

Institutional mergers in Pakistan

September 30, 2009: A special supplement of the Journal of Pakistan Medical Association was dedicated to the review article on 'Synergizing health and population in Pakistan' by Sania Nishtar and Saba Amjad. The article is an important health systems research-to-policy piece, which is being viewed with great interest in the policy-making circles in Pakistan. The supplement is accessible at [Publications](#)

Viewpoint 56: Is aid the answer?

September 28, 2009: A viewpoint titled 'Is aid the answer' by Sania Nishtar has been published in The News International. Full text is accessible at [Viewpoints](#)

Context: A meeting of the Friends of Democratic Pakistan has been convened on the sidelines of the United Nations General Assembly. Participants signaled support to Pakistan, particularly under the framework of the Kerry Lugar Bill. Within this context, this comment explores the value that aid per se can bring to improving development outcomes in Pakistan

Is aid the answer?

Published in The News International on September 28, 2009:

The meeting of Friends of Democratic Pakistan (FoDP), convened on the sidelines of the United Nations General Assembly in New York, concluded yesterday by signaling unprecedented support to Pakistan. This was evidenced in both the representation at the meeting as well as in the approval announcement of the Kerry Lugar Bill, which is aimed at facilitating economic, security and socio-economic assistance. This comment with its focus on the development perspective is centered on exploring if aid is the answer to the current development challenges, the country faces. The importance of three points is being underscored in this regard.

First of all, it must be recognized that the best way to improve development outcomes is through sustaining growth, increasing employment rate and per capita income and by addressing the core disparities of power, money and resources. This notwithstanding, it is generally accepted that if aid is used as a strategic input into a system and if the central systemic barriers, which continue to impede its greater impact are addressed, it can be a useful tool and can catalyze development in a developing country setting. Based on this premise and research results, it is justified to argue for increased aid. However, expectations about its impact must be kept at reasonable levels in a country as large as Pakistan where aid is often grafted on local institutions without strengthening them from within. Experiences from around the world show that 'more resources' do not automatically translate into 'more development'. If that was the case, Nigeria and Angola would be advanced countries based on oil resources alone, and would not rank 154th and 157th out of 179 countries on the Human Development Index. Clearly, the effectiveness of aid is dependent on some specific characteristics of a country—the critical link being the

effectiveness of governance.

Secondly, even if we imagine that development depended critically on external resource transfers, there are many sources besides aid, which should additionally be leveraged. Friends could forgive more debt and could even go as far as wiping out external indebtedness, as they have done for some countries in Africa. They could give Pakistan better market access, a point being repeatedly made by Finance Minister Tarin these days. Friends must also carefully explore the amount of tariffs they collect vis-à-vis the money they provide in aid and facilitate trade by dismantling the barriers to exports from Pakistan, if they want a sustained effect of the good will they have signaled yesterday.

They could also facilitate ethical 'export' of human resource on the premise that the approach can enable earning foreign remittances, albeit whilst concomitantly building country capacity to implement appropriate retention regulation to ensure that the critically needed workforce is retained in the country. They could also help widen the definition of public goods by easing some of the impediments that are inadvertently placed on development such as through Intellectual Property Rights, particularly in the domain of medical products and technological solutions. Pakistan will have to be fully compliant with the patent regime under the stipulations of World Trade Organization Agreements and Pakistan's Patent Ordinance, in 2016, which is when these considerations will assume importance. Furthermore, as Pakistan is envisaged to face the most deleterious consequences of global warming given the storage capacity of glaciers and monsoon patterns, Friends can also help by building capacity for responsible environmental management. Most importantly, strategic technical inputs, subsidies, diplomatic and market interventions in many other areas can ensure energy, food and water security—all of them critically needed as the backbone of development.

Thirdly, much can be done within the purview of traditional bilateral and multilateral Official Development Assistance (ODA) to enhance effectiveness. As a starting point, clarity of objectives is critical. A historical review of ODA in Pakistan shows that integration of foreign policy and development objectives has not yielded far-reaching development dividends in Pakistan, so far. There has traditionally been a very strong correlation between geopolitical motivations and the volume of ODA channeled into Pakistan. The increase in ODA in the decade of 1954/64 in concert with Pakistan's signing of mutual defense assistance agreements with the US in the Cold War era; in the 80's in the wake of the Afghan war; post 9/11 for obvious reasons and the troughs in the pattern of aggregate allocations in the periods in between, are illustrative in this regard. Donors must therefore clearly separate objectives and develop broad-based channels of communication so that they can benefit from impartial inputs from a broad constituency of stake holders, and analyze the implications of integrating foreign policy and development objectives in Pakistan's complex body politic.

The mode of channeling of resources is another consideration. Over the years, donors have rallied around a number of approaches to disbursement, each with its own set of problems. Experiences with Project assistance and Sector Wise Approaches led to intra and inter-sectoral imbalances. Programme assistance was introduced as a way of mitigating these challenges. It was envisaged that by agreeing on a set of criteria with the government and reimbursing them according to a predetermined percentage, as in the case of the Social Action Program (SAP), earlier problems could be mitigated. SAP dominated donor disbursement strategies from 1992-96 but without the impact envisaged. More recently, the tendency to give aid on budget is the third disbursement channel—an approach endorsed by the Paris Declaration and Accra Agenda. Many bilateral development agencies operating in Pakistan have made increasing use of this disbursement channel, on the

understanding that coordinating and pooling aid in support of strategies led by the government, can strengthen country systems and minimize duplication and high transaction costs. However, systemic weaknesses have prevented the government from fully benefiting from ODA inputs, whilst also precluding realization of donor development objectives. Donors are experimenting with yet another approach to disbursement in the new package of assistance, as evidenced in yesterday's announcement through the creation of a multi-donor trust fund. The approach has the potential to be useful if the fund parameters include a truly impartial, inclusive, and participatory governance arrangement, open disclosure policies and third party audit.

There are other things that both sides can do to improve aid effectiveness. The Pakistani government should strengthen fiduciary systems and prioritize, transparency-building measures, a call for which has been renewed in the tabling of Transparency International's recent reports. Friends, on the other hand must be sensitive to connotations of conditionality, refrain from using regional unified approaches to policy such as Af-Pak, which the foreign office dislikes and ensure that aid does not undermine local accountability. Donors should also look beyond traditional modes of development assistance to help create frameworks that can incentivize private sector participation in development and infrastructure building; some core considerations in this regard have been flagged in these columns by the author on June 11, this year.

Most importantly, in the present drive to scale up, it is also important not to promise too much and be mindful of the fact that the Tokyo pledges remain fully unrealized. This package of support is not analogous to the Marshall Plan for many reasons, which have been highlighted by the author in these columns on April 28. This is a very different world; the donors are just emerging from the throes of a financial crisis

and Pakistan is faced with many internal and external, conventional and unconventional security challenges. We need to use donors' inputs and development resources to catalyze broad-based change rather than pursuing conventional time bound outcome based targets. Aid can only be a catalyst and that too, if effectively used. The ultimate onus of responsibility for making the quantum leaps needed in Pakistan today lies on the shoulders of those who govern it.

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

Viewpoint 55: Constitutional amendments

September 19, 2009: A viewpoint titled 'Constitutional amendments' by Sania Nishtar has been published in The News International on September 19, 2009. Full text is accessible at [Viewpoints](#)

Context: The Principles of Policy of Pakistan's constitution have not been updated since 1973. This article focuses on the need to revisit these principles in line with contemporary considerations in view of the forthcoming parliamentary discussions on the 18th Amendment to Pakistan's constitution. This discussion has a bearing on social sector governance in the country.

Constitutional amendments

Published in The News International on September 19, 2009:

The Special Committee on Constitutional Reform is currently deliberating on the nature of constitutional amendments to be introduced through the 18th Amendment. Achieving balance of power should be an important outcome of this exercise. In addition, however, the potential within constitutional changes to foster improvements in the public policy domain should also be explored. Within this context, this comment draws attention to the need for updating the Principles of Policy, articulated in Part II, Chapter 2 of the 1973 Constitution.

Principles are a set of values that guide action towards desired goals; these are distinct from laws, which can compel or forbid behaviors. Defining the right principles can inspire the desired culture in articulating norms in policy instruments. The Principles of Policy in the 1973 Constitution were articulated at a time when the world was a very different place. Although these are relevant even today, other considerations have also assumed importance. Pakistan has signed up to many global normative frameworks since then—many of which have binding covenants. Many indigenous challenges warrant the inclusion of another generation of principles. The manner in which governance ineffectiveness has been pervasive, creates an imperative for covenants to set the right parameters in order. The opportunity to address these gaps should not be missed while framing the 18th Constitutional Amendment.

Chapter two stipulates 12 covenants as the Principles of Policy in Articles 29-40. These centre on the Islamic way of living; promotion of local government institutions; participation of women in national life; protection of the families and minorities; promotion of social justice and well being; eradication of social evils; discouraging prejudices;

participation of people in armed forces and strengthening bonds with the Muslim world and international peace.

Some of these, to begin with do not sound like principles; they can at best be described as approaches or strategies. Additionally, there are eight missing principles of critical significance. These are being summarized hereunder.

Evidence is one of the most critical values in the domain of policy formulation. Similarly, transparency in conduct and accountability for actions is another critical principle—both are missing from the list. It is accepted that Government's decisions are regularly challenged before the High Courts on the basis of absence of evidence and rationality and that detailed rules exist to guide judicial review of administrative decisions. Constitutional experts also draw attention to the fact that the requirement of evidence-based decision-making can be read into several other provisions of the Constitution such as Articles 4, 5 and 25, which are directly enforceable through inter alia Article 199. Experts also state that the requirement of transparency in administrative decision-making has been established through judicial precedent and may also form part of Article 4—which has been interpreted as the due process clause in the 1973 Constitution—and enforceable through Article 199. These explanations are accepted. Notwithstanding, absence of both the principles in the listing of the Principles of Policy is an omission. Framing these can signal an important intent, which is needed to move beyond the current culture of adhocism, personal preferences, and political expediency in the policy domain.

Outcome Orientation is another principle, which needs to be included. Policies, particularly in the social sectors have often supported 'outputs'. Investment in infrastructure—hospitals and schools—is an example. The impact of such policies on actual goals or outcomes, which in the given example relates to better health and improved literacy,

respectively is usually not optimally achieved. There is never an accountability drive to hold policy makers and implementers responsible for not achieving outcomes. Spelling out outcome orientation as a principle can signal its importance.

For a federating country, Solidarity should be defined as a Principle of Policy to signal that policy actions, while respecting autonomy of the federating units will not undermine cohesion and camaraderie. This can signal confidence to the small provinces at a time when provincial discord and separatist movements are taking root.

The difference between inequality and inequity should be brought to bear. The Principles of Policy refer to inequities only in the context of the employer vis-à-vis employee relationship in Article 38(a). The State's commitment to addressing Inequities of power, money, and resources should clearly be reflected as an overarching principle as this forms the basis of social justice, which is one of the three principles, enshrined in the Objectives Resolution.

Technical and allocative efficiency, which are concerned with the "production of services at minimum cost" and "producing the right collection of outputs to achieve its overall goal", respectively, should additionally also be included as principles, to signal the importance of optimizing resources in view of the present fiscal constraints.

Framing the right principles to guide decentralization/devolution is important. Presently, Article 32 and 37(i) relate to promotion of local government institutions and decentralization respectively. Article 140(A) makes it binding on every province to devolve political, administrative and financial responsibility and authority to elected representatives of the local government—a subject of great contention today. Although, it is not within the remit of the Principles of Policy to outline specifics in this area, the importance of two overarching principles needs to be emphasized. One of them is subsidiarity, an organizing

principle, which means, "Matters ought to be handled by the smallest, lowest, or least centralized competent authority". The other centers on community empowerment, without which decentralization cannot yield dividends.

In addition to the proposed 8 additions, it is recommended that existing principles be reframed in the following two areas.

The first relates to social justice and well-being. Articles 37(a), 37(b), 37(e) and 38(a-e), emphasize their importance. Article 38(c) and (d) reiterate the need to provide welfare for "those in the service of the country" and "those that are unable to earn their livelihood as a result of infirmity, sickness and unemployment", respectively. Over the last decade, social welfare has been increasingly recognized as being synonymous with poverty reduction and social protection, whereas it is a much broader concept and links with the issue of enforceable social rights. Experts state that the impact of Article 25 read with Article 9 provides for enforceable fundamental rights. Although Article 9 in particular has been broadly interpreted in case law in this regard, there is lack of explicit clarity in this area, which must be addressed.

The second area relates to women's empowerment. Currently, Article 34 relates to full participation of women in national life, whereas Article 37(e) stipulates women's rights with respect to employment and maternity benefits. The world has moved significantly further along in this area since 1973 with women's empowerment and matters related to access, rights and opportunities, including reproductive rights as being central to gender mainstreaming. Pakistan has made progress by signing the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and enacting the Protection of Women (Criminal Laws Amendment) Act, 2006. The Principles of Policy should signal an overarching position, which should be a benchmark for policies in this domain.

In addition to these changes, a participatory mechanism is

needed to periodically review the extent to which the Principles of Policy are adhered to in policy formulation and implementation. The recently tabled private member bill to add article 40(A) in order to enable the creation of a Council of Principles of Policy cannot provide this, given the usual public sector representation it calls for creating and the lack of a participatory approach. The Report on the Observance of the Principles—a constitutional requirement and part of the rules of procedure and conduct of business in the National Assembly—is in practice, treated as a mere formality. Faithful implementation of this requirement is important—the constitution envisages debate by Parliament, which if implemented in spirit would be a participatory process.

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

Mixed Health Systems Syndrome.

Nishtar S. Mixed Health Systems Syndrome. Bull World Health Organ 2010;88:74-75. doi: 10.2471/BLT.09.067868

Synergizing health and

population in Pakistan.

Nishtar S. Amjad S. Synergizing health and population in Pakistan. J Pak Med Assoc 2009;Suppl3:S3-20

Pakistan's Health Population Mantra.

Nishtar S. Amjad S. Pakistan's Health Population Mantra. J Pak Med Assoc 2009;Suppl3:S1-2

Viewpoint 54: Governance-through the sugar-crisis lens

September 16, 2009: A viewpoint titled 'Governance-through the sugar-crisis lens' by Sania Nishtar has been published in The News International. Full text is accessible at [Viewpoints](#)

Context: Eighteen women succumbed to death while striving for a bag of sugar in Karachi last week. This comment explains the pervasive nexus of collusion that has led to the sugar crisis. Such collusive behaviours are deeply entrenched and plague every sector of the state including the health system

Governance—through the sugar crisis lens

Published in The News International on September 16, 2009:

The heartbreaking scene of 18 women succumbing to stampede whilst striving to get a bag of free sugar brings to attention the gravity of the ongoing commodity crisis. Such crises provide an insight into the regulatory capacity of governments and the level of governance effectiveness. Examination of the causes of the present sugar crisis can help in analyzing how that is the case.

Even under normal circumstances, sugar is a difficult domain to govern, with frequent tugs of war between the government, the sugar millers and growers. The constituency of growers demands higher price for raw material—their crop. The millers, on the other hand, complain about cost of production, other production related challenges, such as constraints imposed by the recent energy crisis and expect the government to protect them from sugar imports. Depending on who is stronger in the corridors of power—Pakistan's feudal and elite dominated politics ensures representation of both groups—the decision making equation ends up favouring one, more than the other, but generally benefiting both. In addition to this complex interaction, inelastic demand of sugar is highly exploited by collusion between interest groups and regulators in food departments. All these factors lead to price increase, which is generally passed on to the consumer. When governments try to intervene and arbitrate by importing sugar, there is usually outrage by the manufactures and their dealers. As an outcome, governments often end up imposing higher tariffs.

The snapshot of this cycle shows that even under normal circumstances, when there are no crop catastrophes or any other supply disturbance, there is significant complexity in this area. This year round however, there were additional complicating factors. To begin with there was a shortfall in domestic production of the sugarcane crop. The government had no option but to plan for imports, albeit with much delay. It is widely believed that this was the result of undue influence of vested interest groups who could benefit from shortages in the market. The delay in importing sugar resulted not just in shortage in the domestic market and poor availability but also led to loss of precious foreign exchange, as by the time sugar was procured in the international market, its price had soared. Increase in the price of sugar in international markets was due to poor crop yield in major sugar producing countries such as India and Brazil, due to adverse weather conditions. As a result, the supply of sugar fell resulting in an upsurge of price all over the world. International price trends impacted price in Pakistan in a major way and exacerbated existing supply issues.

A closer examination reveals that the crisis is a manifestation of governance shortfalls at various stages in the governance cycle—at the level of setting policy directions, ensuring implementation of policies, exercising oversight, compelling accountability, effectively regulating and antecedent capacity deficits at all levels.

First, lack of transparency is manifest at various levels. Although there appears to be an interest in promoting integrity in the public sector at the bureaucratic level—the recent anti-corruption drive was a case in point—due attention is not given to conflict of interest in terms of major business involvement of cabinet ministers vis-à-vis respective ministries. The story of sugar is particularly illustrative in this respect. Many examples can be cited of landlord and/or miller ministers swinging decisions, or subverting the

implementation of decisions for personal gains and/or patronizing interest groups. This factor is a critical impediment in the decision-making cycle, and adversely affects regulation. Institutionalized collusion between regulators and interest groups, and the resulting systemic manipulation further adds to the regulatory challenges.

In many ways, the sugar crisis is a classical example of state capture, where vested interest groups threaten the impartiality of public policy decisions; their undue influence in shaping state policies, furthered by patronage through political links diverts resources to the resourceful. The resulting outcomes can be devastating in the long term; state resources get channeled to the well connected, the rich poor divide is augmented, governance and regulatory capacity is exploited and attempts aimed at reform are systematically sabotaged. With respect to the present sugar crisis, the Competition Commission, has recently rightly emphasized that the government “must not provide any patronage to anti-competitive practices and measures encouraging ‘collusive behaviour”.

The system has limited accountability to hold functionaries accountable for undue actions. Accountability of politicians in Pakistan’s political system—where people are meant to hold politicians accountable for actions—can hardly bear fruit, owing to lack of awareness, rampant illiteracy, poor awareness of civic issues, and weak societal political culture. Poor illiterate people, who come from feudal strongholds—which is where most of the decision makers hail from—can hardly assess the impact of conflict of interest and regulatory collusion on public policy outcomes. Peer accountability in the Parliament on the other hand has also not been the norm unless motivated by personalized political objectives and seldom if ever comes to fruition with corrective measures of relevance to institutional strengthening. The new accountability framework embodied within the Holders of Public Offices Act 2009 (HOPA)

if enacted in its present form, will unfortunately, bring no additional value to institutionalizing accountability and is likely to weaken existing mechanisms to compel accountability.

The accountability deficit exists not just for politicians, but also at the level of the techno-bureaucrats. For example, there can be many other causes of failure to take timely action to procure sugar in time. In today's environment where information is available on a real time basis online, inability to take timely action raises many questions. Was the gap at the capacity level within the Ministry and departments to ascertain the brevity of the looming crisis? Or did the magnitude of the hurdles created by vested interest groups outweigh capacity and commitment within state agencies, interfering with their ability to perform? If the latter was the case, surely there is the need to analyze the impact of the current political dispensation on institutional performance and the decision making cycle. Although one is tempted to conclude that this factor is critical, the importance of other bureaucratic challenges should not be underestimated—in particular lack of decision-making prerogatives at mid-tier level, long winded procedures, the general lack of motivation to perform as a result of a number of disabling institutional factors and rampant regulatory corruption. All of these are manifestations of poor governance.

Secondly, the other governance shortfall apparent in this crisis is the limitation of the government to take concerned economic measures and their resorting to stop gap arrangements, instead. It is accepted that these may be desperate well-intentioned moves; notwithstanding, their impact has been negative—the crack down on the industry has disrupted the supply chain even further and the attempt to heavily subsidize sugar, is inadvertently furthering collusion. Thirdly, the intervention of the judiciary to benchmark price of sugar and the subsequent inability of the

executive to implement the decision represents another unprecedented complexity in governance. Some may say that the judiciary should not involve itself in a purely economic matter; others will say this is a matter of access to essential commodities and therefore rights and hence within the Supreme Court's purview.

In sum, therefore this crisis, like many others unveils many governance challenges, which need to be addressed coherently. Capacity to analyze the impact of policy decisions is critical to effectively managing such a complex process. Adequate capacity is also a pre-requisite for assessing the feasibility of alternative policy approaches, which experts have been raising in these columns lately. More importantly however, unless transparency-promoting reform is streamlined, sustained improvements cannot be expected. The writer has attempted to address the dimensions of such reform in these columns on August 15.

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

Comment in The Lancet

September 05, 2009: Some members of the WHO's Maximizing Positive Synergies Collaborative Group including Sania Nishtar of Heartfile have published a comment on the Venice Statement on global health initiatives and health systems in The Lancet. Lancet 2009; 374(9692): 783-4

Venice Statement on global health initiatives and health systems.

Atun R, Dybul M, Evans T, Kim JY, Moatti JP, Nishtar S, Russell A. Venice Statement on global health initiatives and health systems. Lancet 2009; 374(9692): 783-4