
Current Status of Accountability of Local Bodies: A Concern of Development Studies

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It is the function of the citizen to keep the government from failing into error.

- Robert H. Jackson (1950) Justice of US Supreme court

Abstract: *Local democracy is the foundation or cornerstone of democratic system. Accountability begins from the family. Accountability is the virtue of duty that denotes honesty and responsible undertakings. Accountability is an explanation of one's actions. The Government of Nepal (GoN) and the development partners (DPs) are active and seriously involved in creating conducive environment for social accountability in local governance within Nepal. In the long absence (almost 12 years) of elected representatives in the Local Bodies (LBs), Local governance and community development program (LGCDP) and subsequent program such as LGAF have proven to be effective means for maintaining local accountability at the local governments' levels. Mass media and civil society organizations (CSOs) have been effective instruments/tools to track out the social accountability as enshrined in the policy documents of the government. Nepal is at the transition of a new governance structure-unitary to federal, monarchy to republic set up and pluralism have more ups and downs over the years for charting out a new constitution from Constituent Assembly-II elections. The current government, both at the local as well as centre, have to discharge dual roles as: popular representatives and bureaucratic roles.*

Key Words: *responsibility, public hearing, public audit, transparency, local governance, sub-national government, development discourse, social audit.*

Introduction

Accountability starts from family. Parents have to be accountable to their children and vice versa. It is reciprocal phenomena in an ideal organization and public affairs. If people are dissatisfied with decisions of local politicians, they can vote them out of power (voice) (Devkota 2012). Government and voters have to be responsible in their given jurisdiction. However, government has to be more accountable and responsive than the citizen because the later have mandated the former to rule or do justice upon them i.e., in real sense contract out their sovereign power. Government is king (as if yesterday) who possesses supreme sovereign authority, for the time being when citizen cast out the vote. Impunity inverses the accountability and infects the virus in it. People are being deprived to vote for a long time in Nepal. So it is a major challenge

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to accountability. Accountability must be brought into practice as mandatory rather than discretionary tool in public affairs. Sheikh cites it as "broadly defined as an obligation of those holding power to take responsibility for their behaviors and actions with ultimate objective of improving service delivery to the citizens who have given them their mandate (Khatibulla Sheikh, Establishing social accountability mechanism to improve municipal service delivery Websites). It can be achieved through empowering the citizen. It is an approach towards ensuring accountability that relies on civic engagement in which every citizen group participates directly or indirectly in exacting accountability (Malena et al 2004, website). It is an interface (relationship and trust between the citizen and the institution).

Accountability for Good Governance

Accountability of local bodies (DDC, VDC/Municipality, till date,) is a crucial factor of local governance. Democracy cannot institutionalize sans responsive popular institutions. Local bodies are sub-national units of government in Nepal. Except DDC they were directly elected entities. Local bodies are systems of administration of district, municipality and village as basic authority by elected representatives of the people who live there. A development study is a normative concept referring to a multidimensional process; so there is no universal formula of development. It is the change towards betterment/prosperity and wellbeing of the people. Over the end of the last century many jargons and paradigms were experimented, mostly in third world countries by development practitioners and the INGOs. A book on development theories Heintz Bonzgard and Dev raj Dahal have defined the concepts undergone in the past such as modernization and growth theories, dependence theories community dev approach, people's participation, decentralization of power self-reliance approach, basic need approach, self help in Rural Development, non-government organizations, human dev approach, economic governance, civil society (1996). Still the practice is on going as in Latin America the "participatory democracy" creates new forms of relations among civil society, political society and the State. The public condition of the deliberation in the claimed spaces is the basis for a new political and social grammar. From the perspective of the "participatory democracy" the claimed spaces could be considered as deliberative instances that allow the recognitions of new actors voices. These spaces are characterized by the social and political plurality, without being monopolized by neither any social or political actor nor by the State. In the "participatory democracy" there is a trend to equal resources in terms of information, knowledge and power. The hidden powers are reduced, and the conflicts are visible with a bigger possibility of resolutions taking into account the diversity of interests and opinions. While in the invited spaces normally the "invited people" mainly deliberate, in the claimed spaces the participants demand not only deliberation but also decision-making power. In the building

of the "participatory democracy" the practice of the deliberation tends to expand the political sphere, including more people and interests in the decision-making.

Good governance and accountability are inextricably linked in today's Nepalese context (Dahal 2002 preface). People have been demanding more information and control, greater accountability, responsiveness and ownership in the governance and development processes (ibid p.1). Academia have to pursue such development discourses as routine work as responsive citizens. Dahl talks about accountability that a constitution can provision that the citizens can draw the attention to their political leaders about the decisions, activities and behaviors undertaken by them in a "just" manner for responsible leaders. He further argues people have right to know what and how their leaders are doing (2005, pp.128-29). Advocate Ramesh Koirala points out to have a clear retroactive provision in the upcoming new constitution to address the impunity and promotion of accountability in Nepal (FOHRID 2067 p. 324). The anthology *Impunity and Accountability: Application of Retroactive provision in the serious crimes under International Law*, where more than one hundred twenty contributors have opinions, has emphasized for the effective legal provision.

Accountability is a code of conduct to the representatives of represented, bureaucrat and those who are designated as public service providers. Such a person is required or expected to give an explanation of one's actions, i.e., responsible to entrusted ones. Political parties and their represented public institutions and bureaucrats have to be accountable to the people. They are required to give all explanations of his/her deeds/actions to his/her voters/boss/citizens, it means responsible to one's own actions as employee must be responsible to his employer. It boosts the credibility/morality and the popularity of the person. 'The obligations of persons or entities, including public enterprises and corporations, entrusted with public resources to the answerable for the fiscal, managerial and program responsibilities that have been conferred on them and to those that have conferred these responsibilities on them' (Sharma 2061, p. 299). Sharma further says as far as possible accountability is effective, institutionalization of democracy and people centric governance is viable. Talking about the governance, popular representatives have to be accountable to the citizen (voters) and nation, and the bureaucrat should be accountable to service receivers and to his employer authority. The later have double responsibilities- downward and upward. Accountability is found where rulers readily delegate authority, where subordinates confidently exercise their discretion, where the abuse of power is given its proper name, and is properly punished under a rule of law which stands above political faction (ibid 301). Thus, it is to answer to the represented on the disposal of their powers and duties. Service providers have to justify their duties if the receivers are dissatisfied. However, current status of Nepalese accountability has been utopia rather skeptic.

If one observes the accountability of the past rulers since the unification to the Panchayat era there have been some attempts and practices. A Malla king, Mahindra Malla, had a concern with his subjects whether they had had meal prior to his lunch or not. Prithivinarayan Shaha conferred Kalu Pandey as 'Kaji' title because of his accountable deeds (ibid p.302). The century old Rana rulers caught into almost no accountability rule (period) though they had Daudaha toli who had to check/oversight the services of the local Gaunda/Gosharas and Mukhiyas. 'Go to the village national campaign' was one of the agenda of reaching to the people though it turned as political slogan of partless Panchayat system. Uchcha Staria Janchbujh Samiti at the centre and Jaheri bibhag at Narayanhiti palace and some constitutional bodies such as CAA/CIAA, office of the Auditor General's office, Public Account Committee, zonal commissioner, Special Police Department (department of investigation) (CID), CDO were also complaint counters and institutions in the period. In the multiparty dispensations constitutional provisions and code of conducts are enacted though their implementation and adherence are poor. Advanced those institutions are provisioned in multiparty system but discharges of services are scant from centre to local units of governance. How the policy level person asserts the accountability:

Managing fiduciary risk is sine-qua-non to ensure downward accountability and to deliver tangible results in local governance. Sound public financial management and effective mechanisms of fiduciary governance are two important ingredients of local governance (Shital Babu Regmee², foreword 2012).

Accountability in Local Bodies (LBs)

Besides the above mentioned institutions, the local governance has been operating with rigorous institutions and rules and regulations. The three tiers local bodies envisage a three-fold role:

- As institutions of self-government
- As institutions for planning their economic development and ensuring social justice
- As agents of central government in implementation of schemes for economic development and Social justice as may be entrusted to them.

² *The then secretary of MoFA and LD.*

Accountability tools

| Stages | Tools |
|-------------------------------|--|
| Design of service delivery | <ul style="list-style-type: none"> ● Participatory planning ● Participatory budgeting ● Citizen charter ● Service level benchmarking |
| Implementation and monitoring | <ul style="list-style-type: none"> ● Citizen monitoring ● Public expenditure tracking ● Social audit ● Grievances redressal system |
| Impact assessment | <ul style="list-style-type: none"> ● Public report card ● Community score card ● Public hearing. |

In the Interim Constitution 2006 article 139 stipulates the provision of devolved base Local Elections, the Local Self Governance Act 1999 (LSGA) and in its Regulations, including Financial Regulation 2064 amended and its Social Audit and Public Audit, Social Accountability (SA) are adequate provisions stipulated while discharging the goods and services to the people and conducting development activities. Beside the annual audits (internal and final) system, there are programs such as LGCDP with its blended guidelines (2011), Local Governance and Accountability Facility (LGAF), tools to tracking out the services of the local service providers, Minimum Conditions and Performance Measures (MCPM) are in operation. Some I/NGOs and civil societies such as Transparency International Nepal, Pro public, FOHRID, INSEC Nepal, etc are also working together to support the accountability facility.

Statutory Documents of Local Bodies

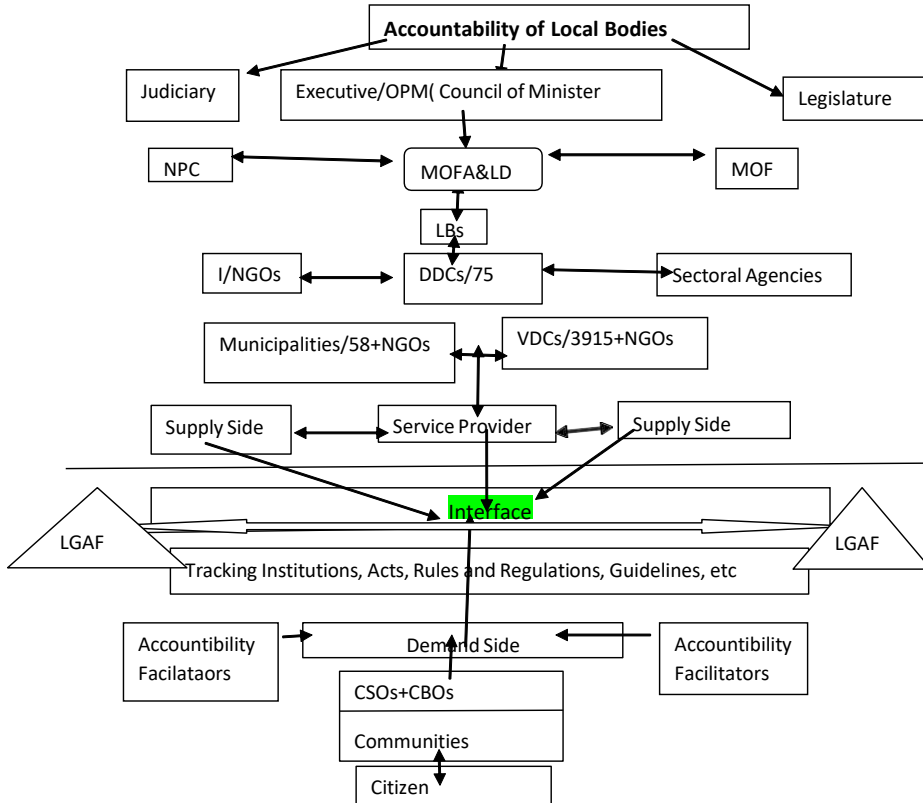
- Civil Service Act 2049 (2nd amend) 2064
- Civil Service Act Regulation 2050 (2nd amend) 2064
- Local Body Financial Regulation 2064
- Good Governance Act 2064 and its Regulation
- Procurement Act 2063 and its Regulation
- Local Self Governance Act 2055
- Local Self Governance Regulation 2056
- Right to Information (RTI) 2064
- Government Business Rule (OPM)
- Local Body Resource Management Guideline 2011
- Sampati Sudridikarn (recently) Act 2069

Role of Political Parties

They are the vein and blood of governance in multiparty democratic system. They can be the instrument (ends and means) of accountability. To promote and create conducive environment of accountable government 'greater democracy' the following institutions are required:

- ✓ Popular elected representatives
- ✓ Free, fair and periodic election
- ✓ Freedom of expression
- Alternative sources of information
- ✓ Freedom of institutions
- ✓ Inclusive citizen system (Dahl 2005, p.87)

Every political party that aspires to be in power publicly ascribes to the broad principles of democracy, transparency and accountability. They hit the campaign trail preaching integrity and good governance, promising an end to corruption and the introduction of an era of new politics based on morality and a strict code of ethics (Manikas 2003 *foreword* by Corazon C. Aquino). But in practice that rarely turns up. Many parties are opaque in their internal operations and undemocratic in their decision-making. Concrete steps must now be taken by the parties to earn the public's trust by ensuring that the rhetoric of political leaders is supported by meaningful action (Manikas 2003 p.6). They recruit new generation as their cadres; vigilance for accountability is not impossible if they desire. As Nobel Prize winner Mohammad Yunus claims 'problems are not created by people themselves, they come from outside, therefore the policy which we frame should be institutionalized and kept in place. Problems are no problems if they are put together with the new generation, i.e. the youth combat with them (problems) and get the way out'. New Technology (ponder the use of iPad in colleges sans stationeries, text book etc) and new generation have created a viable environment where impossible becomes possible. Yunus brands such activities as *Social Business* which is cost driven business (based on speech delivered at SAARC secretariat on 23 Dec, 2012). Therefore, policies and their effective execution must be tuned up. To this paradox even the LBs associations Nepal and the concerned stakeholders have felt that local governments' voices are overlooked (*hamro bhanai* p. G in Gyanwali, et. al 2009).



Local Governance and Accountability Facility (LGAF)

It will be contextual to apprehend the current facilitating bodies to accountability. **LGAF** came into operation in October 2010 with two broad objectives- i. promote downward accountability of LBs and ii. capacity enhancement/development of backward and marginalized community for their access promotion and make LBs accountable to them. It is a mechanism which provides assistance to the Civil Society Organisations (CSOs) to facilitate citizen engagement in local governance processes. CSOs carry out activities that promote community involvement in expenditure reviews of local body grants, community monitoring and evaluation, social audits, public hearings, support to local media for critical and informed coverage of local governance issues and provision of information to and interactions within communities between communities and local governments on corruption problems. It stresses on the delivery of goods and services to the people. It tries to create interface between the service providers and receivers. Currently it has three sectoral areas- i. review on expenditure of local body grant and community engagement, ii. public hearing and commitment and iii. community based

monitoring on local development activities (LGAF 2012, p.5). These (SA) tools need to be viewed within the purview of constructive engagement and collaborative governance that seek to foster a healthy state-citizen relationship. SA tools have not been understood in such positive spirit both by the service provider and by the CSOs using the tools (summary report of PR of LGAF Sept. 2012).

At the grass-root level citizen mobilizers and community facilitators will be directly accountable to the people of the VDCs ward citizens' Forums and Village Citizens' Forums and IPCC In VDC/municipalities, Citizen Mobilization Committee in the DDC and the national level body will use appropriate tools such as **annual public hearing and performance evaluation** based on *karya bibaran* (job descriptions) for downward accountability (World Bank report

Citizen mobilization review May 2009, xxiii). If one goes inside the documents of the LBs, there is rare chance of getting discrepancies. Internal and final audit are there, that found done within the stipulated time and period, participatory planning processes are documented, public hearing and audit of each project are availed, more than two third projects and programs are performed, almost within the last two months of the fiscal year (Jestha and Ashad). The LBs look like perfectly functioning (updated). There is information focal point (RTI officer), citizen charter as well as helpdesk, AWP, committee of good governance with a chairman, project and progress review reports, etc. These are just done for budget expenditure and meeting the formula based (PBF) grant MCs PMs. At the moment there is single person LBs council in DDCs and municipalities and three junior staffs in VDCs though political parties grill them as *de facto* council members (post dissolved of all party mechanism).

Role of Civil Society Organizations (CSOs)

Civil societies such as media (along community radios FMs, print and electronic media), Aama Samuha, professional associations, e.g. lawyers' association, medics, indigenous CBOs, e.g. teraghar, Mukhiya in mountain, community forest users groups (CFUGs), income generating cooperatives, and social mobilizers have played vital role in facilitating accountability. The role of mushroomed NGOs cannot be overlooked. Besides, the political party wings/sister organizations are also champion for *ins and outs* (*satta bhitra ra Bahira*). They have been proven indispensable agencies for delivering the goods (infrastructure developments) to the people. However, the role of academia is naïve; whose role is anticipated vital for counseling and as think-tank of the country. How far they are used or their inputs help to measure the development pace. The presence of LGAF is a green signal to promote such institutions which can facilitate the CSOs accountability in future, if it is rationalized. How far they are used or their inputs help to measure the development pace. More the people participate, better the accountability prevails.

Conclusion

Social accountability (SA) is vital in governance. No democracy prospers sans it. People centric governance is imperative; if democracy is for the people, of the people and by the people. Sovereign citizen is supreme (everything); the state and the political system are created for them. People who hold public institutions are required to be accountable and responsible to their tax payers and voters. The talks of the town- *corruption, abuse of authority* and *bad governance* are nothing if citizens and their communities are helped to facilitate engagement in local governance processes. Local peoples' 'institutions promote community involvement in expenditure reviews of local body grants, community monitoring and evaluation, social audits, public hearings, support to local media for critical and informed coverage of local governance issues and provision of information to and interactions within communities between communities and local governments on corruption problems' (LGAF). LGAF is a high level institution that tries to create a facilitating environment for accountable local governance. People's institutions need to be strengthened and empowered. But unfortunately Nepali voters are suffering for a long time (since 1998, 2054 BS) from exercising their sovereignty for new governments. If such a prolonged situation remains, popular faith and trust erode with the political parties. Most of the public institutions are either malfunctioning or dysfunctional. Bureaucracy cannot alone hold good governance. It leads towards anarchy. Judiciary becomes weak and helpless. The weaker sections of the society suffer the most. Ultimately the 'political corruption' prevails. LGAF is a high level institution that tries to create a facilitating environment for accountable local governance. Role of sovereign people is supreme and ultimate.

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