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## **“Retainer” Bureaucracy: An Impediment to the Process of Democratic Governance in Nepal**

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## Abstract

The role of public bureaucracy has been one of the most discussed characteristics of a state, especially if the political system of a particular state is in a developing stage. In Nepal, up to 1990 the absolute power of monarchy was maintained through a traditional or a pre-modern bureaucracy typically comprised of the caste and class elites. Merit was a superficial criterion. According to Riggs (1994) when non-merit appointees are able to retain their status as bureaucrats, they typically become a powerful political force. Compounded by their want of administrative qualifications, they start forming self protective networks in order to safeguard their special interests, especially their right to stay in office. Riggs calls these bureaucrats “retainers” and goes on to explain that after these retainers have held office for a long enough time, they become so well entrenched that they can successfully resist all efforts to accomplish significant reforms. Although Nepal has ushered in a modern system of government, the bureaucracy has hardly changed its pre-modern color. Today Nepal teeters dangerously towards political chaos. Corruption is rampant, unaccountability is rife and there is a gaping socio-political inequality. The reason why the Nepalese case is so interesting is that although the governing mechanism has a fairly modern, legal-rational base, the bureaucracy still holds its “traditional” hue. Is it theoretically possible to have a legal rational political system and a pre-modern bureaucracy at the same time? Does the traditionally inclined, un-evolving retainer bureaucracy act as an impediment to smooth functioning of a democratically elected, legal rational government? The paper seeks to answer these questions.

Key words: traditional bureaucracy, Nepal, hierarchy

*"It is easier to write a constitution than to run one".—Woodrow Wilson (1887)*

## Introduction

The relationship between public bureaucracy and democracy has been explored for over a century now by various experts and academicians. Some have stressed the indispensable interdependence between the two and others have deliberated on the pathologies of bureaucracy and its adverse effect on efficient and effective governing. However, fact remains that the relationship between bureaucratic elites and political elites has always been one of the most important characteristic of modern governments. As Farazmand (1997) writes, relationship between bureaucracy and politics, as an independent variable may even explain the degree of success and failure in governing empires, nation-states and city-states because their leadership, standards and behavior set the tone of all institutes of the government, their relationship at the apex of the governmental hierarchy acts as an example for all those who work in and for the government and determines the attitudes of the citizens towards their governments.

Early in the study of governance public administration was recognized as the most obvious part of government. Wilson (1887) wrote that public administration is the government in action; it is the executive, the operative and is as old as government itself. As Sayre (1978) opined, the concept of public administration is deeply rooted in political theory. If politics stresses methods and values, administration is the tool to incorporate those methods and values.

Public bureaucracy is an integral part of policy process and governance in general. The relationship between bureaucrats and politicians is mixed and interactive, fluid and integrative and in order to promote efficient and effective administration and governance, they have to work together. Bureaucracy then is a part of the whole political apparatus or a regime type and is bound to have characteristics similar to that of the regime it is operating under. In other words, regime types have important effects on the structure and performance of their bureaucracies (Riggs, 2002) and bureaucracies' performances in turn influence the survivability of those regimes.

The transformation of monarchic authoritarianism into democracy, fueled by notions of popular sovereignty, majority rules and safeguards for minorities usually occurs with the rise of industrialism and modernity. Now, although we cannot term present day Nepal as a pre-modern state, it does not have the prerequisites of an industrialized nation either. It is still largely agrarian and has strong feudal societal base comprised of age-old caste system. However, democracy, at least in spirit was ushered into present day Nepal in 1990 after a popular uprising that upstaged the absolute rule of King Birendra.

The Constitution of 1990 incorporated western democratic concepts such as majority rule, multi-partisanship, bi-cameral legislature and separation of powers. The governing mechanisms along with various legislative and administrative

organizations of the country suddenly had “democratic overhaul”. With a government which now had more or less a legal rational base with a written constitution, elected representatives and majoritarianism, it was expected that the bureaucracy of the state to also have legal rational hues. However, rooted in traditional orthodoxy Nepalese bureaucracy has a strong “retainer” culture that has proved difficult to discard. The prevailing psyche among Nepalese bureaucrats typically searches for political masters to please and depend upon for continuation of office. This attitude stems from age-old norm of institutionalizing charisma (Weber, 1922) which in turn makes them lose the essential bureaucratic attributes of neutrality and competence. The paper tries to analyze how lack of modern, legal rational bureaucracy impedes democratic development of a transitional state such as Nepal.

### Bureaucracy as a Concept

The term bureaucracy usually comes under scathing attacks as being too mechanistic, controlling and cumbersome (Hummel, 1997, Farmer, 2005). All of these charges are accurate, especially in regards to bureaucratic and post bureaucratic societies; however, it is a word that has demonstrated a great staying power and even most of its critics have concluded that there is more to be gained by keeping it than by abandoning it (Heady, 1995).

The dominant tendency is to define bureaucracy in terms of an organization’s basic structural characteristics. From Weber on, most writers on bureaucracy

have enumerated the structural dimensions of bureaucracy, with minor variations in their formulations, both in content and breakdown of items, but with substantial agreement among them (Heady, 1995). Similarly, Max Weber's views on bureaucracy, despite substantial qualification and revision remains the dominant paradigm for the study of administration and formal organizations (Rudolph, 1979).

Weber, perhaps the most respected writer on bureaucracy theorized that the role of public bureaucracy is to implement policy. According to him, the political leadership leads, the bureaucracy follows (Keith, 1985). Weber theorized that a rational, efficient and achievement oriented bureaucracy must emphasize on political neutrality, hierarchy, specialization of tasks and knowledge, formal communication and record management and objective standards and impersonal rules which would ensure organizational reliability and predictability (Keith, 1985).

For the position of the bureaucrat Weber says that office holding is a vocation. This is shown in the requirement of a firmly prescribed course of training, which demands the entire capacity for a long period of time, and in the generally prescribed and special examinations which are prerequisites of employment (Weber, 1922). The pure type of bureaucratic official is appointed by a superior authority and he usually holds his position for life. An official elected by the governed is not a purely bureaucratic figure. Similarly, the official receives the regular pecuniary compensation of a normally fixed salary and the old age

security provided by a pension and is set for a “career” within the hierarchical order of the public service (Weber, 1922).

According to Hummel (1977), a bureaucrat has to be a “truncated remnant of a human being who is allowed to feel only those emotions specified in the work orders”. Hummel quotes Weber and states that the norms of bureaucratic life are precision, stability, stringency of discipline, reliability, calculability of results, formal rationality, formalistic impersonality and formal equality of treatment.

As per Weber’s classic bureaucratic model, modern bureaucracy is usually defined as having five distinct characteristics such as political neutrality, hierarchical in composition, specialization of tasks and knowledge, having formal communication and record management as well as objective standards and impersonal rules which would ensure organizational reliability and predictability (Weber, 1922). However, Hummel (2000) adds that merely instituting these characteristics does not produce modern government or modern civilization in general. Bureaucracy then cannot be allowed to be defined only by its inner characteristics but must be defined within the context within which it was formed.

Bureaucracy and Regime Types,

To fully understand Weber’s ideas about bureaucracy, it is necessary to begin with the framework of his political sociology in which the concept of bureaucracy

finds its place. Weber felt that all power requires a belief in its legitimacy if it is to become stabilized therefore he set up his famous typology of the grounds on which a claim to legitimacy may be based. The first is the legal rational basis (Weber, 1922), in which legitimacy rests on “a belief in the ‘legality’ of patterns of normative rules and the right of those elevated to authority under such rules to issue commands. It is a democratic bureaucracy which functions with a pluralistic power structure and is perceived as a means (Constas, 1958).

The second one is totalitarian organization resulting from the institutionalization of charisma in a bureaucratic direction which is an end in itself. According to Weber, in this kind of organization, legitimacy rests on an established belief in the sanctity of immemorial traditions and the legitimacy of the status of those exercising authority under them. Obedience is owed to the person or the chief who occupies the traditionally sanctioned position of authority and who is, within its sphere bound by tradition (Weber, 1922; Constas, 1958). Weber called this kind of bureaucratic setting “charismatic bureaucracy” where charismatic or non-rational elements overshadow and sharply limit the use or area of rationality. This kind of bureaucracy has number of important consequences such as it sharply limits the area of rationality on bureaucratic recruitment and the prerequisites for strictly bureaucratic recruitment are impaired (Weber, 1922; Constas, 1958; Heady, 2001). To the degree that bureaucratic elements are present, ideological commitment, as well as technical competence, must necessarily figure in bureaucratic recruitment. It may even supersede it. Hence, purges, orthodoxy,

and hewing to the party line will inevitably arise at every level in a charismatic bureaucracy (Riggs, 2002; Conostas, 1958).

Weber's theory of charismatic and rational bureaucracy states that a more open society will have more rational, democratic and accountable bureaucracy whereas an autocratic one will have an irrational and corrupt bureaucracy.

Conostas writes of Weber's charismatic bureaucracy, that they are irresponsible and totalitarian. Hierarchical order, all embracing moral claims, divisions into the orthodox and the heterodox, and the sense of mission and salvation of mankind mark them all. While charismatic bureaucracy undergoes change and adaptation and may, indeed prove to be highly flexible, certain fundamental dogmas can never be given up (Conostas, 1958). A question therefore comes to mind; are there any basic characteristics which delineate the rational bureaucratic polity as a special type of social and political system? Eisenstadt believes that there are two main interdependent characteristics; the distinctiveness of political goals in the society and the need for special organizations for the mobilizations of different types of support that distinguish bureaucratic societies from traditional ones (Eisenstadt, 1956).

#### Bureaucracy in the Nepalese Context

.In 1959, the Public Service Commission was adopted as a fundamental feature of the Constitution of the Kingdom of Nepal which marked the beginning of a role

of the Commission in recruitment of the civil servants. After the coup and the subsequent Constitution of 1962, the Commission retained in paper, its prerogatives to advice on recruitment, promotions, terms and conditions and punishments of civil servants (Khanal, 2007). However, under the authoritarian rule of King Mahendra, the role of the Commission started eroding as more and more civil servants were hired solely on the basis of loyalty towards the King and his regime. The King as an incarnation of *Vishnu* had all the charisma and authority and deserved total obedience from his subjects, including the bureaucrats. It was their duty to fulfill his commands.

The seeds of traditional or charismatic bureaucracy were sown long before the reign of King Mahendra. As Arjunmani A. Dikshit (2007) writes,

Looking at the long hierarchy of positions in assistant level during the Rana period, it can be said that the idea behind creating so many layers and positions in lower levels was designed to prevent common people from reaching higher level positions. In a nutshell, the principle of higher the family status, the higher the position in public service was observed (p. 121).<sup>i</sup>

It is therefore clear that the existing bureaucracy in Nepal had no legal rational base whatsoever. This deeply rooted traditional bureaucratic culture lingers till date among bureaucrats and political actors alike. Elected rulers, like their autocratic predecessors continue to disregard the rights and the privileges of the Commission guaranteed by the Constitution. Even after the restoration of democracy in 1990, key political affairs

continued to get operated by the same elites that controlled, influenced and manipulated the economy and politics of the previous regime (Subedi, 2001).

Public Service Commission struggles to maintain formal characteristics of bureaucracy in Nepal as every function of the Commission is carried out in accordance to the will of those in the government, including recruiting of personnel and providing job security to public servants (Khanal, 2007, Dikshit, 2007). Likewise, public service examinations are poorly conducted; examinations conducted by zonal and regional offices lack adequate supervision and proper compliance of Constitutional guidelines (Khanal, 2007). There is also an evident lack of compliance of Public Service Commission's guidelines on delegated authority regarding recruitment and promotions. Whereas financial irregularities get ample public attention, administrative irregularities hardly ever gets noticed. In addition, current climate of political uncertainty has added burden in maintaining an efficient administrative process (Nepal, 2007).

Bureaucracy in Nepal does not have a neutral stand as political parties in power tend to use civil servants to their benefits. In theory, constitutionally empowered higher level civil servants are able to promote broad public interests and prevent politicians' potential abuse of power and privilege in serving powerful particularistic interests (Farazmand, 1997). However, in the case of Nepal, constitutional measures are rendered ineffective in the face of traditional bureaucratic norms.

## Retainer Bureaucracy

The bureaucratic model, by its very formulation, has tended to produce an overemphasis on organization as a variable; a situation often exacerbated by the kinds of data available (Heeger, 1973). There are numerous historical data on the growth of bureaucracies in the developing states collected by bureaucracies themselves which tend to attribute those bureaucracies all the concreteness of their counterparts in the developed states; the physical apparatus of buildings and files, the staffs, the hierarchies, and in theory at least the procedures whereas political institutions seem disorganized at best, legislatures seem devoid of procedure and tradition (Heeger, 1973). Fred Riggs (2002) termed these seemingly modern organizations “formalistic” which according to him are common among transitional societies.

“Transitional societies” having a mixture of the traditional and modern, are according to Riggs (1964), “prismatic” social systems. Riggs explains that the administrative characteristics of the prismatic society include “overlapping” interrelationships among administrative organizations; “heterogeneous” attitudes, practices and situations; and formalistic systems.

On assumption that the political system type would be the most crucial standard for distinguishing among the public bureaucracies of developing countries, Heady (1995) adopted a classification plan that was designed to place special emphasis on the relationship between the basic political characteristics of the regime and the political role of bureaucracy in the system. He categorized them as traditional

autocratic system, bureaucratic elite system, polyarchal competitive system, dominant party semi-competitive system, dominant party mobilization system and communist totalitarian systems (Heady, 1995).

According to Heady, the dominant political elites in traditional autocratic regimes owe their power position to a long established social system, which usually emphasized inherited monarchic or aristocratic social status, but may also have a religious legitimizing base. This description is befitting to the Nepalese case as caste based aristocracy as well as monarchy with religious overtones dictated the administrative apparatus of the state for centuries. Heady further stated that the ruling cluster of families in such a regime must rely on the army and civil bureaucracy both as instrumentalities of change and as inhibitors of unwanted change.

In Nepal, up to 1990 the absolute power of monarchy was maintained through a traditional or a pre-modern bureaucracy typically comprised of the caste and class elites. Merit was a superficial criterion. The trend still continues with elected rulers arbitrarily granting office along partisan and ideological lines.

According to Riggs (1994) when non-merit appointees are able to retain their status as bureaucrats, they typically become a powerful political force.

Compounded by their want of administrative qualifications, they start forming self protective networks in order to safeguard their special interests, especially their right to stay in office. Riggs calls these bureaucrats “retainers” and goes on to

explain that after these retainers have held office for a long enough time, they become so well entrenched that they can successfully resist all efforts to accomplish significant reforms. These appointees who hold positions granted by superior authorities on the basis of personal and partisan considerations are much more likely to abuse their powers, especially if they are not well paid and not well monitored by extra bureaucratic (constitutional) institutions (Riggs, 2002).

This system requires reciprocity; retainers support their masters but also depend on them for continuation of their offices (Riggs, 2002). Therefore there is a strong interdependence between those in power and those running the administration. Rulers ask for favors from these bureaucrats for them and their kin and the bureaucrats in turn ensure the continuation of their office by complying. Since retainers can expect to remain in office for a long time, they tend to cultivate informal associations with their colleagues to strengthen their hold on office and their ability to resist reforms (Riggs, 2002) that might replace them. These types of bureaucracies are obviously less competent. The values that they hold are incompatible with ethos of democracy and rule of law therefore they are more inclined to go against constitutional regimes.

Riggs also talks about his “*Sala*” model in transitional society and states that nepotism is the most prevalent mode of recruitment in which personal ties dominate appointments. According to him, rewards of office include hope for

power as well and that candidates for office are as much concerned with the power potential of a position as the appointing officers are with the impact of appointments on their own power position than on administrative consequences (Riggs; 1964). Given a choice between loyalty and competence in a subordinate, the *Sala* official chooses loyalty, Riggs states. Therefore the question becomes, is democratic process possible without a mechanism for insuring the political goals of equality, legitimacy, liberty and responsibility? (Cox, 1987)

## Conclusion

The ability of any democratic government to work depends on its capacity to maintain and control a body of officials able and willing to implement fundamental policies made outside the bureaucracy (Riggs, 1997, Heady, 1995). The relationship between regime and bureaucracy is reciprocal. Bureaucracies influence constitutions and vice versa. Likewise, bureaucracies may help constitutions survive or undermine them. Within a democratic regime, bureaucracy is a means to assure the application of the authority of law conceived as a coherent system of rules for which rational grounds can be given (Hummel, 2000). This type of regimes require not only a rational legislative procedure but also an administrative procedure that follows and nurtures faith in the rule of law; law that must be transparent as to its justifications and apply to all alike. In case of an absence of such a type of administration, democratic regime loses its legal rational color and subsequently its very existence gets threatened.

In Weber's words, democracy requires legal rational bureaucracy instead of administration by the "notables" that takes place when the upper strata of a non-democratic society control public administration (Richardson, 1997).

The presence of retainer bureaucracy in Nepal is deeply rooted in the form of *chakari* i.e. the concept of appeasing one's senior and *afno manche*<sup>ii</sup> syndrome. Decisions are made and appointments determined due to pressing obligations from these well established norms. Academic qualifications, training background, work experiences, integrity of character and other such attributes are not as important or helpful as belonging to a powerful circle of associates with connections in high offices in the government. According to Bista (1991), almost every activity within the society is influenced by *afno manche* syndrome: the length of time to cash a check, the treatment one receives in hospital, even a child's success at school. These inherent trends impede the development of democratic norms such as equality before the law and equality of opportunity. In addition, typically bureaucratic traits such as political neutrality and impersonal rules get eroded. This would result in setting up formal structures that imitate bureaucratic functions but whose actual operations are deviated from the legal rational path by the prevailing indigenous culture (Hummel, 2002).

. The administrative machinery is the principal vehicle for action, but its ability to operate effectively is hampered by its own traditional characteristics, by its embryonic conditions and by the difficulty it faces in penetrating the community

(Heady, 1995). Therefore, a modern, legal rational bureaucracy is a precursor to smooth functioning of a democratic government.

As Waldo (1987, p.75) writes, traditional institutions in themselves do not guarantee democracy; indeed they may impede it. ....There is but one grand purpose, namely to make democracy work today in our national government; that is to make our government an up-to-date, efficient and effective instrument for carrying out the will of the nation," "security, steadier employment, better living and working conditions," and so forth. "Without results we know that democracy means nothing and ceases to be alive in the minds and hearts of men."

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<sup>i</sup> Ranas belong to an aristocratic clan that ruled Nepal for nearly a century. They were the hereditary rulers who reduced the Shah Kings to mere titular heads and ruled Nepal as its Prime Ministers. Their rule was absolute, authoritarian and despotic.

<sup>ii</sup> Inner circle of political or social associates