

International meeting; January 29-30, 2009

Dr. Sania Nishtar participates in a consultation of the Rockefeller Foundation's Working Group on Private Sector in Health Systems at the Price Mahidhol Conference held in Bangkok, Thailand, on January 29-30, 2009. Attends the symposium as a member of the Working Group.

Viewpoint 41: Restructuring and reforming NAB; January 27, 2009

A viewpoint titled 'Restructuring and reforming NAB' by Sania Nishtar has been published in The News International on January 27, 2009. Full text is [accessible here](#).

Context: The government is on its way to revamping the country's accountability infrastructure and statutes. This comment underscores a few points to make sure that this is not just a switch of acronyms but is substantial institutional restructuring towards fostering accountability and transparency within the country, a core attribute of good governance.

Restructuring and reforming NAB

Published in The News International on January 27, 2009:

The government is on its way to revamping the country's accountability infrastructure and statutes. It is evident from a review of news postings in early January, that the National Accountability Bureau (NAB) will be replaced with an Independent Accountability Commission (IAC) with the antecedent repealing of the current National Accountability Ordinance, 1999 (NAO) and promulgation of the Holder of Public Offices Act, 2009 (HPOA). It is important to ensure that this is not just a switch of acronyms but a substantive institutional restructuring and realignment of statutes as a step towards fostering accountability and transparency within the country—a core attribute of good governance.

The news items in early January surprisingly generated very low level of interest from stakeholders in the political and governance arenas and the civil society, all of whom appear to hold institutional strengthening esteemed in rhetoric. It must be recognized however, that unless we actively and substantively engage in shaping institutional norms and structures, rhetorical commitments cannot come to fruition. It is therefore with a view to initiating a dialogue on the subject that some thoughts are being articulated herewith in relation to the envisaged institutional restructuring.

First of all, it is important to clearly conceptualize the mandate of the proposed commission and recognize that an accountability body, as is being envisaged herewith has a different though related mandate than an anti-corruption structure, which is what NAB represented. The connotation of an accountability commission is too broad and all-embracing. Accountability as a concept in ethics and as a key aspect of

governance can relate to several attributes. Even if it is limited to the political dimension of accountability as the proposed commission envisages encompassing, it is not clear whether it is in the financial, moral, procedural or performance realms. Not all criminal acts are defined in the penal code; some procedural misconducts and moral tradeoff by holders of public offices and lack of performance cause more damage to the state and its interests than graft punishable under the penal code. The government therefore needs to define the scope of accountability with respect to the envisaged IAC if the remit is accountability and not just anti-corruption-related work.

The concept of an accountability commission is closely linked to truth and reconciliation commissions, the most pioneering example of which is South Africa's Truth and Reconciliation Commission established by President Nelson Mandela after apartheid. This example was followed by many other countries around the world including most recently Bangladesh in the creation of its Truth and Accountability Commission in 2007. There are also many other variants of accountability commissions. One model centers on the implementation of conflict of interest laws and analysis of public disclosures given the importance of disclosure in fostering transparency. Many States in USA follow this model. Accountability commissions have also focused on democracy and corporate accountability as in the case of a privately funded Canadian commission and on legislative modernization as a means structuring accountability in a country as has recently been the case in Bulgaria. Within Pakistan, the much referred to Charter of Democracy also refers to the creation of a Truth and Reconciliation Commission in order to counter politically motivated accountability. There are therefore several niches for an accountability commission. If the intent of the Government of Pakistan is to develop a commission centered on accountability as a core theme, it should explore the best fit for Pakistan's setting taking into account pressing priorities

and indigenous needs.

However, on the other hand an anti-corruption commission or any other anti-corruption institutional structure such as NAB has a more specific function, which relates to investigative responsibilities and/or prosecutorial functions. Most of the well known anti-corruption commissions around the world such as Hong Kong's Independent Commission Against Corruption (ICAC), the Independent Commission Against Corruption of New South Wales, the Malaysian Anti Corruption Commission and the Corrupt Practices Investigation Bureau (CPIB) of Singapore perform investigative functions whereas some such as the Malaysian commission also perform prosecutorial functions, as did NAB until recently.

Any attempt to restructure NAB therefore, has to come up with clear directions for the investigative and prosecutorial scopes of work of the new body. From what is publicly known about the proposed restructuring it appears that there has been a call for a separation of the two functions. Corruption related investigative work involving holders of public offices as defined in the government statement is envisaged to be entrusted to the new body and the same relevant to public servants and the private sector is meant to be brought under the jurisdiction of FIA whereas prosecutorial functions are being handed over to the regular legal and judicial systems. Here it is acknowledged that in principal, it is a good idea to separate investigative work from prosecutorial functions as it mitigates the possibility of bias and acts as barrier against political exploitation. However, there are two problems in this regard in Pakistan's context and the direction being envisaged specifically. One relates to concerns regarding two different groups of citizens being dealt with under different institutional arrangements and possibly varied normative arrangements—holders of public offices vs. public servants and the private sector—and it needs to be ascertained if this approach is discriminatory in any way. The other reservation relates to the capacity and

efficiency of FIA as an independent and impartial agency given the historical perspective. Challenges emanating from lack of reform within the judicial system is an across the board issue as well which may dampen the impact of any new arrangement.

The last and most critical attribute relates to independence. A Commission by spirit is a constitutional body whose independence must be guaranteed in the same way in which the independence of the judiciary is guaranteed under a constitution. In view of this, the government carefully needs to review the extent of value that a commission with reporting relationships with the Ministry of Law can bring to fostering accountability of parliamentarians, who by virtue of their mandate can exercise a significant influence over the ministry. It might be of relevance to note here that Article 36 of the United Nation's Convention Against Corruption (UNCAC) to which Pakistan is a state party requires independence and autonomy to be ensured for any anti corruption and accountability authority and any attempt to subvert that, inadvertent as it may be, is tantamount to a deviation from that norm.

There are many ways of institutionalizing independence of an agency as sensitive and politically exploitable as the one under discussion. Successful examples around the world, some of which have already been alluded to, have ensured independence by structuring systems of oversight, which provide policy guidance and oversee operational and administrative matters. Many countries have solicited the participation of individuals of unquestionable integrity from different walks of life in participatory governance arrangements ensuring that the selection process is transparent and consensus-driven. However, most of the success stories represent examples from developed countries with systems of governance far superior compared to Pakistan. Therefore, the key challenge for Pakistan as it sets out to restructure and reform the National Accountability Bureau will

not just be to ensure 'independence' in governance arrangements but also to minimize opportunities of capture of independent governance by vested interest groups. It is only then that we can make a solid contribution to strengthening an anti-corruption structure and take a positive step towards promoting political responsibility, responsible governance and public accountability. The need to do so cannot be overemphasized at a time when making governance effective should be one of the utmost priorities in the wake of unprecedented array of challenges the country faces.

The author is the founding president of the NGO think-tank, Heartfile. E mail sania@heartfile.org

International meeting; January 12-14, 2009

Sania Nishtar attends 1st Meeting of WHO Director General's Expert Working Group on R&D Financing, held in Geneva, Switzerland, from January 12-14, 2009. Attends the meeting as a member of the Expert Working Group.

New peer reviewed publication; January 11, 2009

The following letter in The Lancet outlines the imperatives of the global financial downturn for the health sector. (Nishtar

S. Pablos-Mendez A. The global financial downturn—imperatives for the health sector. Lancet 2009;373:124.)

The Global Financial downturn—imperatives for the health sector.

Nishtar S. Pablos-Mendez A. *The Global Financial downturn—imperatives for the health sector.* Lancet 2009;373:124.

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Viewpoint 40: Financial crisis, social unrest and reform; January 5, 2009

A viewpoint titled 'Financial crisis, social unrest and reform' by Sania Nishtar has been published in The News International on January 5, 2009. Full text is accessible at [Viewpoint](#)

Context: The risk of catastrophic expenditures on health in China is constraining the ability of its population to spend with consequent negative impact on the economy during the financial crisis. The situation in China and Pakistan vis-à-vis the financial crisis is not comparable; notwithstanding,

there are important reasons for drawing this analogy for the health and broader social sector.

Financial crisis, social unrest and reform

Published in The News International on January 05, 2009:

The December 22, 2008 issue of Newsweek featured an article on the downside of Chinese state reform. Entitled 'Why China is too scared to spend', the article drew attention to the weaknesses created in the Chinese health system with the advent of market reforms in the 1980's, which did away with the communes that funded the Chinese system of work-unit based welfare. The consequent negative impact on the Chinese social sector hit healthcare the worst, as bare foot doctors in villages and affordable hospitals in towns were replaced by privatized state enterprise. Currently, a majority of the population spends out-of-pocket to seek healthcare and as rightly pointed out in the article 'a serious illness can wipe out a family's savings'—a pattern labeled as catastrophic spending.

The word 'catastrophic' in the present context denotes an economically dire outcome for a family. This pattern of spending in health comes to the spotlight in view of the recent financial crisis because of its implications for spending patterns, as Chinese families, unprotected in terms of their health needs being financed, save chunks of their income in anticipation of the need to spend in the event of a health-related eventuality. This behavior is an impediment to spending and reduced spending in today's environment is not

desirable, given that one of the key strategies to address the current financial crisis is boosting consumption, not cutting it. As a result of this consideration, it is being recognized in China that a better healthcare system may be an impetus for domestic spending and increase in employment in addition to offsetting the social un-rest that can be a feared consequence of the present financial crisis.

Not all of these considerations apply in Pakistan's context. The global financial downturn is not likely to impact Pakistan to the extent as it has in China and the more integrated markets of East Asia owing to the lack of full integration of Pakistan's financial markets with international markets; additionally, the level of disposable incomes is comparatively much lower than in China. Notwithstanding, are important reasons for drawing this analogy not just for the health sector but for the broader construct of social policy in Pakistan.

First, a vast majority of Pakistan's population runs the risk of spending catastrophically. According to a survey conducted by the Planning Commission of Pakistan prior to the development of the Social Protection Strategy of Pakistan, 2005, nearly two-thirds of low-income households reported that they had been affected by one or more shocks at some point in the last three years. Secondly, there is a high likelihood that slowing of economic growth in Pakistan—though for reasons other than in China—coupled with many other domestic issues will worsen the existing social unrest in the country. Both these considerations create an imperative for the state to enhance its capability to target social services to its population.

At this point, let us be reminded of our poor social sector indicators even independent of the present crises. Let us recall that we are off track in meeting the MDG's and many other organically stipulated targets. Pakistan compares poorly in its social sector indicators in many areas with countries

that have similar levels of per capita income and overarching economic development. In the health sector, data from the largest household survey ever conducted in Pakistan—the Pakistan Demographic Health Survey released in 2008—is a stark reminder of the stalling progress and failure to achieve certain straightforward endpoints such as immunization outcomes despite the availability of ample resources and political will on part of successive governments. We now have to accept that the capacity of our systems to deliver has been seriously eroded overtime and that unless deep-rooted systemic reform of the service delivery system and its governance arrangements is undertaken holistically, not much will change. The realization is sobering at a time when social unrest as a consequence of a number of domestic economic and political and external factors is envisaged to escalate to unprecedented levels. Reform of the social sector, therefore, becomes an imperative in today's environment.

It often takes some sort of political or economic shock or a drastic change at the level of the state to begin a reform process. There have been many such shocks in Pakistan in the recent past. The earthquake of 2005 was the most notable—a time when the feeling of national solidarity was most palpable. Ongoing conflict, ethnic and religious divides and mayhem, the recent commodity crisis, and the domestic economic downturn are glaring examples of other recent shocks. However, none of these has galvanized unity amongst the political stakeholders about the directions of a reform process in an attempt to sustainably impact the lives of the disadvantaged; instead, attention has remained focused on the power interplay of partisan politics.

Let me at this point acknowledge that Governments in the past and present have developed several individual programs aimed at social protection and welfare. However, individual programs have their limitations in impacting outcomes and program-by-program fixes have inadvertently led to a whole series of

uncoordinated, duplicative and sometimes conflicting initiatives housed in various ministries and departments at the federal, provincial and district levels.

A key prerequisite for a successful social policy reform in Pakistan's environment entails introducing a set of interdependent and mutually supporting interventions. Developing an agenda for such a reform requires a coordinated analysis and revision of the social sector system as a whole, as a starting point. It would require both technical as well as political consensus. Whilst the former can be easily achieved with some level of creativity, commitment and skill, the latter is more problematic. Reform in any sector is a profoundly political process in a range of domains and institutions and involves many actors and processes. It has to be based on an explicit understanding of the changes needed at the level of institutional structures, human resource, policy, and regulatory and legislative domains; therefore in order for it to be successful not only does it have to be holistic, more importantly it must be sustained overtime. It is here that a critical bottleneck lies. Pakistan has a longstanding history of initiating reforms, reform-like initiatives and attempts with the potential to transform. However, every time with the change of government, previous initiatives are disregarded and planning starts de novo. There is no institutional mechanism or institutional memory to build further on initiatives in the pipeline and seek evidence for up-scaling impartially. Institutional decisions are determined by political expediency and political benefaction or are driven by vested interest. This is not to say that there is any dearth of committed individuals within the system—on the contrary. However, those with the understanding and the ability often do not have the clout or voice to ensure that the right decisions are upheld. If the present trend continues, we can never hope to reform structures of the state and instruments of governance and the present mayhem in the social sectors will continue to play havoc with the lives of the poor, as it has.

A plausible way forward is for all political stakeholders—the government, opposition, civil society players and religious community—to sign up to a multi-partisan vision and roadmap for a reform agenda that is technically and politically feasible and for every incoming government to abide by the consensus-driven plan. Reform is a mark of politically mature democracies and must outlive administrations. It is about time that we moved to a more substantive understanding of what democracy is all about and realize that in order for it to be successful it must strive to be true to social justice, which is one of its core values.

The writer is the founding president of the NGO think-tank, Heartfile (sania@heartfile.org)