

स्थानीय सरकार सबलीकरण



The Asia Foundation

The Australian Government - The Asia Foundation Partnership in Nepal

Policy Dialogue on Reconciling Civil Service with Local and Provincial Government Needs (15 May 2017)

Rapporteur's Notes

On 25 May 2017, The Asia Foundation and the Australian Government supported the second policy dialogue on Pertinent Issues in Local Level Restructuring held at Hotel Shangri-La, Kathmandu. The topic of the dialogue, organized in collaboration with the Nepal Administrative Staff College (NASC), was “Pertinent Issues of Reconciling Civil Service”. It was attended by 27 participants comprising of experts on local governance and public service, donor representatives, and stakeholders in sub-national governance.

The dialogue focused on the emerging issues and opportunities relating to adjusting and reconciling the existing civil service personnel into the new sub-national government structures – local and provincial governments as provided under the 2015 Constitution of Nepal. The first phase of elections for local governments was held on 14 May 2017, with the second phase planned for late-June. These elections create the political structure in which existing civil service personnel are to be posted. Similarly, elections for provincial governments – expected in late-2017 or early-2018 – will also require civil servants to be adjusted from the central government. Both sub-national tiers of government have considerable power – delivering their mandate will depend to a great deal upon the capacity of civil service personnel.

The dialogue was facilitated by Mohan Manandhar, Senior Academic Advisor at NASC. The discussion was then led by Punya Prasad Neupane, Executive Director of NASC and Pratap Kumar Pathak, former Secretary of Ministry of General Administration. This was followed by questions, answers, and discussion.

The changed context of local governance: opportunities

Punya Prasad Neupane

The opportunity provided by the recent elections held on 14 May 2017 allowed the people of Nepal to elect their representatives to local governments. The participation of over 70% of voters and representation of marginalized groups reflects a huge success for these elections.

The new local government design and future provincial set-up comprises an innovation in governance for Nepal. These local units have unprecedented powers, whilst the provincial governments are an entirely new structure established by the new constitution. These new

structures provide an opportunity for the country's economic, social and political transformation, especially with regard to the inclusion of women and socially disadvantaged groups into government decision-making. These developments are expected to bring a new vitality to democracy and unleash the country's potential in different ways, in different places, and jurisdictions. This can be seen in decisions already taken by some newly-elected officials such as Kirtipur Municipality's announcement that Newari will be used as the language of government. Accordingly, a new competent and empowered, accountable system of local governance is on the horizon.

However, there is a large capacity gap in the local governments. The legal basis, including legislation and regulations for the effective functioning of these new governments, has not yet been defined. Further, there is little governance capacity in the existing structures. While the Constitution has provided powers, the way these will be practically institutionalized remains both a challenge and an opportunity. The future federal government will require fewer civil service personnel, while the increasing functions of the local and provincial governments necessitates significantly higher levels of staffing. Therefore, an adjustment – or reconciliation – of existing service is essential.

This process requires special attention to the following critical issues:

- Development of civil service structures within local and provincial governments;
- Assignment (*samayojan*) of civil service personnel – who will be assigned, how they will be assigned, under what terms, and the extent to which assigned personnel will agreeing to new posting;
- Promotion (*britti bikas*) of existing personnel, including any incentives for taking new assignments;
- Defining service terms and conditions; and
- Provision of training and capacity development to equip the civil service with the knowledge, skills, and attitudes essential for service delivery as well as the legislative and execution functions given to local/provincial governments.

The changed context of local governance: challenges

Pratap Kumar Pathak

Local elections provide political legitimacy to the new federal set up, and open the door for paradigmatic transformation of governance in Nepal. However, while Provincial Public Service Commissions have been envisioned in the Constitution, it will take time for the recruitment of civil service personnel to unfold.

The Constitution has created space to focus on empowering subnational governments in institutionalizing:

- A welfare-based approach to rights;
- Economic and social transformation, focusing on social justice, social inclusion, and principles of good governance;
- Constitutional legitimacy – local government rights and responsibilities enshrined in the constitution;
- Development of management capability;

- A culture of good management practice;
- Ethical and moral capability of leaders; and
- Innovation in the policy and governance arena.

The new federal set-up provides new challenges, one of which is conflict between the different tiers of government. Article 227 of the Constitution – which, in an effort to provide provinces a role in local governance, gives provinces power to make laws, rules and procedures for local governments which in turn may exacerbate conflict and confusion.

How this conflict is managed will be crucial for the ongoing state of federalism. As we chart this moment of transition, rather than merely looking to transplant what has worked in other contexts we must take an innovative approach. This requires collaboration – which will be the biggest challenge at the local level – and clarity on new administrative structures. Therefore, models of political consensus, competent organization, collaboration, and partnership, as well as standard operating procedures must be clarified.

The reconciliation/adjustment of existing civil service into subnational governments requires attention to be given to: organization; job description; and position. However, these issues are all contested and face resistance from different quarters.

Currently, local governments are not adequately equipped to govern. Apart from holding elections, there has been very little work done to implement the new local governance structures. What would the results of a readiness assessment look like? There are no standard guidelines, no organizational management surveys have been conducted, and no provision for financial stability; crucially, there is a lack of motivation among civil servants to engage at the local level.

Thus, many challenges must be engaged: existing central level civil service personnel must be adaptable to work at the local level; tools must be developed to assist harmonization of law and policy at the local level; elected representatives must be empowered to emerge from the shadows of regional and national party leaders to form policy that is in the best interests of their constituencies; policy decisions must be made according to law, not merely local political consensus.

Questions, answers, and discussion

The following points were raised during discussion among participants and presenters:

- It is important that there is stability in service provision throughout the transfer. Further conversation is needed with regard to how this will be achieved.
- Due to the government's unsystematic approach, it is difficult to develop a timeline and development framework for managing and guiding the transition. It is necessary to be prepared to engage the dynamic situation.
- The autonomy of local bodies must be balanced with a required degree national harmonization across policy and legislation. Standards and criteria for development should come from the central level. This is pertinent with regard to economic policy, which must be harmonized at the local level.

- Whilst there are around 20,000 civil service personnel currently serving under local governments, redeployment has not yet occurred. Therefore, there will be vacuum of administrative personnel at the local and provincial level.
- The National Reconstruction Authority will be required to work directly with local governments, rather than working through the erstwhile District Development Committees.
- There is a huge space for flexibility and self-initiation for local governments under the Constitution, which must be celebrated and nurtured. It is no longer a time for getting things done through circulars from MoFALD.
- The new governance framework requires rethinking engagement with the private sector and civil society, which must be done at the subnational level as well as the central level.

Recommended actions for stakeholders

The following emerged as main action points from the deliberations:

- Ensuring a healthy balance of rights and responsibilities is understood that stresses the importance that with increased power and devolution, comes more responsibilities for raising resources to guarantee effective public service delivery.
- There is a need for training materials and courses for local government political executives, as well as civil service personnel assigned to the local level
- A needs/readiness assessment for local and provincial governments is required, comprising evaluation of:
 - Adaptability;
 - Needs for harmonization of policies and law;
 - Incoming leadership – it cannot be assumed that the newly elected leaders will have executive leadership experience;
 - Financial institutions and mechanisms of check and balance must be put in place to ensure accountability and transparency; and
 - Legitimacy – popularity vs rationality – balancing political interest and expectation while managing transition for local governance
- Civil service structures require development, not in the form of an adjustment but a complete transformation of the sector from the traditional bureaucracy.
- Efforts should be made to establish effective relationships between elected officials and civil service, helping them understanding mutual expectations etc.
- There is an opportunity to engage elected officials for collaborative learning on the potentials and limits of local and provincial governments in social, economic, and political spheres of transformation.
- Convergence/consensus is needed among major political parties regarding the frameworks of adjusting civil service into sub-national government positions.