political system in 1990 in favour of democratic pluralism, Nepal adopted a policy of economic liberalization, market economy, and privatization. In line with the more open and competitive political regime, The Constitution of the Kingdom of Nepal 1990 foresees an inclusive social polity.

Shortly after the formation of democratically elected government in 1991, a high-level Administrative Reforms Commission (ARC) was formed, which reflected the commitment of the government to make the civil service more responsive to the needs of the people, and in line with the democratic set up. The ARC, for the first time in Nepal’s administrative history, went beyond the traditional understanding of administrative reform and was bold enough in defining the scope of work of the government. It borrowed a number of precepts from “Reinventing Government”, and suggested ways and means to make the civil service more responsive, effective, efficient and cost-conscious.

The implementation of recommendations of the ARC was not different from that of previous Commissions. Once the ARC completed its task, the report was submitted to the government for implementation. The government made a decision on the report that, "the recommendations of the ARC are agreed in principle, and the government would implement the recommendations upon necessary scrutiny based on the rationale and practicability of the suggested recommendations". Consequently, the ARC report has remained, this time also, a "good reference note". Perhaps, this is the only ARC report that has been liberally quoted and referred to in academic works.

Regardless of implementation of the ARC report, it may be considered as a major shift from the past ARCs in the sense that it has incorporated the concept of good governance in its report. As defined earlier, governance entails the exercise of political, economic and administrative authority. However, exercise of authority alone would not suffice to address the need of the time. It has to be "good governance". In other words, the system should guarantee rule of law, ensure participation of the citizenry, display transparency in its conduct, be accountable to its stakeholders, make sure that equity is maintained, and service is provided in a more responsive manner. Above all, the civil service should be effective and efficient and its leaders need to have a strategic vision. Perhaps not all attributes of good governance are reflected in the ARC's report. However, it was much closer in its way to good governance. Sadly enough, the efforts at reforming the civil service were aborted when political masters opted for an ad-hoc approach to shaping and reshaping the civil service.

Demands from different corners of the society are coming that the voice of the public needs to be heard, and the government should be made more accountable. Improvement in institutional capability is still a prime need in different sectors. Though in some sporadic instances, the case of public-private partnership has been successfully operating, it is yet to be realized that the private sector can be influential in shaping the agenda of public governance.

One of the attributes of good governance is control of corruption and corrupt practices. In an unpublished discussion note on Rethinking Governance, Daniel Kaufmann adheres to the notion that corruption and mis-governance are virtually synonymous. Hence, no matter whatever noble initiatives we take on good governance, it remains elusive unless corruption and corrupt practices are arrested.

Reform measures on making the civil service more transparent and responsive are underway since 1990. However, frequent change of government accompanied by varying degrees of aberrations in the civil service and neglect of the citizenry has taken its own toll. Voices have been raised from all corners - both domestic and international.

This paper aims at assessing the nature of the change process in Nepal, especially focusing on good governance, including the issues on corruption. While doing so, an attempt will be made to analyze the reform efforts undertaken since 1990. What impact they have on national development, and most importantly, what went wrong with the implementation of our stated policies will be the central theme of appraisal. The paper also aims at evaluating the recent reform measures vis-à-vis the concept of good governance and suggesting ways and means for future course of action. On several occasions, the locus of good governance has been perceived as resting on the civil service. However, such an approach would merely reflect a lopsided picture. As is evident from the foregoing discussions, the concept of good governance encompasses politics, economics, and administration. Accordingly, the scale of analysis extends to all these three inter-related facets.

The context of governance reforms

The key to good governance is the realization that every citizen is entitled to get an equitable dividend out of any regime. Dev Raj Dahal and others in "*Good Governance and Decentralization in Nepal*" have correctly framed the idea that, "*the need to reconcile the social diversity while at*

the same time respecting their rights of equal citizenship has posed a new challenge to the polity of Nepal". The present Constitution of the Kingdom of Nepal, just as all previous ones, has assured in its directive policies of the state that all sectors of society would have an equal opportunity in the conduct of public affairs. However, inclusive policies were not given serious thought during all 54 years of modern Nepal. The politics and also the public administration remained in the hands of elite class. During these 13 years of democratic practices, not much progress has been attained. Only a handful of groups of elites closer to power centers were able to reap the benefits of democratic change. An overwhelming majority of the people felt either unrepresented or under-represented. The growth in ethno-centralism is perhaps the fallout of social exclusion. Some extremists were able to capture the rejected sentiments of those unrepresented or neglected, and consequently, the Nepali society is now highly differentiated into lives of various ideologues, including ethnic. Social diversity in itself is a welcome phenomenon. However, if this diversity develops into ethnocentrism and violence of any sort, it invites social unrest, which is not, by any standard, the manifestation of good governance.

Nepal's recent political history is characterized by instability and unusual coalitions. During the period from 1990 - 2002, there was frequent change in the government.

It was in this political quagmire that Maoists created operating space for themselves. The Maoist insurgency has seriously affected Nepal. Various reasons could be attributed to the rise of the Maoist movement in Nepal. Poverty, unemployment, low level of literacy, social exclusion, and uneven distribution of power could be considered as some of the contributing factors for the Maoists uprising. Just after about five years of multi-party democracy, the Communist Party of Nepal (Maoist), operating as the United People's Front, declared a state of "people's war" in Nepal. It has already been eight years since the Maoists insurgency began.

A lack of comprehensive national outlook on the Maoist problem diffused the national opinion. Political parties have differing opinions on the Maoist problem. The government realized that the strength and capability of the Maoists was beyond the usual political debate only when the Maoists showed their strength by attacking army barracks and police posts.

In the past, attempts were made with some hesitation to mobilize the army to curb the capability of the Maoists. After the state of emergency was declared, the army was mobilized formally. During these eight years of war the nation has suffered heavily from the loss of human life and physical infrastructure.

There is also a bright side of Nepal's "transition democracy". Democratic political institutions were put in place after the restoration of multi-party democracy in the country. The nation conducted three general elections and two local elections during these 13 years. The press enjoyed its freedom of expression. The people have freedom of expression, and all the fundamental rights of the citizen are guaranteed. The procedural norms of democracy have remained in place. However, the substance of democracy in its social values, economic development, and political maturity is yet to be realized. Perhaps the outbreak of insurgency of any sort cannot be considered as a good political indicator.

On the economic front, the country witnessed major structural transformations. The period from 1990 to 1992 was a phase of policy moot. Majority of the sectoral policies such as Tourism, Industry, Irrigation, Hydropower, Housing, and Communications were initiated. The country pursued economic liberalization policy whereby many regulatory restrictions on export and import were done away with. The economic regime was made more open and less regulatory (deregulation). The decision of the government to be a party to the World Trade Organization is a major move towards neo-liberalism (globalization). The domestic economic regime was made more of a neo-classical one (market-based). Despite these paradigmatic policy changes, the economic condition of the country has not changed much.

In a multi-party democracy where the choice of the people prevails, governments of differing political parties will assume power. Given this reality, it is considered unfair on the part of the government in power to direct the civil service to its liking. The government deserves all assistance from the civil service. In this regard, the government can, of course, mobilize and motivate the civil service in the implementation of its policies, plans and programmes without interfering in micro-management, including placement, transfer, deputation, appointment, promotion etc. of the civil service staff.

On some occasions, it has been seen that civil servants either explicitly (rarely) or implicitly (sometimes) tried to show their tilt to political beliefs of this or that kind. However, the civil servants have generally preferred to remain as “non-partisan democrats” (modern version of political neutrality). With the growing complexities of organization, the civil service management has to legally recognize organized bodies. The duly registered public sector staff associations are the outcomes of such changes. However, such associations in Nepal could not detach themselves from political party influence. Political party affiliation at one point in time remained to be the criterion for employee utilization and mobilization. Such dispensation often resulted in politicization of the civil service.

A bureaucrat who wants to mobilize the vicious circle with a view to gain satisfaction of his/her preference had to indulge in all sorts of schemes to grease their way to the actors of the vicious circle. Attachment could be attained through negotiation, collective bargaining, ideology synchronization and the development of a business-bureaucracy-political nexus. These aberrations in the civil service undermined the growth of professionalism in the civil service and has led Nepalese society towards a direction which is inclined to finance, protect, and represent the needs of the more developed sectors of society.

In the past, it was observed that erring politicians and civil servants were rarely put on trial. It was so until the Commission for Investigation of Abuse of Authority Act was amended giving it more powers. The Act gives the Commission the right to investigate the abuse of authority by higher-level politicians as well. The results of the recent investigations by the CIAA indicate how serious the frequency and magnitude of corruption and corrupt practices were prevalent in the civil service. Thus the rent-seeking behavior of politicians, civil servants, and the economic community with the intent of accumulating power and wealth left the non-profit sectors vulnerable, dejected, and apathetic about government.

Rectification Initiatives

Although significant progress in creating all-inclusive society could not be achieved, the government continued its reforms initiatives for the cause of good governance. Such initiatives were, to a large extent, guided by three factors. Firstly, successive governments wanted to bring about a change during their tenure and establish their credibility amongst the public at large. Secondly, contemporary global developments such as movement towards global economy, revolution in information technology and its continued influence on change motivated the government to initiate reform activities. Thirdly, the growing demand of the country for external assistance made the government comply with conditionalities of the donors, which, to a great extent, are pro-reform.

The report of the Administrative Reforms Commission, 1991 was highly appreciated by the public at large. The government opted for creating an institutional set up for the reform process. Consequently, in order to implement the ARC report, an Administrative Reforms Monitoring Committee (ARMC) was constituted shortly after the submission of the report. The ARMC revised and reviewed the role of the government. The modality adopted by the ARMC while reviewing the role of the government was the initiation of administrative restructuring. The number of ministries was scaled down to 21, which at one point in time, to everybody's surprise, went up to 26. The ARC supported the idea that the role of the government should be redefined as facilitator and

regulator. Accordingly, it was supposed to get involved in those areas where the private sector would not be interested to come in. This philosophy was agreed in principle. However, not much success could be achieved.

Once the functions of the government are given to the private sector, and they work in close partnership, the size of the government also needs a cut. The ARC recommended bringing down the size of the civil service from about 100,000 to 77,000. The ARMC was not able to achieve the desired result. Not much success can be attributed to the ARMC, which after a year's operation, ceased to function.

The Constitution of the Kingdom of Nepal has mandated the country to operate in a decentralized way. Planned development efforts of the past have stressed the need for a decentralized form of governance. Administratively speaking, majority of the initiatives focus on decentralization. After 1990, legal framework pertaining to locally elected bodies such as VDCs, DDCs, Municipalities and the Local Bodies Election Act were brought into force in the year 1992. This Local Bodies Act stresses the need for handing over power - both financial and administrative - to the locally elected bodies. With a view to give further impetus to the legal rights of locally elected bodies in the management of local resources and the involvement of the local people in decision making, a Local Self Governance Act 1999 was promulgated. Many donors have shown their interest in supporting Nepal's efforts in decentralized decision-making.

For example, a Participatory District Development Programme with technical assistance from UNDP is involved in the decentralized management of local development in 20 districts. With a view to ensuring financial sustainability, a local trust fund has been established in each participating district. DANIDA is involved in decentralized policy reforms. The involvement of GTZ, USAID, FINIDA and NORAD is also instrumental in supporting Nepal's initiative in decentralized and public participatory development.

A less corrupt regime is the precursor to good governance. The passage of an Act in 1996 on Commission for Investigation of Abuse of Authority (CIAA) has empowered the CIAA to investigate and prosecute cases of abuse of authority against people holding public offices. Institutional strengthening and capability building measures for the CIAA are in progress. The recent initiatives taken by the CIAA in curbing corruption and corrupt practices have been very instrumental in bringing down the scale of corruption, and thereby maintaining the sanctity of the civil service.

The political change in 1990 demanded a corresponding change in institutional set up, policy framework, managerial practices, and legal regime in order to keep the regime in conformity with the Constitutional set up. Efforts were made to achieve a democratic institutional set up and policy framework. However, the substance of such efforts is yet to be realized and the challenges to good governance have been further intensified.

Recent initiatives for governance reforms

Past experiences can be taken as a guide to improve the situation in future. In the last decade, the country has witnessed some success and some failure stories. We can build on and benchmark our success episodes and learn from the failure to redeem our lost destiny. We are already overburdened with developmental challenges such as poverty, social exclusion, and low resource generation. These challenges are further compounded by added complexities of the insurgency reflected in heightened security spending and low pace of development.

It is against this background that the Tenth Five-Year Plan has envisioned poverty alleviation as the central theme of development with focus on broad-based economic growth, social sector development, targeted programmes for the poor and the deprived and good governance. Increased regular expenditure combined with lower revenue growth rate has compelled the government to cut down on development expenditure. In these dismal situations, one cannot

afford to spend the scarce resources imprudently. In the year 2000-2001, the government decided to finance only those projects, which are of immediate priority. Alignment of projects was carried out under the Medium Term Expenditure Framework (MTEF), which is the recommendation of the Public Expenditure Review Commission (PERC). For this, projects are classified on the basis of their priority as P1, P2 and P3. The prioritization of developmental efforts involved cutting down on the number of projects, especially those that have remained non-functional for a long time. Projects of similar nature have been merged with each other so that recurrent cost of project administration is minimized. Availability of adequate resources has been assured to projects categorized as P1 in conformity with the MTEF in order to enhance the productivity and effectiveness of public expenditure.

The government is committed to implementing the reform agenda as envisaged by the Poverty Reduction Strategy paper (PRS). As mentioned earlier, the PRS aims at substantiating the broad-based growth, social sector development, targeted programmes for poor and deprived groups, and improved governance. These efforts need external resource mobilization. To this effect, Poverty Reduction and Growth Facility (PRGF) and Poverty Reduction Credit Support (PRSC) are in operation under the World Bank support. The key components of the PRSC and PRGF include—financial sector strengthening, public sector reforms, governance reforms, and enhanced developmental efforts in conflict-affected areas.

Considering the vulnerability of the financial situation, which has a direct bearing on the quality of governance, the World Bank has attached special importance to financial sector reforms. During low case scenario in Nepal (1998-late 2002), the Bank's lending programme was focused on infrastructure development, education and telecommunications. Since the introduction of the MTEF and Immediate Action Plan (IAP), there has been a transition from low case to base case in December 2002. After the switchover to the base case scenario, there are three additional projects one each in financial sector reforms, power development, and education. These developments indicate that the implementation of poverty reduction programs cannot wait until there is peace and stability. Continued conflict has an adverse impact on development, which further aggravates poverty and thereby intensifies conflict. Hence, there is a need to take up developmental activities and peace and stability together.

Another major breakthrough in carrying out the developmental activities despite adverse situation is the commencement of the implementation of IAP-I in June 2002 which contained 24 reforms actions, specially targeted to public expenditure management, civil service management, and anti-corruption measures.

Experiences from the first phase of the IAP helped in establishing a common understanding on the need to further pursue the IAP. Building on the success of the IAP-I, the government is now implementing IAP-II. The current IAP includes reforms in agriculture, private sector development, targeted programmes, decentralization, and measures to address human rights.

Under the loan assistance from the Asian Development Bank (ADB), a Governance Reforms Programme (GRP) is in place. The overall goal of GRP is to establish a civil service that is more results and people-oriented, and gender responsive, and that contributes towards higher economic growth and reduction of poverty. The objectives of GRP include:

- ?? Develop internal capacity within government to lead and undertake the governance reforms agenda
- ?? Improve the efficiency of the civil service
- ?? Improve governance and reduce corruption in government
- ?? Enhance the competence and motivation of civil servants.

The GRP is already in place, and a number of achievements have been observed. Change Management Units in the Ministries of Education and Sports, Agriculture and Cooperatives, and Health have already been established. A Governance Reforms Coordinating Unit (GRCU) to

conduct stakeholder's consultations has been established in the Ministry of General Administration. Likewise, an Efficiency Unit has been established in the Ministry of Finance.

Exercise on right-sizing the civil service is in progress. Out of the targeted 7518 positions set aside for retrenchment and as of mid-April 2004, nearly 7000 positions have been cancelled. Computerization of Personnel Information System (PIS) is underway in the Ministry of Education and Sports and Ministry of General Administration. Yet many more aspects on the different components of the GRP are yet to be realized, and the Ministry is having difficulty in meeting the second tranche conditions of the project.

Recently, the Ministry of General Administration has prepared a draft roadmap for the implementation of GRP. The roadmap includes, inter alia, provision on reservation of positions in the civil service for women, Dalit and indigenous people.

Sound procurement management is a pre-requisite for ensuring transparency in the government and put an end to all forms of embezzlement. A joint HMG-IDA Country Financial Accountability Assessment (CFAA) was carried out in 2001/2002. It is said that Nepal has an impressive legal and regulatory financial procedural framework but the weakness lies in its compliance. With a view to bring about reforms in Procurement, the Financial Administration Regulations were amended in September 2003. The major highlights of the amendment are:

- ?? Allocating sufficient time for bid advertisement and preparation
- ?? Prohibiting post bid negotiations with any bidder
- ?? Ensuring that the lowest evaluated bidder be awarded contract based on criteria that includes not only price but experience and capacity
- ?? Enacting a new procurement law based on UNICITRAL model law of procurement
- ?? Creating an independent procurement agency with functions to be defined by the new procurement law

Emphasis has been laid on empowering and devolving functions to the locally elected bodies. To this effect, financial sustainability of the local bodies is of prime importance. Various laws pertaining to the local autonomy have mandated the local bodies in generating resources as per local needs and demands independently. In order to institutionalize the concept of fiscal autonomy, a permanent Local Bodies Fiscal Commission was set up in May 2002, and preparatory work is in progress for attaining the spirit of Fiscal Decentralization under the technical assistance from DANIDA.

The UK Department for International Development also has a strong component of governance in their Country Assistance Plan (2003-2007). The Plan covers DFIDN support to (a) improving public expenditure management and privatizing state-owned enterprises, (b) decentralization, building on current projects and sectoral devolution, (c) combating corruption; engaging with Government on its anti-corruption strategy, strengthening anti-corruption agencies and improving debt recovery in state-owned banks, and (d) reducing conflict at the community level by helping the Nepal Police to become more accountable and more community-focused and by supporting community mediation. In addition to these core areas, DFID will seek to contribute to improving the responsiveness of the political systems to the interests of the poor, through the Enabling State Programme (ESP). ESP, launched in January 2001 with a budget of £19.5 million, is the largest DFIDN initiative on improving governance. ESP's primary emphasis is on pro-poor governance, and this should be achieved through partnership with national stakeholders ranging from key government ministries to local NGOs and representatives of the private sector.

The insurgency has severely obstructed us in taking a number of government activities to the districts. No matter how severe the extent of conflict, the government cannot shirk from its service delivery responsibilities. In the recent years, in order to prudently deal with the security situations, the government has initiated and practiced the concept of "mobile government" where goods and services such as citizenship, property transfer, old-age allowance etc are distributed and

delivered on the spot. The scale and magnitude of this service is limited both in terms of availability of resources, including manpower.

People have the right to know what services are available from a particular office, what formalities need to be completed, and what their timeframe is. The government has mandated every office to publish its "citizens' charter" and follow it in both letter and spirit. Many offices have started to do it.

Control of Corruption

Corruption is perhaps the oldest terminology used in public management. In the absence of accountability, strong motivation for power leads to corruption and corrupt practices get a fertile ground. In a society where rent-seeking behavior is common, corruption and corrupt practices often become the hallmark for getting things done. In a regime where there are less transparent rules, the business of governance takes place secretly, and the mechanisms for public voices being heard are poor or non-existent, corruption would usually be prevalent. Greed has no limit. However, when the salary of public officials is very low, they are often allured to corruption and corrupt practices. Corrupt practices are considered deadly when they get social recognition and become business as usual. When corrupt practices go unnoticed and are not considered as punishable offense, corruption becomes the greatest ailment in society and the nation at large.

In Nepal it is often experienced that, despite legal provisions to prevent corruption and corrupt practices, politicians as well as civil servants were aggressively involved in corruption. Institutional set up has been in place since long time back. However, the institutions have remained too weak to take assertive actions against corruption. Corruption and misgovernance are complementary to each other. The public-private nexus in maximizing the petty interests of both sides is seen as an organized form of corruption. This may involve donation, bribe, influence, capture, extortion, and so on. These are the issues, which need to be taken more seriously in Nepal.

In order to prevent corruption and corrupt practices in public offices, Prevention of Corruption Act was promulgated for the first time in 1953. In 1960, a separate department - Special Police Department - was established to prevent corruption and corrupt practices. The second amendment to the Constitution in 1978 established a Constitutional body named Commission for Prevention of Abuse of Authority.

The Constitution of the Kingdom of Nepal 1990 has also made a provision on the establishment of the Commission for Investigation of Abuse of Authority (CIAA). The Commission is expected to work as advisor, investigator, decision-maker and prosecutor for the prevention of corruption and corrupt practices. The CIAA was not so assertive during its formative years as it is now. It was only in 1996 that the CIAA began to make its presence felt when the CIAA Act empowered the Commission to investigate and prosecute the cases on abuse of authority against public officials.

The CIAA Act has defined corruption as abuse of authority, which entails two important aspects of corruption—improper conduct and corruption. Those erring public officials, including politicians, who are found involved in improper conduct are penalized with warning notice, calling attention and admonishment. Those who are found guilty in corruption are liable to prosecution in the court.

The CIAA Act has empowered the CIAA to get access to all kinds of information pertaining to private assets, including bank accounts. The CIAA may ask for bail or, with permission from the court, put the accused officials in custody up to six months during investigation. The CIAA is working both as investigator as well as preventor of corruption and corrupt practices. The CIAA can issue directives to the concerned agencies to prevent corruption and can ask government departments for departmental actions against the accused. Thus CIAA is equipped with a

stronger mandate. It can now investigate corruption and corrupt practices against politicians, including the Prime Minister.

Shortly after the mandate of the CIAA was broadened and the law put the burden of proof on accused officials including the politicians, CIAA has filed against accused officials 26 cases (as of year 2000-2001) amounting to a total claim of U.S. \$ 11.16 million. A total of 61 court cases were filed in the year 2001-2002. In the year 2002-2003 a total of 147 cases were filed in the court with a claim of U.S. \$ 9.6 million. As of 2003, CIAA was successful in 47 out of 55 cases decided by the court.

Once the CIAA was empowered it started taking steps more firmly and assertively, and the number of complaints registered in the CIAA has increased. The number of complaints registered in the CIAA in the year 2001-2002 was 2522, which increased to 3687 in the year 2002-2003. This is an indication that the CIAA is beginning to gain momentum and establishing its credibility in arresting corruption and corrupt practices. Thus, there has been a three-fold increase in the number of complaints and five-fold increase in the number of prosecution as compared to three years ago.

In the year 2002-2003, HMGN constituted a Commission namely the Property Investigation Judicial Commission. The Commission has already submitted its report. Based on the recommendations of the Commission, the CIAA is conducting investigation on politicians and civil servants, who held public offices in the past. Several ex-ministers and retired civil servants were detained in public custody during the investigation.

The Chief Commissioner of the CIAA in his address to the 4th Asia-Pacific conference on Anti-corruption has made it clear that CIAA has prepared a long-term strategy and a five-year action plan in early 2003. According to him, the objective of the five-year plan is to control the abuse of authority in its manifestation that the general people may feel its substantial reduction. As per the provisions in the strategy, CIAA units are being opened in 10 districts on a pilot basis.

The efforts of the CIAA in curbing down the scale and magnitude of corruption have been very significant. It needs to be supported and complemented by all the sectors in society including the press and the media. Though several sectoral legal documents (Civil Service Act and Regulation, Financial Administration Regulation, Anti-corruption Act etc.) have mandated the public institutions to take necessary actions against erring officials, the exercise of these regulations and trial against the erring officials by the concerned agency has been very low. In the absence of these initiatives by the concerned departments, CIAA has been over-burdened.

Nepal has shown its global commitment to the UN Convention against Corruption by being a party to the convention. The Convention mandates the party countries to establish criminal and other offenses to cover a wide range of acts of corruption. This includes not only the basic forms of corruption such as bribery and embezzlement of public funds but also, as mentioned earlier, trading in influence, capture, concealment and the laundering of the proceeds of corruption.

With a view to creating an enabling environment for anti-corruption drive, the Office of the Prime Minister and Council of Ministers in late 2003 has made public a policy and action plan on combating corruption. The 13-point action plan matrix has strategies with clearly defined activities, responsible agencies, timeframe and coordination and follow up mechanisms (refer to the annex for details). The Chief Secretary has been taking up the agenda by himself and has been monitoring the activities closely.

Likewise, HMGN established in early 2003 National Vigilance Center and placed it under the Office of the Prime Minister and Council of Ministers to give support to the governmental agencies in its anti-corruption drive. The center has been entrusted with activities such as construction works audit so that corrupt practices can be checked at the source. The basic

rationale behind the establishment of this Center is to prevent corrupt practices before they happen.

The Office of the Prime Minister has designed a plan of action to institutionalize the mechanism for grievance handling in government offices. It has asked all relevant offices to designate a nodal officer for grievance handling. It has also issued directives on how to handle the grievances.

One of the notable achievements of the government in the anti-corruption move is the establishment of the Special Court to look into the cases filed by the CIAA on corruption and corrupt practices. The court is specialized, and it can be expected that it would be able to give its verdict in a shorter span of time.

Challenges confronting governance reforms and corruption control

The contemporary world is confronted with continual change. Technological innovations, especially in information technology, are constantly requiring us to be ready for adopting new methodologies such as E-governance, E-business etc. People no longer hold on to the conventional wisdom of running the business of governance and its assumptions. Incrementalism has ceased to operate; instead people are looking for substantive innovations.

In Nepal efforts have been made since 1990 to bring about real changes but in a discrete manner. It has been noticed that, after every political change, an attempt is made to bring about changes in the administrative system preferably through the formation of an Administrative Reforms Commission. Reforms Commissions in 2013 (1956), 2024 (1968), 2032 (1975) and 2048 (1992) all have their connections with the political changes. These incidents indicate that administrative change is inevitable after every political change in the country.

The need of the hour is a set of systemic and comprehensive structural transformations in traditional institutions, social values, norms, beliefs and attitudes. However, we are still trying to redress the situation in a rather discrete fashion. Of course, reform efforts in the civil service are required. It is equally important to note that the assumption that other sectors such as politics, society, and economy are mature enough seems to have proved wrong.

Competing political ideologies constitute the beauty of the multi-party democracy. The recent political developments indicate that extreme political rivalry for power is seen to be counter-productive. Political forces need to revisit theories and approaches of the past and redefine their roles in the context of what worked best and what did not.

Efforts are made to design and develop measurable indices for good governance. Accountability needs to be ensured both internally and externally. Governments usually ensure internal accountability through rules, regulations, programs, process and institutions. External accountability can only be maintained when governments are prepared to be externally accountable through citizen feedback, democratic institutions and competitive press. The attributes of good governance are political stability, lack of violence, crime and terrorism. Finally, the control of corruption is another attribute of good governance. If Nepal's case is tested against these attributes, one cannot find a bright picture. This demands heightened efforts in undertaking steps towards good governance.

The cost of insurgency is estimated at 810 percent of GDP, including damage to infrastructure, lost economic activity due to *bandh* (general strike), and a low level of economic activity caused by decreased business confidence. Increased security spending seriously impacts the already low revenue growth rate. In fiscal year 2000-2001, NRs 7 billion was allocated for security spending which rose to NRs 15 billion in FY 02/03. It is understandable that the security spending is an absolute imperative, but the resulting severe fiscal pressure has hit hard on development spending which declined from NRs 37 billion in FY 00-01 to NRs 27 billion in FY 02-03. The

topmost pressing and priority challenge is maintaining peace and stability in the country while increasing the share of development expenditure.

Actions to be taken immediately for ensuring good governance

Successful implementation of GRP

Under the ADB loan-financing scheme, His Majesty's Government of Nepal has been implementing the Governance Reforms Programme since 1998. GRP has a broad mandate of improving governance and reducing corruption in the civil service. To this end, GRP has supportive functions such as enhancing the competence of the civil servants and establishing the process for improving performance in three pilot ministries.

As of today, out of sixteen proposed actions only three have been completed. A recent loan review mission has established that frequent transfer of the top-level officials including ministers has caused major disruption in the effective implementation of the programme.

The government in the recent past has developed a roadmap on governance reforms. The roadmap is prepared to make the reforms process more comprehensive and encompasses all the contemporary issues notably that of social inclusion in the civil service with heightened emphasis on the implementation of the provisions in the GRP. The roadmap to governance reforms is yet to be approved by the government.

On majority of the reform initiatives under the GRP, intensified implementation is felt imperative. Unless the government keeps the size of the government to the defined limit through voluntary early retirement, there remains every possibility of wastage of resources, which in turn would have a direct bearing on streamlining the performance-based pay system. Some progress on the computerization of personnel information system has been observed, but its linkage with payroll system is yet to be established.

On improved governance and reduction in corruption, following the work of Property Judicial Review Commission, property declaration by civil servants and politicians who held public positions in the past, has been completed. However, this is not the property of the Ministry of General Administration (MOGA). As per civil service rules and regulations, all employees are mandated to declare their property every year. Declaration of assets every year can be considered as the best yardstick to assess the wealth of the employees, which would facilitate the work of the CIAA and help in the control of corruption. The law has made it compulsory to submit the assets declaration every year. Those who fail to comply with this provision will be duly penalized. However, the penalisation process has not yet started. A more rational pay structure would help in bringing down the scale of corruption. Both the GRP and the roadmap have made provisions on reviewing the pay structure with a view to come up with a long-term pay policy.

The roadmap has clearly spelled out the provisions on affirmative action. Even the quota (reservation) to be provided to women, Dalits, and ethnic groups has been defined. It requires a change in the Civil Service Act. Given the long time required to approve the roadmap, one could say that it would take even longer to make changes in the Act.

Non-merit factors in the existing civil service rules and regulations have a serious impact on the performance of the civil service, especially at the higher level. It has often been noticed that those promoted to the secretary level positions are sometimes unacceptable to the government who promoted them. This is an indication that promotion criteria need to be reviewed. Keeping in mind the need to ensure professionalism in the civil service, the GRP and the roadmap give high priority to the amendment of the Civil Service Act, especially on provisions related to annual personnel assessment (performance appraisal), recruitment with a focus on gender, and a merit-based promotion system.

The government has made its commitment to comply with the provisions of the GRP and the roadmap with a clearly stated timeframe. Unless the government takes some assertive moves in meeting the deadlines, a situation could come where we would be again asking for the extension of the deadlines and our agenda for governance reforms would be further delayed. Hence, an urgent action is needed to successfully implement the provisions of the GRP and approve the road map.

Implementation of the recommendations of the Country Financial Accountability Assessment

A transparent and accountable financial system is one of the pre-requisites of governance reforms. PRS, PRGF, PRSC and MTEF all have underscored the need for financial administration reforms. Attempts were made recently to make the financial administration rules and regulations more pragmatic. Still, the Financial Regulation needs to be made more transparent and open. The annual report of the Auditor General has indicated that huge sum of financial irregularities are noticed partly due to improper administration of financial regulations. To give further impetus to analyze and regularize the financial irregularities, HMGN has constituted a body called Audit Irregularities Clearance Committee. The Committee has set an annual target for each ministry and department to regularize such irregularities. The Country Financial Accountability Assessment has indicated that there is a need to update the skills and methods in assessing financial irregularities. A uniform standard in analyzing them is yet to be established in the civil service.

There has been a growing concern among donor agencies on financial administration of donor-funded projects. In majority of the instances, the donors prefer their financial procedures to be followed. One of the reasons for this is that Nepalese financial management is not up to the international standards, and the employees involved in financial administration do not have the required capability and skills to operationalise norms of the international financial administration system. Sound financial accountability is the hallmark of corruption control. It is therefore important for the government to implement the recommendations of the CFAA.

Implementing Anti-corruption strategy and enactment of anti-money laundering law

As the activities of the CIAA are gaining momentum, it is felt that there is a need to intensify its activities both in terms of its scope and coverage. In the Year 2003, the CIAA has made public its five-year strategy. The strategy envisions a society that respects social norms and values. This vision would be achieved by consolidating good governance through the establishment of a state apparatus, which is free of abuse of authority. The major highlights of the 20-point strategy are as follows:

- Adequate legal provisions
- Development of institutional mechanisms for the control of corruption and their reforms at central and local level
- Focus on policy matters to redress the loopholes in corruption
- Termination of complaints timely and efficiently
- Review and redesign of target based on impact follow up
- Enforce code-of-conduct at political, professionals including business community
- Mobilization, capacity enhancement and empowerment of sectoral ministries and district offices for investigation of abuse of authority and corruption
- Take into notice the activities of the decision makers holding public offices
- Conduct investigation on the basis of selection of strategic cases pertaining to the sectors such as revenue, construction, huge procurement, service delivery, law and order

The strategy aims at intensifying its outreach activities even in the field offices through the establishment of a separate section to be set up under the Regional Administrator. There will be one such office in each of the five-development regions of the country. It is expected that once the strategy is implemented, it would substantially reduce the number of cases of corruption and corrupt practices.

Institutional strengthening of National Vigilance Center

Control of corruption needs an all out effort from all concerned. It is always important to look for cases of prevention of corruption rather than to penalize it after a corruption case happens. With a view to complement the activities of the CIAA, HMGN has recently established a National Vigilance Center under the Office of the Prime Minister and Council of Ministers. The center is yet to gain momentum. The Center, which is still in its formative stage, is working on institutional development process. Its operational modality needs serious homework so that it does not duplicate the activities of other concerned agencies. The spirit behind the establishment of this office was to make it more of an office of the ombudsman. This is a new venture for us, and we need some cross-country experience in this sector.

Implementation of the social inclusion provisions as stated in the Forward-looking Reforms Agenda

Last year, on 27 April 2003, during the third round of negotiations with the Nepal Communist Party (Maoist), HMGN issued a policy paper on the "Theoretical Agenda on Forward-looking Reforms in the State System". The agenda had the following all-encompassing objectives:

1. Building of a political system that can accommodate and ensure participation of all Nepalese people.
2. Creating equal opportunities for self-development of all the Nepalese people,
3. Developing political system on the basis of contemporary balance among the political forces.
4. Creating an egalitarian society bringing an end to all kinds of inequalities, discrimination and exploitation.

The social inclusion policy proposed by the government was based on the system of proportional representation in elections. The agenda further proposed representation in the Upper House from ethnic groups, indigenous peoples and Dalits in proportion to their population. A provision was made to include at least 25% of seats in all representative institutions, including the parliament, to be reserved for women. This agenda has been further endorsed by the Prime Minister Surya Bahadur Thapa in his address on future course of direction of the government. As mentioned earlier, the roadmap on governance reforms proposed by the Ministry of General Administration has also made a provision to allocate certain number of seats exclusively for the women, Dalits and ethnic groups. The Prime Minister has announced that His Majesty's Government would design a reservation policy for women, Dalits, and indigenous people based on Human Development Index taking into reference the proportion of the population until the national average to such representation is maintained in the sectors such as education, health, administrative services, and other employment ventures. This is perhaps the first of its social re-engineering process proposed by the government after Jayasthiti Malla (1354-1395). It could have a far-reaching impact on the social integration of the Nepalese society, perhaps a better represented one.

Focus on external accountability

Mechanisms are in place to ensure internal accountability in the civil service. There are relevant rules and regulations (legal accountability), assigning role and responsibility through authority

delegation and job description to particular official in the civil service (programme accountability), designing specified way of doing things (process accountability) in discharging accountability in the civil service. However, with the growing need for public-private partnership and, client-oriented approach and effective service delivery responsibility concerns have been raised that there should be a mechanism for external accountability. The mechanism to establish external accountability could be through better involvement of the private sector in decision-making, decentralization, privatization, grievance handling, citizens' charter and so on. Some efforts have been made in this regard. However, they are discrete in nature.

Rehabilitation and reconstruction of damaged infrastructure

The government has recently announced a plan of action for the establishment of rehabilitation center for those insurgents who would like to surrender with or without arms. An encouraging initial result has been noticed. The government has identified Dhakaltar of Tanahun district as rehabilitation center and Sundarijal of Kathmandu valley as interrogation and security center. The government has allocated one million rupees each to these centers. It is understandable that these centers need to be extended in other regions of the country, and they need to be fully developed. We need to support the already established **Rehabilitation Center** and look into the possibility of its **extensions** in other development regions.

Sustainable operation of these rehabilitation centers is a challenge. The nation cannot afford to retain the incumbents in the center for a long period of time. Above all, they need to be reintegrated into the society and allowed to lead a normal life. For this, initiation of income generating activities, skill development and enhancement programme in the Rehabilitation Centers need to be conducted. Apart from providing physical security to those who surrender arms, they should be entitled to get the following **economic security**:

- Skill development programme
- Employment opportunity
- Financial support for self employment

Development of **model settlements** in the villages to reintegrate the incumbents in the Rehabilitation Centers into the community is also felt imperative. The model settlements should be provided with physical facilities such as electricity, telecommunications, schools and colleges, health facilities and so on. Those incumbents who do not have any property of their own should be provided with land for agriculture on lease.

There has already been a heavy damage to the infrastructure in the past and the trend in some sporadic instances is still continuing. Reconstruction of such damaged infrastructure and the protection of the infrastructure from possible threat also need attention.

Lunching of leadership development programme

It is assumed in the civil service that those at the higher level are considered as leaders. As mentioned earlier, the promotion system has some non-meritorious elements in it, and consequently, there are chances that incompetent people might be assigned to take higher responsibilities in the civil service. The challenges of the civil service are growing since the organizations are growing and becoming more complex. New methods are being tested and applied, and the civil service is driven by technology. The civil service is under pressure and is demanding creativity. It appears that there is a gap between the demand of the leading organizations and the value the civil service leadership holds. Daniel Kaufmann has recommended that, in these constantly changing situations, the core competence of the leadership should be "extra-ordinary level of perception and insight into the realities of the world". The civil service leaders are not bred according to this philosophy. Hence, it is imperative to initiate leadership development programmes to breed future leaders who would be able to assimilate the new concepts into the civil service.

Support to Poverty Alleviation Fund

The Tenth Plan is also a policy document on poverty alleviation. Plans and programmes in the Tenth plan are directed towards bringing down the incidence of poverty in Nepal. His majesty's Government has established a Poverty Alleviation Fund to launch further focused and targeted programmes to people living below the poverty line. An Act to this effect has already been promulgated. The Fund is severely constrained on resources with a modest allocation of about NRs 40 million to the Fund. There are about 13 poverty alleviation related programmes in Nepal, including Production Credit for Rural Women. However, the coverage and its targeted delivery are always in question. The National Planning Commission is working on developing a Poverty Monitoring and Analysis Framework Document with a view to monitor the input, process, output, outcomes and impact.

Successful implementation of IAP-II, PRGF, PRSC

As mentioned earlier in various related sections in order to substantiate the objectives of the Tenth plan IAP, PRGF and PRSC are in action. The activities of these programmes are supportive of bringing about broad-based growth, social sector and rural infrastructure development, targeted programmes for the poor and good governance.

Widening the coverage of mobile government

After the initiation of the unified command system, the government has started the concept of delivering goods and services in the field through mobile means. Owing to limited resources, its coverage and frequency is limited. It is hoped that peace would be re-established in the country soon. Until this happens, the activities of the mobile governments need to be further intensified both in terms of widened coverage and larger package of service delivery.

Role delineation between political actors and civil servants

In a number of instances up until now there has been confusion on where the role of the political actors ends and where the role of the civil servants starts. Unless the political actors delegate authority, the civil servants remain too squeezed. The civil servants have to depend on their political masters to get the required authority to carry on the business of government. In extreme instances in the past, it has been noticed that the political actors (Ministers) did not delegate authority to their Secretaries.

There is no uniformity and standard practice in the delegation of authority. It entirely depends on the discretion of the political actors. The vulnerability of the civil servants is so high that unless they get authority from the political actors, they are helpless in discharging their responsibilities. It has also been observed in the past that the political actors seem to be overtly interested in the internal affairs of the civil service such as transfer, posting, deputation, and promotion etc. Political actors keep on changing, and every change in the government is almost invariably followed by a change in the internal management of the civil service. This is perhaps the reason why the civil service becomes politicized.

In order to ensure professionalism in the civil service and make it more business-oriented and thereby keeping it free from political interference, it has been suggested that a Governance Act be enacted with a provision on role delineation between political actors and civil servants.

Judicial Reforms:

Reforms in the judicial system are equally important to ensure good governance and control of corruption. Efforts have been made to review the procedural and substantive aspects of the judicial system both at the governmental level and through the support from the development

partners. Still reforms in the judicial system are needed in the areas such as process simplification, institutional capability, and human resources development.

International Support:

His Majesty's Government of Nepal and Development Partners could initiate works in the following areas:

- ?? Ensuring representation of the marginalized groups in the political bodies and administrative services.
- ?? Identification of appropriate service delivery mechanisms in conflict affected areas. Innovative service delivery mechanisms may need to be explored and tried to provide quick services to the people.
- ?? Drafting and finalisation of the Local Bodies Services Act to expedite the devolution of sectoral functions.
- ?? Several sectoral Acts that contradict with the Local Self-Governance Act 1999 should be amended to pave way for effective implementation of the Local Self Governance Act.
- ?? Support for the implementation of the Human Rights Action Plans.
- ?? Strengthening the CIAA including its institutional capability and operating practices.
- ?? Support for the establishment of the Peace Coordination Bureau.