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***READINGS  
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PART-I***

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***GOVERNMENT OF WEST BENGAL***

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## **READINGS IN PUBLIC ADMINISTRATION (Part – I)**

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## **Who's Afraid of the Big Bad Wolf**

**M.N. Buch**

*[The article first appeared in "The Administrator", the quarterly journal of Government of India's National Academy of Administration. The author belonged to the 1957 batch of the Indian Administrative Service, Madhya Pradesh cadre and opted for voluntary retirement on a matter of principle.]*

There are two views of civil servants in India: one that they are the real rulers, and, the second, that they are the servants of their political masters and have only a subordinate role to play. Votaries of the first view feel that the civil servant is somehow failing the country in not stemming the political and administrative rot that seems to have set in. They feel that if the civil services were to unite Government would once again begin to function smoothly, efficiently and honestly. The holders of the second view, however, feel that civil servants have not accepted their role of subordination, are devoid of political commitment, do not carry out the wishes of their masters and are responsible for all administrative failures. Between the grindstones of these two extreme views the civil services are being ground into a fine powder, without strength or cohesion. One fact must be clearly understood. The Indian Civil Services ceased to play the pre-independence role of actually governing this country, on 15<sup>th</sup> August, 1947. Prior to this date the civil service was responsible both for deliberation and policy formulation as also implementation of policy

Answerability was to a remote parliament in Britain, and the layers between parliament and the civil servant in India were so many and so thick that parliamentary authority was very substantially diluted by the time it reached the operation level in India. With independence and the subsequent coming into force of the Constitution, Parliament and the State Legislatures were located in India, the legislative role passed to them and the deliberative and policy making role to the Union and State Cabinet. The Indian Administrative services and other civil services have since 15<sup>th</sup> August, 1947, functioned within the new framework.' the civil services are not the rulers : rather they are a part of the structure and process of Government.

If the civil servants are no longer rulers they are not also serfs. The civil services are constituted under specific provisions of the Constitution of India, find a mention in it and perform functions defined constitutionally. This is a unique characteristic of the Indian Constitution, for it carries the separation of functions to the finer level of separating even executive functions between the political executive and the permanent one. In a way the permanent executive becomes the Fourth Estate in India, with a subsequent renumbering of other Estates, including the Press.

Constitutionally the services enjoy two sets of separate but complementary safeguards. One relates to the safeguards in the matter of recruitment through an impartial body, the Public Service Commission, the security of service and protection against arbitrary disciplinary action. The second relates to the unique position enjoyed by the civil service under articles 53(1) and 154(0) of the Constitution, which vest the executive power of the Union and the States in the President and Governors respectively, and make these powers exercisable through officers appointed by and subordinate to them. The executive power of the State, therefore, is exercised by permanent officers and not by Ministers. The Minister's powers derive from articles 77 and 176, under which Rules of Business are framed and the business of Government divided between Ministers. The Ministers advise the President or the Governors, with the officers of the Civil Service being a link in that they advise the Minister and at the same time exercise executive functions on behalf of the

President or Governor. By no stretch of imagination can this arrangement be considered one of subordination. The relationship is governed by constitutional provisions, and, therefore, each functionary enjoys his own independent status within his own sphere. A civil servant cannot refuse to carry out a proper order of a Minister which would, in effect, be an order of the President or Governor issued on the advice of the Minister. The Minister, on the other hand, cannot stop a civil servant from tendering advice, prevent him from exercising powers vested in him under law, or force him to implement orders which are improper, irregular or illegal. Nor can a Minister prevail upon a civil servant to implement the decisions of Government in a biased manner. The constitutional safeguards available to the civil services are such that in every case where a civil servant has performed his constitutional duty, he has "not come to permanent grief. Harassment, frequent transfers, perhaps even a temporary denial of promotion there may be. These however are short term measures which should not have any permanent adverse effect on any civil servant. In fact the safeguards are a lot more effective than those available to the politicians themselves. In a manner of speaking the protection available to the civil servants is greater than that enjoyed by their counterparts in pre-independent India because, whereas in the former case they are enshrined in the Constitution and are justifiable, in the latter the safeguards emanated, either from contracts or from an imperial ethos which insisted upon the protection of Government servants, even where they went wrong, to the total detriment of the rights of the individual.

Theoretically there is no reason why any civil servant in India should not do his duty without fear or favour. The civil servants are no Red Riding Hoods, nor are politicians Big Bad Wolves. Both are functionaries on a very human scale, And yet we find that there is a state of constant friction, where it almost seems as if the objectives of the politicians and those of civil servants are diametrically opposite. The goal of Government is the delivery of welfare and this must be the goal of all those associated with government. Why then do we have constant tension?

Where idealism, a definable political philosophy and a strong political will are replaced by a desire to survive for the moment, politics loses cohesion. The present situation in India is that political organization, ideology and idealism are all weak. Thus, at political levels a desire to win public favour through the formulation and implementation of welfare policies is replaced by one to carry favour through the distribution of patronage. It is this new political ethos which militates against long-term policy formulation. A prime example of this is a case which occurred in M. P. At the time when the Fourth Five Year Plan was under formulation, the Deputy Secretary in Industries Department responsible for plan formulation prepared a draft of the plan for Industry. When the file was sent to the Minister it was returned with the remark that he did not want to see it. When the Deputy Secretary personally took the file to the Minister and requested that he might at least try and see whether all his policy objectives were met by the plan, he was told brusquely that the Minister was not interested. As the Deputy Secretary was leaving the room in disgust the Minister called him back and asked him whether the transfer of a particular inspector had been affected. This story illustrates the real malaise of Indian administration: bureaucrats formulate long-term policy and politicians responsible for higher level Government decide postings and transfers. This is an utter perversion of the system, and the fact that it is now universal, makes the pill no' sweeter.

Patronage extends beyond the corridors of the Secretariat and pervades all levels of administration and political life. The politician at district level would not be interested in a long-term district plan, but his intervention in individual cases would be almost constant. The municipal councillor would not be interested in how the town will

develop over a period of time, but would be deeply interested in earmarking in the budget a sum of money which he can expend at his own discretion for the benefit of his cronies. The trade union leader would not be interested in the long-term development of industry, but would be deeply concerned about disciplinary action proposed to be taken against a worker who does not do his duty. In fact in the case of the Railways and Post and Telegraphs Department such intervention in cases of disciplinary action has virtually destroyed the hierarchical fabric of these organisations.

The reaction of civil servants to political interference is of three types. One set of civil servants feels that there is money to be made out of extension of patronage and benefit to be derived by going along with the politicians. This group is unfortunately growing rapidly in India. The second group of civil servants consists of those who are utterly indifferent, do the minimum of work do not actively participate in the patronage by distribution of patronage by the politicians, but try and ensure that they keep out of troubles way. The third, and, rapidly shrinking group is that of civil servants who feel duty bound to do an honest job of work, to abide by rules, regulations and the 'like, and say 'no' to persons who ask them to do that which is wrong. This third group is the one under most pressure.

This pressure takes many forms, the least unpleasant of which is brow-beating. An example from Delhi is that of a Secretary to the Delhi Administration who, about three years ago, was subjected to considerable haranguing by influential people in order to pressurize him to taking a decision in favour of a party in a case under the Urban Land (Ceiling & Regulation) Act. A weaker man would have succumbed, and it is to his eternal credit that he stood his ground.

A more bothersome method of pressurization, mainly experience by officers responsible at field level, is the engineering of complaints in writing, verbally and through the yellow press. This disease is endemic and affects both politicians and civil servants. Utterly baseless allegations couched in the filthiest of language are made against all and sundry, till a stage has been reached where it is almost impossible to distinguish between what is false and what is true. Our reaction, however, has been predictably Indian; we love to pull a chap down. Thus every complaint is subject to harassing enquires by various agencies, including the police. Where the complaints are made on the floor of the House, contrary to all norms of legislative procedures, the officer is virtually condemned without a hearing. A stage is reached where event the strongest minded officer has to give in, refrains from taking decisions and joins that group of civil servants who believe, in letting things drift. The growing indecision in Government is a direct result of the feeling of most civil servants that they would not be protected against complaints and that in action brings more peace of mind than action. What an unhealthy contrast with the situation just a few years ago. In early 1964 the then Collector of Betul district of Madhya Pradesh was asked by his Chief Secretary, the legendary R.C. V.P. Noronha of the I.C.S., to make preparations for setting up refugee camps. The instructions consisted of just one sentence that he was required to make all arrangements and that he was free to take such action as he deemed fit. The collector probably broke all the rules in the book, plus a number of rules not yet invented, but he set up his camps within one week. After the refugees had been received and settled, by which time the audit people had started to sit up and take notice of irregularities, the Collector visited Bhopal and met the Chief Secretary. Mr. Noronha asked him to give a summary of the action taken by him in one typed page. The Chief Secretary's note on the Collector's report read, "Collector, Betul, has carried out my orders in taking the above action. Chief Minister may approve". D. P. Mishra was the Chief Minister and he wrote, "I agree with the Chief Secretary". This one single page covered everything that the Collector had done. It is on such

mutual trust that Government runs. The whole kit-and-caboodle of spies and counterspies, vigilance people and people who spy on vigilance people, enquiry followed by enquiry, has so vitiated the system that the civil services have reached almost the point of no return in the matter of efficiently, decision making and effectiveness.

Favoritisms in postings and promotion and the ultimate threat of an unpleasant transfer or frequent transfers are also weapons used against the civil services. A few laugh in the face of these threats, but the majority surrenders. What the politicians get is a thoroughly demoralized civil service which soon loses its capability even to carry out the whims of politicians. This is perhaps the lesson learnt in Delhi, where' wholesale replacement of officers took place first when the Janata Government came to power and then once again when the Congress returned. It is said that the average tenure of a Collector in U. P. is five months Is it surprising that administration is not at a premium in that State?

The role of civil servants at the very senior level is not only to advise Government but also to provide guidance and support to their Juniors. One outstanding example is that of the late V. K. B. Pillai, then Chief Secretary, Bihar. The P. W. D. Minister, in a fit of pique, reverted the Chief Engineer on extremely flimsy grounds. Shri Pillai had the gumption to meet the Chief Minister and hand him the collective Designation of all the Secretaries to the Bihar Government. The reversion order was withdrawn posthaste and the Minister duly hauled up. The Chief Secretary was prepared to quit on an issue concerning one of his juniors, and the Chief Minister was magnanimous enough to accept the correctness of his Chief Secretary's stand. One has not noticed a similar stance by those at the top of the civil service hierarchy when, for example, a Secretary to Government of India was arrested, without any cause, in his own office not so long ago, when a Director of the rank of Secretary to Government had to quit the National Academy of Administration on a matter of principle, when a former Chief Secretary to the Government of Madhya Pradesh was placed under suspension on what, prima facie, appear to be untenable charges. Nor has one noticed any stand being taken when officers remain without posting for months, or when the police and other investigating agencies are used in a politically biased manner. When Shri D. P. Kohli was Director C. B. I. that organisation had a reputation for impartiality unequalled even by the judiciary. The manner in which C. B. I. functioned during the emergency and, subsequently during the Janata regime, substantially damaged the credibility of the organisation. There is no evidence that the top-most civil servants and police officers in any way resisted the rapid degeneration of this fine force. When one reaches the top is it not one's duty to stop worrying about one's self? If the finger were to be pointed at the persons most guilty of causing demoralization ill the civil service, one is afraid that the target would be the top-most civil servants themselves. It is the pinnacle which has crumbled—the base has still strong foundations.

What, then, are the civil services to do? The first thing of course, is for them to realise that they owe their existence not to the Council of Ministers, not to politicians, but to the Constitution itself. The Constitution gives them protection, but it also imposes on them certain rights and duties. The Principal right is to tender advice without fear of consequence and to implement policy with utter impartiality and in an even handed manner. Nothing, no threat, no intimidation must deter the civil servant from this path. Civil servants who succumb to pressure even in the matters of their fundamental duties tend to come to grief in the long run. The concomitant duty is to the constitution to law and to one's conscience. It is the sacred duty of civil servants to resist pressure and to refuse to do what is irregular improper or illegal. If the consequences are temporarily inconvenient, it

is one's duty to bear them cheerfully. In the ultimate analysis the motto of the Civil service in India has to be, "Who's Afraid of The Big Bad Wolf".

## THE POT AND THE KETTLE :

— P. N. HAKSAR

YOJANA put to Shri P.N. Haksar the following questions :

1. The YOJANA coverage in its thematic Special, "the dirty ones; and their game", includes bureaucracy as well. How do you look at the teaming-up?
2. What, in your opinion, has 1st to slide-down in the working of the bureaucracy?
3. How do you look at the concept of committed bureau crazy? Is the present bureaucracy capable of delivering the goods?
4. How do you look-tit the grievances of the technocrats vis-à-vis the bureaucrats?

We publish below Shri Haksar's response :

The way you have structured your questions, it is rather difficult to answer them truthfully. It is extremely difficult in our country to explain the concept called "system". It is equally difficult to build and maintain institutions in our country. We, as a people, only understand individuals and, at a higher level, we are over-whelmingly concerned with S'-lf and its salvation- It is this pre-occupation which is destructive of, what I might call, a "systemic" approach and of respect for institutions.

While our academics talk about holistic approach, in actual practice, we just do not actually see the interpenetrating historical, social, cultural, political and economic processes. The result is there for everyone to see. Institutions decay. We have dissonances, we have incoherence, we fall apart even while seminars are being held and speeches ere being made for promoting, national integration.

Bureaucracy is not an isolated phenomenon. It is a part of our state system. If one could compare the State to a ship, the political leadership will be found in the control of the Bridge of the ship constituting itself as a collective Captain of the ship. The bureaucracy would be the Engine room. Both of them have to work together to make the ship move in a particular direction.

The direction is set by the political leadership. The analogy of the ship is far too simple because the direction of its movement, 'its destination or destinations, are known. But when one has to provide leadership to vast processes of historical, political, social, economic, cultural, educational, scientific, technological transformation, things got extremely complicated. And they are indefinitely more complicated in India where we are, for the first time, concerned with creating modern industry, modern agriculture, modern science and technology and a state system which cannot be described as Munhall or Gupta or Vijayanagar or Chola or Chera - all based on the. system of Kingship and dynasty. "

The State is controlled by govt. and the govt. in its turn, is controlled by a political party and its leadership.

Reverting to the analogy of ship and State, you can just imagine what will happen to a ship in motion if the Captain and the crew do not inspire confidence in another. The inspiring of confidence, gaining of mutual trust, is perhaps the most crucial and critical' element in the running of any States system more specially, if it is done through a political process called democracy. Even if the State system is created by a political process called revolution as in France in the 18th Century or in the Czarist -/Russia

and China in the 29th Century, a bureaucratic system becomes an inescapable necessity for the maintenance of the State system.

The System, both its political part and its bureaucratic part, functions within an environment of values and the question which arises is; whose responsibility it is to create, sustain and upheld the value system. According to our ancient wisdom, it is said: Yatha Raja Tatha Praja, which means that Raja (the King) has to sent the standards for the Praja (subjects) to be inspired and to respond.

If you believe in God and in the stories of creation, then in -all the religious banks, you will find that God created everything — ocean, skies, the Sun, the Earth, the Moon, 5stars and even us, human beings, God being all powerful, could have said that having created the system, Ho will make it run according to His moods and fancy. But the God being, by definition, wise and all knowing, realised that such a whimsical way of running the creation and its creatures, would create chaos, rather than cosmos. So he set about or tarnishing the bits and pieces of His creation within s system. Thus, we have a Solar system and the all power-full God framed rules and regulations for the governing of the system and though millions and millions of years have passed the Earth moves around its axis, it travels around the Sun; the Moon has its regulated movement and so on.

Our politicians, even when they pretend to be believers of God arc blinded by the arrogance of power and by the search for power. They believe that they do not have to observe the rules and regulations maintain any standards or norms of the State system both in its political and bureaucratic aspect; nor do they seem to" be concerned by consistently upholding the; value norms without which no political cosmos can hold together.

According to our ancient wisdom, the Sarkar (Government of State) acquires legitimacy; and respect among the wide masses of people only in the measure it sets high standards which are implicit in the word lobal and by providing means and mechanisms by which the grievances, the dissatisfaction and tensions of the society have the opportunity to express in an orderly manner which is called Soonwani.

If there is any truth in all that I have said, then I would say that the disintegration of our bureaucracy, its lapses, both moral and in terms of performance of their duty, are a reflection of all too palpable decay of our political system, political leadership and of the value system which ought to underpin the political processes and the politicians. The result is that honesty, integrity, commitment to performing one's duty are visibly decaying.

In an environment, who're the art and science of getting on in life, be it political life, bureaucratic life, life of industry and commerce, consists, of circumventing laws, regulations code of ethics and value system, it is not surprising that bureaucrats contribute their own' distinctive quota to the playing of the dirty games. And, indeed, .one has to admit that the games are getting dirtier and dirtier.

In ancient times, there was a noblesse oblige binding the landlord to the tenant, to the share cropper. There was similar noblesse oblige between our great leaders and the masses who turned towards them in hope and reverence. This is no longer obmining. The noblesse oblige is now sustained by money nexus. I should not be misunderstood. The order had to be changed. But it does not follow that in the course of structuring new order, one could

have so recklessly cast away the value system appropriate to the processes of change, be they described as industrialisation, modernization, secularisation etc.

You might ask is then everything lost irretrievably? My answer is 'no', provided we make a firm resolve to run our State system in accordance with prescribed rules and regulations and without violating norms of objective evaluation of persons and their performance. Appointment, probation, promotion, transfer, punishment and reward must not only be just and objective. We must remember that punishment is just when the society as a whole regards it as just. But if we have a situation where punishment is discriminatory, and evaluation of an officer departs from the standard of objectivity and is heavily coloured by personal preferences! of politicians, we cannot have a functioning bureaucratic system. We shall break it as we have done. In such circumstances the cleverest among the bureaucrats would appear to be "loyal" but become venal. It would be equally necessary to lay down clear-cut policies so that the decision-making process is not fractured-by influences operating outside the policy frame. However, most important thing is to generate an atmosphere and to sustain it -an atmosphere that politicians and bureaucrats are partners in building India of our dreams. 'History has recorded that when a nation loses a vision, civilizations and societies have perished.

### About commitment

Finally, about commitment, there is no one in India who is not committed. We are all committed to one thing or another. Regrettably, this commitment is to oneself, to one's own family, to one's community, religion, caste, region etc. We cannot build an integrated national entity of India on the basis of those commitments. We must have commitment to excel ones, objectivity in our appraisal: system, commitment to integrity and a commitment .to the welfare and well being of our people and of ,our. country, Such commitment must be seen to be observed and translated, into deeds by -everyone concerned-politicians, bureaucrats,' those working the area of commerce trade and industry, educationists, media men, writers, and artists.?

I must add a word about the quality of our people entering into our bureaucratic system. I have intimate knowledge of men and women in the various branches of our bureaucracy. Their quality is as good as anyone would wish it to be. But their training is ritualistic and mostly irrelevant. And after a few years in service, the idealism with which they join, become heavily eroded. It is tragic to see so much of human wastes. This wastage is visible" *even* in our scientific community.

Believing I do that not e very thing is lost and that given a political will, things, can be set right, devoutly hope that my diagnosis would be accepted. The necessary pre-condition for the healing process is the correctness of diagnosis,' And my diagnosis is based on my long experience and detailed observation of how we have, either out of lack of understanding or working on false assumptions, allowed our State system and our institutions to develop within them serious stresses, strains, tensions and cracks.

### Bureaucrats vis-a-vis technocrats

As to the last question about the bureaucrats and technocrats, the controversy is misconceived. In my view, technocrats *i* -should be as well paid, if not better, as bureaucrats. I also believe that bureaucrats should not be involved in the management and the decision-making processes of our public sector enterprises, I would go even further to state that the management of our public sector enterprises must be freed from the nominance and interference of the ministries and civil servants. If this done, the basic cause of competition between "bureaucrats and technocrats would be abolished. And it is high time that it was abolished. I shall *be* failing in my duty, which

I owe to myself, if I did not point *out* the ominous implications of the near collapse of the entire administrative structure of Punjab under the impact of the crisis in that State. And if truth be told, the state of administrative structure-Police, Bureaucracy. Intelligence etc. In the State of Bihar is, if anything, worse. The riots in Bhiwan-di has shown that the local police and the administration could not cope with it and thus the Army had to be called in' aid of the civil power. From my own personal know-ledge I know that the administration in UP. And other States in India is no better. The crisis in Punjab which laid bare the anatomy of the decay ought to be seen as an opportunity to sit up, to think and to take serious remedial measures. As the old Sanskrit proverb says that it is no wise to start digging the well when the fire has already started. (Na Koop Kbannam Yuktam Pradipte Vihnina Grihe).

## **They are Surely One-up in the Game.     - P.S. Appu**

Blaming bureaucracy for most of the present-day mess-up, Appu questions its integrity and professional competence to help solve problems facing- the country. The rampant corruption<sup>1</sup> and the growing deterioration in implementation of plan project, he argues, is largely due to the fact civil servants including most at the top level are more dirty than their political masters.

Down the ages, all people especially those getting on in years, have shown a tendency to talk disparagingly of the present, and indulge in lavish praise of the 'glories' of the past. This inclination is even more pronounced in a conspicuously conservative group like retired bureaucrats. That being so, despite conscious efforts, to be fair and objective, it is quite possible that my assessment of the goings on in the bureaucracy may turn out to be rather severe. But then, history tells us that societies have experienced ages of marked decline and decay when things do set really worse. We are without doubt, living in such a period of decline, All our institutions are in decay. The values of yesterday have crumbled. The state structure is getting increasingly dysfunctional. There is a pervasive feeling of helplessness, frustration and gloom. In such a situation there is nothing surprising if the bureaucracy too is in a bad shape.

The democratic set-up contemplates different political parties wielding power at different times. Ministers who hold office for short periods often 'lack the necessary experience and expertise. Hence, a professionally competent and politically neutral civil service is a sine quo non for the smooth and efficient functioning of a democratic govt. The founding fathers of the Indian Constitution were actually conscious of the supreme need for such a civil service. That awareness found expression in the pivotal role assigned to the Public Service Commission in matters relating to the recruitment and service conditions of civil servants and the guarantees under Article 311 of the Constitution. In no other major democratic country do civil servants enjoy as much legal protection as in India. It is, of course, quite another matter that despite all the iron-clad guarantees, our bureaucracy has failed to live up to the expectations of the founders of the Constitution. A broad assessment of the performance of the Indian bureaucracy in the post-independence era is that the level of its professional competence has been low, that its higher echelons lack in, political neutrality, and, that at all levels it is plagued by rampant corruption.

Low level of Professional competence :

A high degree of professionalism is, at any rate ought to be, the dominant characteristic of a modern bureaucracy. The fatal failing of the Indian bureaucracy today is its low level of professional competence. The lack of professionalism is reflected in the growing reluctance of senior civil servants to give frank and fearless advice, the inept handling of the major problems that bedevil the nation, inability to innovate and come up with imaginative solutions to the different questions that confront us, failure to keep abreast of modern developments and acquire new skills slipshod approach to the preparation and implementation of projects lack of cost - consciousness, dilatoriness, extreme reluctance to take decisions, and above all the unpardonable neglect of routine administration. It will not be possible to dwell upon all these failings in the course of a brief article. I shall just touch upon a few of them,

Though in a parliamentary democracy it is undoubtedly the prerogative of the minister, and in important cases of the council of ministers, to take final decision, the higher 'civil service plays a crucial- role in the formulation of policy. In a few cases the

minister may have a broad idea of the policy to be adopted. But very often he may not have applied his mind to the question though he may not be lacking in prejudices and pre-conceived notions. And more often than not, particularly at the State-level, ministers have "little interest in policy matters. In all cases it is *the* clear duty of the civil servants to examine thoroughly the pros and cons of the proposal and fearlessly express their views. Three decades ago a substantial percentage of this ideal. But today,' the bulk of the senior civil servants behave like courtiers, ever on the look out to please the ministers and 'their cohorts." This is to be greatly deplored because with the sharp decline in the calibre of the politicians in office there is much greater need today than never in the past of frank and wholesome advice being tendered to the ministers.

**Bureaucracy to blame for poor performance.**

Another important area where the performance of the bureaucracy has been manifestly poor is that of formulation and implementation of development programmes and projects. Schemes are often drawn up at the national level, particularly in sectors like Agriculture, Rural Development and Social Services without much thought being "given to their feasibility, intrinsic worth, social relevance or suitability for particular areas. Very often these national programmes are modified or abandoned at the slightest provocation resulting in a great deal of uncertainty and confusion. And, at the state level projects are often formulated in great haste, almost mechanically, with little attention being paid to the relevant technical, financial and aspects, Mid-bogling and protracted scrutiny by the Finance and Planning Departments leads to a great deal of delay but no great improvement in the content of the projects. Strangely enough, once sanction is accorded all the hurry shown at the stage of formulation disappears. In respect of all projects, whether of the Centre or the States, all round inefficiency at the stage of implementation invariably leads to unconscionable delay in completion poor quality of work and phenomenal escalation of cost. It is one of the ironies of Indian economic planning that while the techniques of planning at the nation level have become more and more sophisticated over the years, there has been marked deterioration in the quality of implementation. A large portion of the blame for this must rest on the shoulders of the bureaucracy.

A notable weakness of the Indian bureaucracy is its failure to familiarize itself with modern management techniques, acquire new skills and tone up its professional efficiency. An equally unwelcome feature of the higher civil servants or vice is the lack of cost-consciousness. Rare, indeed, is the senior officer who is aware of the crucial significance of the compound rates of interest and realizes that money today and money two years hence are very different things. The typical bureaucrat's lack of cost-consciousness is partly responsible for his well-known tendency to avoid decision-making. A large number of top civil servants rue the day they are obliged to take a decision. When it becomes no longer possible to postpone a decision, they invariably try to minimize the imagined risk by roping in a number of their colleagues into the decision making process.

**The gravest failure**

The gravest charge against the bureaucracy is that it has miserably failed even in discharging its age-old regulatory functions, Law and order has broken down in large

parts of the country, particularly in the Gangetic Valley. People no longer enjoy security of life and property in these areas. The police, whose primary duty is to protect life and property has become an instrument of oppression.

The administrative machinery has come to a grinding halt in some areas, and in a few places, it is on the verge of collapse. Any casual visitor to a Govt. office will see that routine is thoroughly neglected. A stage has been reached when no citizen can get anything done without greasing the palms of myriad functionaries or bringing to bear considerable influence on the officer concerned. The state of the postal and telephone systems and the railways shows that the organizations under the Central Govt. have also been afflicted by the same malady. The elementary functions of Govt. are not discharged with even a modicum of efficiency and honesty. And the primary responsibility for that must rest with the bureaucracy.

Though, by and large, the bureaucracy continues to be politically non-aligned, a large number of senior civil servants have identified themselves with particular political groups of individual leaders. There have even been cases where they actively helped their patrons during elections. And, of course, all over the country, and at all levels, the bureaucracy has failed to maintain the high standard of objectivity and impartiality expected of it. Few civil servants strive hard to uphold the rule of law or act in accordance with the dictates of their political masters, the great majority of civil servants are only too willing to violate any law or rule or well-accepted principles.

#### The corrupt top bureaucrats

There was no time when the bureaucracy was entirely free from corruption. But some thirty years ago there were only very few corrupt men in the higher civil services. The great majority of them maintained high standards of probity lived within their means and had a holy horror of misusing govt. property. During the last ten or fifteen years things have changed beyond recognition. Now-a-days a large number of bureaucrats accept illegal gratification and a much larger number indulge in peccadilloes. The misuse of govt. transport has become almost universal. The norms have changed to such an extent that today the small minority of civil servants who maintain impeccable standards of integrity, live within their income and attend office driving their own cars are looked upon as prigs or plain fools. 'Corruption' seems to have become as endemic as in the early days of the East India Company.

After a brief survey of the scene one comes to the inescapable conclusion that the bureaucracy in India has failed to live up to the level of professional efficiency, political neutrality and integrity expected of the permanent service of a great democracy. A package of perverse personnel policies pursued with cynical non-challenge during the last few years has resulted in the weakening and demoralization of the bureaucracy, particularly of its higher echelons. Today in the higher civil service preferment is seldom related to performance. Fawning sycophants, often lacking in ability and integrity but, of course gifted with a plastic conscience and a malleable back-bone, get appointed to key posts. Sometimes able, upright and dedicated public servants are deliberately kept out of such positions; occasionally, upright men are even harassed by frequent transfers and other devices. The demoralization that has set

.in as a result of these development is so colossal that today the. Civil service has ceased to be on adequate instrument for implementing govt. policies or even for conducting routine administration. The public image of the Indian bureaucracy as a thoroughly demoralized, spineless, inefficient, dilatory and corrupt body is by no means unfair or overdrawn.

Where bureaucrats excel

Most civil servants would say that they are blameless and that the "dirty" politicians are responsible for the sorry state of affairs. This is really a case of the post calling the kettle black. The Indian politicians must, of course, be held guilty on several counts; but, it is manifestly unfair and un-reasonable to blame them exclusively, or even primarily, for the sharp decline of the bureaucracy. The major share of the guilt must be laid at the doors of the civil servants themselves. The unpleasant truth is that in most cases the civil servant have active collaborators, and not just silent spectators or reluctant accomplices in ruining the civil service.

I have said many unpleasant things about the Indian bureaucracy. I should, how or, hasten to add that the bureaucracy is not an autonomous institution. This an integral part of the polity, and bureaucrats constitute a representative cross-section of the society. When the polity is in decline and the society in disarray, as in India today, it is inevitable that the bureaucracy too should be in a bad shape. Hence efforts towards reforming the bureaucracy will be of no avail until the grave' maladies in the body polity are set right. The first step in that direction should be conscious, well-concerted efforts to develop accountability in our policies. Once the policy regains its health it should not be difficult to set the bureaucracy right. After all, even today it has in its ranks some people of nut-standing ability and integrity. And every year some very gitted young men and women of the new generation join its ranks. By following the right personnel policies and restoring its morale, it should be possible to forge the bureaucracy as a suitable instrument for the tasks ahead.

## **SHAH COMMISSION OF INQUIRY, 1978**

The Shah Commission of Inquiry made extremely important recommendations regarding the functioning of the administration in the country and the role of the public servant-vis-à-vis the political executives and the public. In view of the critical importance of these observations, selected portions are reproduced below.

1. That the primary and not infrequently the sole motivation in the case of a number of public servants who acted unlawfully to the prejudice of the rights of citizens, was the desire for self-protection-desire for survival, may be regarded as some extenuation of their conduct. Yet, if the nation is to reserve the fundamental values of a democratic society, every person, whether a public functionary or private citizen, must display a degree of vigilance and willingness to sacrifice. (Para 15.1)

2. The nation owes it to the present and the succeeding generations to ensure that the administrative set up is not subverted in future in the manner it was done to serve the personal ends of any one individual or a group of individuals in or near the Government. (Para 15.6)

3. Censorship of news and the manner in which the media was manipulated should be a lesson to the Government and to the people that in a vast country like ours blanketing of news in the way it was done has serious repercussions on the lives and the thoughts of the people. (Para 15.7)

4. The State owes it to nation to assure that judiciary will not be subjected to strains, which might even indirectly operate as punitive merely because of pronouncements not to the liking of the executive authority. (Para 15.10)

5. In selecting its functionaries the Government should not throw to the winds the rules that have been framed for making such appointments. The Government, having framed the rules governing its conduct cannot normally arrogate to itself the discretion to disregard them, unless there are demonstrably compelling reasons and circumstances justifying the sidestepping of those rules. (Para 15.11)

6. Forging records, fabrication of grounds for detentions, ante-dating of detention orders, the callousness with which the request of the detenus for revocation of orders for detention or even parole were ignored should be a warning to every thinking man as to how an Act initially intended to serve an extremely limited purpose to deal with the misdeeds of special category of persons can be given such a wide and comprehensive application as to embrace all sections of the population to penalise dissent. (Para 15.12)

7. The collusion between the police and the magistracy in denying the citizens their basic freedoms by arrests and mentions of non-existent grounds is a matter of anguish. (Para 15.13)

8. The Government must seriously consider the feasibility and the desirability of insulating the police from the politics of the country and employing it scrupulously on duties for which alone it is by law intended. The policemen must also be made to realise that politicking by them is outside the sphere of their domain and the Government would take a very serious view of it. (Para 15.16)

9. The politicians who use a public servant for purely political purpose and the public servant who allows him to be so used are both basically doing a signal disservice

to the country (Para 15.18)

10. The Government has a special responsibility to ensure that extra-constitutional centres of power are not allowed to grow and if and when located, to snuff them out ruthlessly. (Para 15.22)

11. Specified instructions should be issued emphasizing that the detenus must be treated with dignity and respect due to them and the restraint imposed upon them will be minimal and consistent only with ensuring the safety of the state or interests of law and order and that student detenus, will be permitted to take their periodical examinations. For female detenus special provisions should be made for housing them and extending to them appropriate conveniences. (Para 15.23)

12. The practice of continuing in service as Heads of the organisations, retired officers on short-term renewable basis is a pernicious practice and often a source of serious abuse of authority. (Para 15.24)

13. A large number of officers exercising the powers of District Magistrates obediently carried out the instructions emanating from politicians and administrative heads issued on personal or political considerations.... Such conduct on the part of responsible officers is not in consonance with the best traditions of the Services to which they belonged and of the ethical considerations covering the exercise of such powers. (Para 24.3)

14. Some officers did not have the courage to do the right thing during the emergency. They have not the character to face the truth now and own up their past wrongs. (Para 24.4)

15. It is necessary to provide certain institutional safeguards to look after the interests of the entire run of officials and particularly those, who were involved at the decision-making levels of the Government. (Para 24.8)

16. Detention of an officer who had reputation for integrity, for not carrying out orders which were plainly unwarranted and which amounted to a flagrant and unpardonable misuse of authority by a politician has a very important and telling lesson for the nation as a whole... If this instance is projected on the national scale, a political authority may decide to penalize an officer for tendering an advice or taking a decision the operational effect of which, albeit beneficial, transcends the territorial boundaries of the State to embrace the interest of the country as a whole...and not subserve a narrow sectarian or regional interest of politicians (Para 24.9)

17. It is imperative to ensure that the officials at the decision making levels are protected and immunised from threats or pressures so that they can function in a manner in which they are governed by one single consideration: The promotion of public well being and the upholding of the fundamentals of the Constitution and the rule of law. (Para 24.10)

18. Commitment by the public servants means only and entirely commitment to the policy and programmes of the Government in so far as these are in conformity with the rule of law and fundamentals of the Constitution... Public servants have to be politically neutral at all levels and at all times...It is expected of the Services that they would tender frank, informed and well-considered advice without getting personally involved in their present position or their future advancement (Para 24.12)

19. The Government must encourage its employees to function freely and fearlessly within the frame-work of established principles, making it clear that deviation from established procedures without justification would be dealt with

severely. (Para 24.13)

20. If administrative machinery in our country is to be rendered safe for our children, the Services must give a better account of themselves by standing up for the basic values of an honest and efficient administration. This alone can resurrect the peoples lost faith once again in our Services. If a democratic heritage is to be left for future generations, we should want the truth again to be enshrined in its legitimate place in the social, economic and political scheme of things in our country. There is nothing unattainable or profound in this. It is a simple human message. (Para 24.19)

## **Why India Needs A Strong And Impartial Civil Service**

### **MN Buch**

India is a federal republic under Article 1 of the Constitution, as also Article 246 read with the Seventh Schedule of the Constitution, which gives the legislative jurisdiction of Parliament and State Legislatures. Nevertheless, this federation has strong unitary features, with residuary powers of legislation vesting in the federal parliament. In Germany and the United States, residuary powers vest in the Lands and the States. Many people try and explain away the strong unitary features by referring to the Government of India Act, 1935, which has been substantially carried forward by the Constitution. They thereby forget the famous speech made by the late Sardar Vallabh Bhai Patel in the Constituent Assembly when he pleaded for the inclusion of articles creating the All India Services in the Constitution.

Sardar Patel reasoned that India, because of its diversity, its multiple languages and ethnicity, its melange of religions and races and its past history had strong centrifugal forces which, unless countered, could lead to the break up of the Union. He, therefore, advocated the creation of countervailing centripetal forces, which could both create a strain of national unity and held the Union together when under pressure from breakaway forces. Our Constitution, therefore, has a number of such unifying structures built into it. The states, within Article 1 and List 2 of the Seventh Schedule, enjoy a degree of sovereignty because they have exclusive areas of legislative competence. However, the Governor of each state is appointed by the President under Article 155 of the Constitution. Under Article 156, he holds office during the pleasure of the President and is accountable only to him. This accountability achieves special significance under Article 356 of the Constitution, when it is the Governor who advises whether or not there is a failure of constitutional machinery in the state over which he presides.

Another unifying force is the judiciary. There is a hierarchical link between the courts ranging from the lowest court of civil judge class II and magistrate II class, as also the executive magistracy, going all the way up through the district and sessions court, High Courts to the Supreme Court. There is no separate federal and state judiciary and any judge can try any case both under state laws and under federal laws. In the United States, the state judiciary is completely separate from the federal judiciary and each tries cases respectively under state and federal laws. It is only at the level of the Supreme Court that both judicial streams come together. The Indian system ensures uniformity of justice and the creation of unifying forces within the Union.

The Armed Forces, the Comptroller and Auditor General and other similar institutions are also a binding force. However, the uniqueness of the Indian Constitution lies in Article 312, which creates the All India Services, which man the senior posts in both state and federal governments. I do not know of any other federation in which a civil service holds posts under both types of government, though the *ultimate* cadre controlling authority is the union government. Sardar Patel argued very strongly and vehemently, to the extent of threatening to quit if his proposal was not accepted that India needs a strong and independent civil service which, while faithfully carrying out the policy laid down by the elected representatives, would nevertheless be impartial in implementation and fearless in rendering advice because of the security of service that it enjoyed. It is in this context that the Indian Administrative Service, the Indian Police Service and later the Indian

Forest Service has been created.

What is the job of a civil servant? Under Articles 53 and 154 of the Constitution, the civil services help the President or Governor to exercise the executive powers of the state. Because the President or Governor is required to exercise such power only on the aid and advice of his council of ministers under Article 74 and 163 of the Constitution, in effect the civil services are there to exercise executive power as directed by the ministers. About this there is no doubt in anyone's mind. Trouble arises when the ministers decide to exercise the executive power themselves and the civil servants are reduced to the level of clerks. The ministers will naturally exercise their powers in a partisan manner because they have a political constituency which they have to please. Democratic government under a system of laws, however, requires that laws and rules are administered without prejudice and without showing undue favor to anyone. There can be no partisan application of laws, rules or policy. That is why we have strong civil services which are, theoretically, accountable to the law for its application and to the ministers for their conduct and their impartial functioning. However, as things have now developed, the civil services are being decreasingly rendered ineffective and politicians have begun to whimsically apply policy and to implement it in a highly partisan manner.

Under normal circumstances, such a situation leads to a regime of favoritism and disfavor. Unless a citizen falls in line with the political requirements of the politicians temporarily in power, he cannot expect a fair deal from the state. Therefore, in order to curry favor he bends over backward to please the politicians. Since nothing pleases the politicians more than a hefty bribe, the next phase is the introduction of a regime of corruption in addition to a regime of favoritism.

However, the worst effect of the emasculation of the civil services is felt during an emergency, whether it be a natural or man made calamity or it be a law and order situation. The law is clear. If there is a breach of peace, violation of law or a situation of collective violence, the Code of Criminal Procedure and the Police Act enjoin the executive magistracy and the police to take preventive action, including the arrest of the likely trouble makers, corrective action such as deployment of adequate police force and coercive action, which includes use of even lethal force to disperse unlawful assemblies. This has to be followed by punitive action in which perpetrators of crime are arrested and arraigned before a court of law. The executive magistracy and the police are not to seek orders from anyone because they derive their powers from the law and not from the ministers. Similarly in a calamity the lowest executive officer is supposed to take immediate remedial measures and neither budgetary constraints nor issues of jurisdiction should hinder him. However, neither the executive magistracy nor the police actually follow the law because they await orders from above in an act of abdication of their lawful functions.

Two of the most shameful examples of the above are the 1984 anti-Sikh riots and the 2002 Gujarat riots. In 1984 after the assassination of Mrs. Indira Gandhi, the police, especially the Delhi Police, stood by as a mere spectator whilst rampaging mobs slaughtered thousands of Sikhs. Whether in exercise of the right of private defence or in performance of his duties under the Code of Criminal Procedure and the Police Act, every single policeman from constable upwards is required to intervene the minute he sees an offence being committed. Murder is the most heinous offence of all in the Indian legal lexicon. Despite this, the police did absolutely nothing (the American vulgarism, Sweet Fanny Adam, is the expression which comes to mind) and stood by watching the fun. No policeman was punished for this gross dereliction of duty.

In 2002 when communal riots wracked Gujarat, one found a very similar administrative

paralysis, with a few honorable exceptions. The Police Commissioner of Ahmedabad permitted two ministers to take over his control room and ensure police inaction for three days. In Vadodara, the Police Commissioner did not activate his force for a number of days. The honorable exceptions were the Collectors and SSP of Bharuch, Junagadh, Bhavnagar and Kutch. They were all transferred for their pains, without arousing any great public protest. It must be understood that the inaction of the executive magistracy and the police has resulted in thousands of innocents being killed, which is a heavy price paid for establishing political supremacy over the executive even in the matter of implementation of laws.

A regime of favoritism coupled with a regime of corruption, in which the bureaucrats are abused morning, noon and night as servants of red-tape, obstructers of development, bumbling, officious nincompoops, has totally demoralized the civil services. They have become partisan, ineffective and corrupt. The partisanship has even reduced their efficacy as a binding force of our nation. This has degraded the administration to such an extent that one wonders if there is any administration left at all.

The civil services must follow the rules and implement them. If the rules hinder development let the policy makers, i.e, the elected representatives, change the rules. But for heavens sake do not give the civil servants the discretion to decide whether or not they will implement policy, the law and the rules. That opens the twin gates of inefficiency and corruption. India must insist on a restoration of the civil services of a type envisaged by Sardar Patel so that each government servant does his duty and there is never a repetition of Gujarat.

**MN Buch**

## **Eroded Administrative System**

Notwithstanding the long domination of a single political party and one family over the Indian polity, India has been and continues to be a democracy, because the citizen feels that he has it in his power to change the ruling party through peaceful means and without resort to violence, coups d'etat or assassination.

The brutal murder of Mrs. Indira Gandhi at the hands of her own security guards may possibly be viewed by some perverted people as the act of those who no longer view India as a democracy. However, even this reprehensible deed does not detract from the fact that change is possible through the constitutional process and that democracy endures in India.

If that be so, what does this assassination indicate and to what can we attribute the extremely slow reaction of the civil administration to the communal violence that followed ?

Our constitution is unique in that while, on the one hand, it codifies the checks and balances necessary for the operation of a democratic system in a country hitherto run by the British bureaucracy, on the other, it presupposes the existence of the self-discipline and regard for conventions that is a hallmark of the unwritten British Constitution. There is an inbuilt understanding that the various organs of the State will function within defined bounds and that there will be interaction but no interference. Laws would be applied even handedly and legally constituted authority would function without fear or favour.

Where powers are undefined, they would be exercised with restraint and always in the general interest rather than in favour of a person or party. The fundamental right to equality of opportunity would totally preclude dynastism, nepotism and cronyism and merit would be the sole criterion for advancement.

The public services, in particular, are constitutionally safeguarded against nepotism by the mechanism of selection by constitutionally created public service commission, and protected from arbitrariness by the constitutional protection of terms and condition of service. The legislature enjoys immunity and the judiciary is beyond executive control. On paper, at least, the Indian state is organised for harmonious functioning.

Results of Power Game :

Unfortunately, the law for few years have seen a steady deterioration in the manner in which the system functions. Perhaps 1967, when the politics of defection began can be treated as the watershed. There are certain fundamental requirements for the proper functioning of elective politics. There have to be parties with

Differing ideologies and programmes, but, with the tolerance to permit other parties to operate freely. Each of these must, aspire to power and this aspiration should be accepted as legitimate.

To allege, as the Congress has been doing in the past, that opposition parties are out to dislodge it, and then apply a derogatory value judgment to the allegation is not in keeping with elective democracy. When this is accompanied, as stated by the opposition, by the use of governmental machinery deliberately to bolster the ruling party, the system becomes weakened.

People elected on party tickets cannot be allowed to change loyalties midstream. Elective politics based on parties means - that the voter sends to the legislature not only a person of his choice but also that of the party of his choice because he likes its programme. Political parties who bribe or induce people to defect are undemocratic, anti-people and power grabbers rather than aspirants for power. The game of defection played in India ever since 1967 has corrupted our legislators to an extent where the legislature itself, as a pillar of the state, has been endangered. This has, in turn, played havoc with the executive and reduced the administration to shambles.

Elective politics also requires that elected representatives understand their true constitutional role and act accordingly. The legislature represents the collective will of the people and, by selecting the political executive from the majority party, determines the form of government for a period of five years at a time. The legislature enacts laws approves the budget and watches over the activities of the government through committees, debates and questions. In the ultimate analysis, it can even rule that it no longer has confidence in the government of the day and thereby ordain a change. Collectively legislators are the final arbiters of the fate of the rulers.

Political Blackmail :

What, however, the legislators cannot do is to intervene at operational levels and influence, coerce or induce officials to do their will in the ordinary routine of Government. It is legitimate for legislators to bring problems to the notice of officials and to try and push projects that will benefit their constituencies.

In Britain the private member's bill is a legitimate and frequently used instrument to ventilate the the grievances of citizens through Parliament, and to seek remedy for the problems of even individual citizens. It is not legitimate for legislators, however, to go to a police station and tell the police whom to arrest and whom not to ; to demand the transfer of officials either because the legislator has been bribed to do so or because the official is inconvenient; to try and influence the outcome of cases where decision making is quasi-judicial ; to act as intermediaries on behalf of permit seekers.

These are the areas in which a large number of Indian legislators have been operating and this has greatly weakened the administration.

The way the system operates is pernicious. There is an ingrained fear that if the whims of the legislators are not pandered to, they will either defect or, worse still, foment trouble within the ruling party. The minister knows that what the MP/MLA is asking for is probably wrong, but he is afraid to say no. The legislator is afraid that if he does not

support the applicant he will lose a vote or two. Therefore, knowing that what he is requesting is wrong, the legislator still presses his demand.

Black marketers, criminals and law-breakers, corrupt officials, inefficient bureaucrats, exploiters and freebooters, harbingers of communal enmity have all latched on to this weakness of the system and are taking full advantage of it,

Any minister who opposes the present pattern is considered a fool, any legislator who resists is denied a party ticket, any official who stands his ground is unceremoniously transferred. The politics of defections has led legislators to wholly illegitimate intervention in areas outside their jurisdiction and this, in turn, has destroyed the administrative capacity of the government.

The extent to which this cancer has spread has never been fully assessed, but it is very near terminal. At the political level both nepotism and cronyism are now endemic. The malaise begins at the top and no one is immune. Every ruler is entitled to trusted lieutenants, but Mahatma Gandhi chose Nehru and Patel, not Devdas. Nehru chose Dharma Vira and Vishnu Sahay as his administrative advisors and Patel selected V. P. Menon. There is a story about Morarji Desai that bears repetition. He was Chief Minister of Bombay, and Rasiklal Parikh, after the merger of Saurashtra into Bombay, was his revenue minister. D. S. Bakhle of the ICS was the chief secretary and D. S. Joshi was revenue secretary. Parikh went to Desai and asked for the transfer of Joshi. Desai insisted on consulting Bakhle (incidentally Desai and Bakhle were at logger-heads over prohibition), who advised against the transfer. Desai agreed with Bakhle. At this Parikh threw a tantrum and said that he did not want Joshi as he did not like him. Morarji "Desai's reply is a classic. He said, "I detest Bakhle, but he is my chief secretary. What has liking got to do with the business of government?"

We have systematically destroyed all logic and personnel management in government. Service has been set against service, top posts are filled by officers considered convenient or having a known reputation for supineness. India must be one of the few countries in the world where the silyingly innocuous weapon of transfer has been wielded to destroy the cohesion, elan and impartiality of the civil service as a whole.

The cabinet secretary should hang his head in shame that under his very nose, in the Central government, officers have remained without postings for months at a time ; officers are graded as acceptable or unacceptable not on the basis of their service record but on the subjective whims of a few people close to the seat of power; supersessions occur because someone is considered more 'loyal' than others ; and even for a posting as an undersecretary, officers have to carry favour with ministers and secretaries.

The department of personnel is less than a post office. Where favourites alone enjoy positions of responsibilities the administration cannot be effective or efficient. The position in the states is **even** more frightening than at the Centre and this is a cause of even greater worry, Central ministers deal with issues, but state governments deal with people, and it is this cutting edge of interaction which has been dangerously blunted.

### **Tragic Acquiescence :**

In Madhya Pradesh, there have been 14 revenue secretaries in four years. A certain minister has caused to be transferred four divisional forest officers from his home district in two years, after having himself handpicked each officer and subsequently developing a dislike for him.

Delhi has had a change of police commissioner every year during the last four years. Every time a minister, MP, MLA or local political big-wig of the ruling party in any state feels thwarted, some government official is transferred. From school teacher, police constable, forest guard and patwari right up to head of department, secretary and chief secretary, all are caught up in the web of lunatic transfers.

The tragedy is that senior officers sit quietly and acquiesce in the wholesale destruction of the administrative system. In Maharashtra the then chief secretary was a silent spectator to the deliberate and wilful demolition of a fine administrative machine by A. R. Antulay. What a difference it would make if a succession

of cabinet secretaries and chief secretaries were to advise their political superiors on the impropriety of tinkering with the administration and, in the final analysis, sacrificing their careers if their advice is not heeded. The fact that they are either silent or active partners in these dark deeds leads one to conclude that at senior levels our civil service has forgotten its oath to the Constitution as well as taken leave of its conscience and sense of higher duty.

## **II-Saving Services from Ruin**

Our system of government is based on rules framed under the constitution the 'rules of business of the executive government\*', and the 'business allocation rules\*. Allocated business is disposed of within the ministry or department, under the authority of the minister-in-charge. The prime minister, chief minister and the council of ministers are advised by the administrative department in matters concerning it. Each minister and each secretary is as responsible a functionary as any other minister or secretary. But taking a lead from the prime ministers office, every chief minister has also set up a personal office which, instead of assisting the C. M. actually sits in judgment over departmental advice.

Why is a private secretary or special assistant considered more competent than the departmental minister or secretary on whom rests the responsibility for both the decision and its implementation ? Why are persons having no definable position in the system, and their hangers-on and touts, considered the real brokers of power?

Unless the new prime minister is able to dismantle the wholly unconstitutional shield of sycophancy and irresponsibility around him and his chief ministers, and return to a system of orderly government, he will be drawn into the same old vortex that threatened, in the past, to engulf the government itself.

In the field, the position today is that both in the regulatory and the development their has been substantial deterioration. There is a well-defined and codified delegation of power at various levels, but delegated powers are not permitted to be exercised. There is interference from the top, political and bureaucratic, and there are local attempts to influence decisions.

### **Lesson Taught :**

Enough station house officers of the police have suffered for impartial investigation of offences for the lesson to go home. There is a class of persons who must not be touched by the police, whatever they do.

Equally harmful to the system is the posting of officials without consulting their superiors or against their positive advice. It is a uniform complaint of collectors and superintendents of police that tahsildars, BDOs and SHOs manipulate their posting and, therefore, are not amenable to control. Naturally they are also not amenable to discipline, nor are they imbued with any great sense of duty.

The nexus between the corrupt official and anti-social elements is both pronounced and strong. When subordinates look beyond their supervising

officers for support, the business of government inevitably suffers. Orders are not obeyed and often openly defied. Programmes are not implemented, public funds are misapplied and every development scheme scuttled by perversion; Not only is there inefficiency, there is also colossal waste of scarce resources. Whilst the bureaucracy is to blame for faulty implementation of schemes, it is those who have brought the bureaucracy to this sorry state are the real culprits.

In almost every emergency the civil administration has reacted sluggishly. Natural calamities always catch district officials flat-footed and the army is summoned for assistance. There are masses of police, civil and armed, but even minor riots are not controlled and the army aid is needed. Even the British used the army, but only after the police had used all its resources and needed back-up force.

Now the district magistrate finds that the police is either a silent spectator to disorder or its response is half-hearted. Police weaponry and organisation are far superior to that of any mob and the authority to use force exactly that of the army. A dozen rioters shot on the 31st October— 1st November 1984 in Delhi, Kanpur and Indore would have totally suppressed a 11 rioting throughout India and saved hundreds of life. In the Punjab in 1982 correct political decisions and a vigorous administration would be stamped out violence even without army aid. But more important still, it would have prevented sowing of the seeds of hatred which culminated in the senseless murder of a leader whose long life was so important to this unfortunate country.

Form of Government:

Our present administration lies in ruins and it cannot respond to events such as those witnessed in early November, 1984. The police cannot act against the very persons it has been in league with over the rest of the year. A district magistrate or superintendent of police cannot arrest the so-called local leaders because some influential politicians will always intervene on their behalf, and the officers' career will be ruined, Therefore, increasingly we bring in the army, not in aid of civil power, but as a substitute for it.

The army is a fine institution, with a noble role to play, but running the routine administration of the country is not its job.' If the army finds itself imposed upon to do the job of the civil administration, which cannot or will not, function, it will create contempt! on one side and resentment on the other. It will bring the army,' into conflict with the citizen because any law and order operation can inconvenience even a law-abiding person. And inevitably it will raise questions about the form; of government suited to India and institutionally, who or what is! best able to operate it. These are dangerous alleys to venture into.

When a system approaches! collapse, the remedy is a very, strong dose of discipline, orderliness and regulation. Honest officers must be protected and wrongdoers must be weeded out.! The legislators must be placed back in their true, higher role of guiding government and weaned away from administrative inter-

ference.

## THE APPU PAPERS

### I

P. S, Appu was offered the Chief Secretary ship of the Government of Bihar, whereupon he submitted the, following note to the Chief Minister:

Chief Minister

Chief Minister mentioned to me last night that ho intended to appoint me to the post of Chief Secretary f submitted to Chief Minister that he should reconsider the matter and leave me out. I am repeating below the reasons why Chief Minister should give a second thought to the matter.

2- The post of Chief Secretary is the most important administrative post under the State Government. From several points of view, including the very important consideration of maintaining the morale of the permanent services, it is necessary that appointment to the post of Chief Secretary is made in an entirely objective morale on the basis of seniority and merit. Among the members of the I.A.S. Cadre of Bihar presently serving in the Stale there are five officers senior to me (leaving out Shri Saran Singh, the present Chief Secretary). They are Sarvashri, S. C. Roy, Karnam Singh, P. C. Bhagat, R. P. Khanna and M. K. Mukherjee, Another officer senior to me, namely Shri S. K.. Mukherjee, will be returning to Bihar shortly. There are also a few officers senior to me serving under the Central Government in post: below the rank i.e. Secretary to Government of India. The State Government will also be well-advised to consider carefully the cases of all these officers while making appointment to the post of Chief Secretary, I am inclined to think that it should be possible to find an officer suitable for appointment as Chief Secretary from among those senior to me in service.

3. Secondly, for certain reasons of a personal nature which I mentioned to Chief Minister orally, I wish to go on deputation to a suitable post under the Central Government in New Delhi. I request that taking into account of all these facts Chief Minister may kindly reconsider the decision to appoint me us Chief Secretary.

4, Before concluding Luis note I thank Chief Minister for the trust and confidence: he reposes in me.

Sd/-  
P. S. Appu  
19.7.77

### II

Appu's objections in the foregoing note were overruled by the Chief Minister, which left him with no option but to accept the Chief Secretary ship, But he defined his terms and conditions in the following note:

Chief Minister

On the 18th night when CM. mentioned to me (hat he intended to appoint me as

Chief Secretary, I advised CM that he should give a second thought to the matter. The next day I wrote out a note repeating what I told CM. orally. This morning CM. told me that he would stick to his decision and appoint me as Chief Secretary. I made it clear that I would be prepared to assume the heavy responsibilities of the office of Chief Secretary only if the Chief Minister agrees to the following suggestions. CM- said that all the conditions acceptable to him,:

1. CM. should clearly indicate the objectives of the new government and lay down a strict order of priorities. I am placing below a paper giving my tentative views on the subject.
2. I should have a free hand in restructuring and revamping the administrative set up and also in building up an effective team by appointing men hand picked by me to key posts.
3. Substantial delegation of powers should be effected and there should be no interference in the delegated spheres.
4. Ruthless action should be taken against corrupt and incompetent men. The Cabinet should never show any softness in such matters.
5. I shall work between the hours of 9-00 AM; and 6.30 P.M. on working days with an hour's break for lunch. My Minor colleagues will put in extra hours of work in the morning or evening according to their convenience We should not be required to attend discussions, meetings etc. on holidays or on working days before 9.00 A.M. or after 6.30 P.M. except, of course, in emergencies.
6. If and when the Chief Minister or a substantial number of Ministers begin to feel that the administration is not delivering the goods, or for any other reason they think a change is called for in the office of Chief Secretary, I should be informed immediately. I shall proceed on leave forthwith. The only favour I seek is that, in such an event, CM. may kindly use his good offices with the Government of India to find suitable posts under the Central Government at New Delhi for myself and a couple of senior colleagues who may agree to forego their deputation to the Centre and serve in Bihar in response to my personal request.

I am not laying down the above conditions out of any arrogance or the feeling that I am indispensable. I am doing it keeping in my mind the public interest as well as my personal interest. In my opinion the administration will not be able to deliver the goods unless the above conditions are fulfilled. It will be a tragedy for Bihar if the administration headed by the present CM, also fails. Public interest demands that everything possible should be done to prevent that. My personal interest is that I shall lose whatever reputation I have if I agree to serve as Chief Secretary without adequate authority to play an effective role. If the conditions prevailing in Bihar during the last few years are allowed to continue even a superman will not be able to deliver the goods. And of course I am no superman.

Sd/-  
P. S. Appu  
19.7.77

### III

Some after Shri P. S. Appu had assumed charge as Chief Secretary, Bihar, he wrote to the Chief Minister on two occasions requesting that he be relieved of his duties. The notes bring

into sharp focus the principles which constitute the pillars of a sound administrative edifice. The first note was submitted about four months after Shri. Appu had been persuaded by the Chief Minister to accept the post of Chief Secretary. Another three months later, he had to write the second note. He proceeded, thereafter, to join a post in the Government of India which earned pay significantly less than what he was drawing as Chief Secretary. The principles to which he was committed left him with no alternative. It is for the same principles that several years later he put in his papers a good two years before he was due to retire. We have dovetailed extracts from the notes as follows:

#### Chief Minister

1. When Chief Minister told me on 18.7.77 that he proposed to appoint me as Chief Secretary, I requested him to leave me out. A week later he told me that the Cabinet had informally decided to appoint me to the post of Chief Secretary. At that time also I requested Chief Minister to leave me out and appoint someone senior to me as Chief Secretary. When Chief Minister told me again that I should accept the post, I accepted the assignment after Chief Minister had agreed to certain conditions put forward by me. These included a free hand in revamping the administration and in building up a team of my choice by appointing the right men to key posts, substantial delegation of powers and non-interference in the designated spheres. When Chief Minister agreed to all these conditions, I cautioned him that he might not always get the support of his colleagues. Chief Minister was, however, confident that there would be no difficulty on this account. Finally I told Chief Minister that I would leave the post as soon as I felt that I was not being effective (and) the moment Chief Minister himself or some of his colleagues felt that the arrangement was not working satisfactorily.
2. I did not lay down the above conditions because of my arrogance or any feeling that I was indispensable. I did so because I felt that the situation in Bihar was so bad that there was no hope of effecting the necessary improvement unless those conditions were fulfilled.
3. After working as Chief Secretary for \* few weeks I found that the conditions laid down by me were not being met and that I could not function effectively. I was distressed to note that the Government laid no clear order of priorities or a sense of purpose and direction. There was no inclination to function in a methodical systematic and businesslike manner, Even the will to govern was lacking and things were allowed to drift. Purposeful action could have been taken to revamp the administration and make it an adequate tool for the Performance of the tasks ahead. The essential steps called for are the appointment of the most suitable men available to key poses, giving them a free hand and enforcing discipline with grim determination. It is now abundantly clear that action on these lines will not be possible. Lobbying for key positions continues to be the favourite pastime of senior civil servants. Important posts are often filled purely on the basis of parochial considerations and the influence that the concerned officers can bring to bear on Government. The Cabinet does not often trust my judgment in such matters. Even Chief Minister does not have a free hand. Some Ministers are always on the look out for their caste men or for pliable men for posts under them. Sometimes outstanding officers are rejected and Ministers ask for corrupt and incompetent men. And many worthless officers succeeded in evading transfer orders by resorting to lobbying.

4. Right from the beginning I found it difficult to persuade the Cabinet to fill key posts purely on the basis of objective considerations. Recently the situation seems to have deteriorated further. Chief Minister did not consider it unnecessary even to consult me before passing orders for filling the post of Home Commissioner. Though the Principal Secretary, Personnel, and I had discussed certain proposals for postings with the Chief Minister on January 14, he did not at that time refer to the question of filling the post of Home Commissioner. Late in the evening I received a minute from Chief Minister saying that Shri— should be appointed as Home Commissioner and that a memorandum should be placed before the next meeting of the Cabinet. As Chief Minister was out on tour and was expected to return only on the day of the Cabinet meeting, the matter could not even be discussed with him. Undoubtedly, it is the prerogative of the Chief Minister to take a final decision in such matters. But certainly the Chief Secretary could reasonably expect to be consulted in such an important matter. The manner in which this decision was taken indicates lack of confidence in the Chief Secretary.
5. On 28.11.77 there was a furore in the State Legislative Assembly when a privilege issue was raised against the Chief Secretary and the Health Commissioner by the Speaker himself. The manner in which the matter was raised in the Assembly and the Government spokesman dealt with it, made it clear that the situation in Bihar was such that no civil servant, howsoever upright and dedicated he be, can function with dignity and honour. I felt that the only manner in which I could lodge an emphatic protest was to ask Government to relieve me immediately of the duties of the post of Chief Secretary. Accordingly I submitted a note to the Chief Minister. Though I was anxious to proceed on leave, Chief Minister pressed me to stay on. I agreed to stay on as Chief Secretary for some weeks because Chief Minister was fighting the bye-election and it would have been embarrassing to him if I left the post of Chief Secretary abruptly. But then irreparable damage has already been done to my reputation acquired in the course of twenty-six years of dedicated public service. The incident is a sad commentary on the public life of the State.
6. Government has shown a tendency to take important decisions in an ad-hoc manner without considering all aspects of the matter. Government has also been very reluctant to take unpopular decisions, though they are urgently called for in the larger public interest. Occasionally important decisions have been taken bearing in mind narrow short-term considerations.
7. The most crucial (important decision) was that to remove active politicians, mostly legislators, from the Chairmanship of Public Undertakings. Some of these men had a large hand in the mismanagement of Bihar's Public Undertakings. The decision was widely welcomed by the Press and all sections of the public. Overruling my objections the Government have now decided that there would be no bar to the appointment of suitable public men to posts of Chairmen. Once the bar is removed there is the danger of unsuitable public men wielding considerable influence being appointed to head some important Public Undertakings. If that happens, Bihar's Public Sector Undertakings will soon relapse into the conditions prevailing during the days preceding.
8. Another requirement of good administration, namely, adequate delegation of powers and non-interference in (the delegated spheres is also Jacking in Bihar, ft)

spite of instructions issued from time to time, interference in day-to-day administration, particularly in the matter of postings and transfers, has become rampant. Ministers and legislators take a great deal of interest in postings and transfers of even non-gazetted personnel. District officers and others who resist such interference are bullied and humiliated. Political leaders make frequent public statements denigrating individual government servants and the bureaucracy in general. While every effort should be made to discipline the bureaucracy, put down corruption and inefficiency with an iron hand and weed out black sheep, denigrating the entire administration is not only unfair but also counter-productive. As a result of such indiscriminate criticism and blatant interference at every step, the morale of the administration which was already low, has gone down further. And quite naturally the administration has ceased to be an adequate instrument for the tasks ahead.

9. Discipline is at a low ebb. Not a day passes without some group or other of Government servants acting in gross violation of the Government Servants' Conduct Rules. A memorandum was placed before the Cabinet giving certain concrete suggestions for dealing with (this). Though nearly two months have elapsed, Government has not yet taken a view on the suggestions. Meanwhile conditions verging on anarchy prevail in Government offices and elsewhere. None takes the Government orders seriously. Government's writ does not run even in the State Capital. Most people, including some V.I.Ps. behave in an undisciplined manner.
10. Demoralisation is particularly acute in the Police force. The officers at the Range and District Levels have little control over their subordinates. That is one of the main reasons for the unsatisfactory crime situation. Notwithstanding the favourable statistics produced by the I.G. and his colleagues from time to time, the unpleasant truth is that there is no security of life and property in Bihar. People are spending sleepless nights. Holdups even on National Highways have become so common that people are afraid of traveling by road after dusk. The alarming crime situation is a consequence of the low morale and discipline in the Police force.
11. Protection of life and property is the first duty of the State. Good administration is another primary obligation. These are the pre-conditions for sustained economic development. The harsh truth is that today in Bihar the Government is unable to discharge even their basic obligations. It is unfortunate that the gravity of the situation is not fully realised. The administration is almost on the verge of collapse. We are probably witnessing the fast disintegration of the old society. But the situation is not revolutionary, though the potential is there. Bihar seems to be heading towards total chaos.
12. I shall be failing in my duty if I do not draw Chief Minister's attention to an ominous development. An amorphous coterie of self-seekers has come to exercise considerable power and influence. They are often able to manipulate things and influence Govt. decisions. The style of functioning of the Chief Minister and some of his Cabinet colleagues who are unable to find enough time for consulting their top official advisers in a calm and tranquil atmosphere has facilitated this unhealthy development. The exercise of such great power without responsibility is fraught with serious consequences.
13. After carefully considering all aspects of the matter and a great deal of introspection, I have come to the sad conclusion that the conditions prevailing in Bihar at present are not conducive to effective administrative action. I am convinced that no useful purpose will be served by my continuing in the post of Chief Secretary.
14. As the head of the Civil Service, the Chief Secretary is responsible for maintaining the morale and efficiency of the administration. I find that I am not in a position to discharge

even that elementary responsibility according to my lights. Hence I do not wish to continue in the post of Chief Secretary.

15. It seems my continuing in the post of Chief Secretary may even cause a Cabinet crisis. In this connection Chief Minister may kindly glance through the news-items in the "Aryavarta" and in the "Times of India". It is no doubt, true that on my advice Chief Minister decided that Ministers of State should not deal with Establishment matters. Subsequently when Chief Minister was inclined to reverse the decision, I strongly urged him against doing so. I gave that advice because I felt that considering the intense lobbying that has become the practice in matters relating to postings, transfers, promotions etc, it would be desirable to stick to the earlier decision. In Bihar most men in authority look upon the power to transfer, post and promote public servants as the very crux of executive power. There was, therefore, good reason for the Ministers of State to feel unhappy about the advice given by me. The news-items indicate that the Chief Minister is waiting for my departure to entrust the above items of work to Ministers of State. This is somewhat baffling. I have always had a clear conception of the role of (he for civil servants in a Parliamentary Democracy, I know fully well that my job is to instruct, to persuade- but not to command. It is always open to the Chief Minister to discard my advice and pass whatever orders he considers appropriate. That be jog [he position, it is very unfair to say or even to give a hint that because of the opposition from me it has not been possible for Chief Minister to entrust these powers to the Ministers of State. Anyway, in such a situation I would not like to continue in the post even for a moment.
16. I have given my consent to go on deputation to the Centre and Chief Minister has very kindly agreed to spare my services, in case my appointment under the Central Government is delayed, I would like to proceed on leave from 1.3.1973. An application in the prescribed form has been submitted to Chief Minister separately.
17. After joining the Indian Administrative Service. I came to Bihar more than 26 years ago. But for the five years when I served under the Central Government, I have spent the best years of my life in the service of the State of Bihar. I have had the good fortune to hold several important posts. On the whole, these years have, indeed, been rewarding to me. Judged by the normal Civil Service standards, I have had a very successful career. For all these I shall ever remain grateful to the Government and the people of Bihar.
18. Before concluding this note, I should like to thank Chief Minister for the unfailing courtesy and deference he has shown to me on all occasions

**Sd/ - P, S. APPU**  
**Chief Secretary**

#### IV

The following is the full text of the letter that Shri P. S. Appu wrote to the Prime Minister on the 3rd March, 1989 tendering his resignation from the IAS:

March, 3, 1982

Dear Madam Prime Minister,

It is unusual for a Civil Servant, however senior he be, to write directly to the Prime Minister. I am resorting to this unconventional step because I see no other way to bring to the Prime Minister's notice a case of grave misconduct on the part of an

Indian Administrative Service probationer and the cavalier manner in which the Ministry of Home Affairs disposed of the matter. Since I was leaving the Indian Administrative Service on this issue, I thought I would be failing in my duty if I did not bring the relevant facts to the Prime Minister's notice.

In the course of a trek in the Himalayas an I.A.S. probationer committed several culpable offence." while under the influence of alcohol. An enquiry conducted by a Deputy Director of the National Academy of Administration revealed that at Badrinath the probationer had whipped out a leaded revolver and threatened two women probationers by pointing the weapon at their heads. He had also threatened some men probationers by brandishing the same weapon. Later on he harassed the frightened woman probationers who had taken refuge for the night in a Dharamshala room by banging at the door and shouting abuses.

When all those facts were established in the enquiry I came to the only possible conclusion that the probationer lacked in the qualities of mind and character needed for the Indian Administrative Service. Accordingly, while forwarding a copy of the enquiry report to the Secretary, Department of Personnel I suggested as early as October 28, 1981 that the probationer be discharged from probation in accordance with the provisions of Rule 12 of the I.A.S. probation rules. In the past probationers had been discharged for less serious offences. I may also add that subsequently it came to light that the probationer had been a cadet at the National Defence Academy, Khadakvasla, a decade ago and that he had to be withdrawn from (here on disciplinary grounds. This was also brought to Government's notice.

When I found that the undue delay in passing orders was having adverse effect on discipline and morale at the Academy, I wrote to the Secretary, Department of Personnel and the cabinet Secretary on 28.12.82 pressing for early orders. I also made it clear in that letter that if my recommendation was not accepted I would not like to continue as Director. I took that stand because I was convinced that if a probationer who had indulged in such gross misbehaviors was let off lightly, it would become impossible to maintain the desired level of discipline at the Academy and that the Director and faculty would lose all credibility. The Secretary, Deptt. of Personnel, sent me a confidential letter on 4.2.82 saying that Government had decided to let off the probationer with a warning. Thereupon I sought premature retirement from the Service. I proceeded on leave preparatory to retirement with effect from March 1, 1982.

I am enclosing with this letter copies of the enquiry report and the correspondence with the Cabinet Secretary and the Secretary, Department of Personnel and Administrative Reforms. My letters of October 28, 1981 and December, 28, 1981 speak for themselves. Further comment will be superfluous.

I grew up in the closing years of the freedom struggle and joined the Indian Administrative Service soon after Independence. To me the Service provided something more than a career. It gave me an opportunity to make some worthwhile contribution to the building up of an India of our dreams and also for self-actualization. The three decades I spent in the Service have, indeed, been rewarding. I have had the good fortune to hold several important posts under the State and Central Governments. My last assignment as Director of National Academy gave me the welcome opportunity to try to mould the new entrants to the different branches of the superior civil service on what I considered to be the inculcating in them values of professional competence, political neutrality, social commitment, fearlessness, impartiality and integrity.

The endeavours of my colleagues and myself to shape the new entrants on these

lines had begun to look rather futile and even ludicrous, in the context of the sagging morale of the civil service and the general environment in the country. As is well known, the services have been under great strain for some time. Preferment does not always go by merit or objective consideration- Lobbying for what are considered plum postings has become the order of the day. Upright and dedicated men are occasionally punished for refusing to budge from the right path. In such a context the new entrants naturally give in to despair and cynicism despite our efforts. Some new developments have accelerated this process. In the 1979 I.A.S. batch a few probationers succeeded in getting their cadres changed as a result of successful lobbying. It has always been the practice to post I.A.S. officers immediately after their training to hold charge of sub-divisions. A few officers of 1979 batch in the States of Haryana and Orissa were not, however, posted to sub-divisions for extraneous reasons. And on top of all these has come the Home Ministry's decision to let off lightly a probationer who had indulged in grave misconduct. The only conclusion the probationers will draw is that with influence in the right quarters one can commit even heinous crimes with impunity. This decision will have a disastrous effect on discipline and morale in the service in general and at the National Academy in particular. In the circumstances I thought that no useful purpose would be served by my continuing in the post of Director. As a senior officer if I had failed to take this step I would, in effect, be acquiescing in the action of the Home Ministry.

I also felt that if a high standard of discipline and morale cannot be preserved at the National Academy it must be even more difficult to do so at other places. Hence I decided to leave the Service rather than seek another posting.

"With kind regards,

Yours sincerely,

P. S. APPU

Shrimati Indira Gandhi  
Prime Minister Government of India  
New Delhi

The circumstances in which Shri Appu resigned from the IAS provoked the conscience of a band of IAS probationers of the 1980 batch who were under him at the Lal Bahadur Shastri National Academy of Administration, Mussoorie. On returning to the Academy in 1982 for the second phase of their training and not finding their Director and thereafter learning of the circumstances of his departure, they addressed two letters on the 12th July, 1982—one to the Central I.C. & A.S. Association In New Delhi and the other to Shri Appu himself. These letters are reproduced in extensor below, marked respectively "A" and "B".

Lal Bahadur Shastri  
National Academy of Administration  
Mussoorie  
12th July 1982

**A**

Dear,

We write this to convey our strong sense of revulsion at the series of events which led to Shri P. S. Appu, the former Director of the L.B.S.N.A.A., to seek voluntary retirement. We have always believed that there is more to the processes and principles by which

the government functions than the dry technicalities of rules in force. The question in this case is not as to whether Shri Appu was right in his decision as regards the V. K. Singh affair, nor whether his decision to seek voluntary retirement in protest should have influenced Government's decision. We fully appreciate that government has the right to reject any recommendations made by any civil servant in its employ. However, we had hoped that when Shri Appu's decision was vindicated by government on the floor of Parliament, considerations of common decency and justice would have prompted the government to request the officer concerned to reconsider what had evidently been a decision forced upon him by the circumstances. Such a course of action is desirable even where the government decides to overrule an officer's recommendation, as otherwise sincerity and strength of conviction in any matter in itself becomes culpable. The impression that has been given by government's handling of the matter is that a civil servant who genuinely feels strongly on any issue has no option but to quit the service, where his view does not find favour with the government.

In the present case, had government, while taking an independent decision, requested Shri Appu to reconsider his decision to seek retirement, this would have strengthened the conventions enabling civil servants to hold and express independent views on questions subjected to their consideration. As events transpired in this case, it is difficult to escape the impression that a senior civil servant was treated shabbily.

We would, therefore, request you *in your capacity as Secretary to the Central IC and AS Association* to convey the above views for consideration at proper quarters. Please keep us informed of the receipt of this letter and an action that you take in this regard. In this connection we would welcome definite action and a reply before the end of this month at the above address, because we will be leaving the Academy by the seventh of August.

Hoping for an early reply,

Yours Sincerely, Shri A. R. Bandopadhyay

Secretary

Central IC and AS Association

New Delhi

**B**

Lai Bahadur Shasta

National Academy of Administration

Mussoorie

12th July, 1952

Dear

The issues raised by your having to seek voluntary retirement appear to have been forgotten already. Though they may no longer make news, we strongly feel the need for the development on conventions enabling a civil servant to hold an independent view in an matter, [rev from considerations of its acceptability to others. It is a pity that those who profess to favour a liberal human approach to administration fall short in their own practice even when an originally unwelcome decision of a civil servant is subsequently vindicated by Government on the floor of Parliament. While we have been, inspired by the example you have set by putting your principles into practice, we can only hope that the public and our legislators will fully appreciate the urgent need to ensure that the civil servant retains that independence of opinion and action as is envisaged by the Constitution and the Acts and Rules framed there under.

We hope that in this matter principles of human consideration and common justice will prevail over those of temporary expediency.

We remain sir.

Yours Sincerely, Mr. P. S. Appu

410, Koramangla Extension

Block HI

Bandore 560 034

## THE ROLE OF THE DIRECTOR OF A MAJOR TRAINING INSTITUTE

**\* Pradip Bhattacharya, I.A.S.\***

I propose to discuss this issue by examining the way in which (two Directors of India's National Academy of Administration went about their work. This is likely to throw considerable light on the question because one succeeded the other, and their conceptions about their role seem to have been radically different.

The first director, whom we shall call Mr. A, stated that had no background of training at all. He had specialised in rural development and land reforms, and brought with him a reputation of uncompromising integrity, high professional competence and remarkable simplicity of life-style. Mr. P, who succeeded him, described himself as the most thoroughly and widely trained senior official in service, who had specialised in management, was an excellent public speaker and claimed easy access to the powers that be, and to have been selected for the job by the prime minister.

Mr. A made it very clear from the start that he knew nothing about training and was open to being told about it by everyone. Along with this, he made himself wholly accessible. Anyone, irrespective of rank, could walk into his office without appointment, as long as he was unoccupied. One immediate result of these two attitudes was that the composition of the teaching staff meetings was engaged to include *all* who taught (so far only head- of different faculties had been allowed) including the Administrative Officer who had been with the Academy for nearly twenty years but had never attended any meeting of its decisions-making body. Mr. A made it clear that he did not believe in bureaucratic rank, by visiting all staff members' residences informally and encouraging the junior personnel to come out with their ideas about what the Academy should be doing.

Simultaneously, he quietly studied the special qualities of each staff member, and suggested projects suited for exploiting those specialisations. Yet, all these multifarious tasks had a single focus: improving the training standards. It was found that the hitherto frustrated junior teaching staff became highly motivated by being made to feel important, and their performance showed a significant improvement, as also their relationships with their senior colleagues who fell in line with Mr. A's non-hierarchical approach.

Mr. A made a major alteration in the training approach by insisting on two things : trainees were to be treated as responsible, highly intelligent adults, not as juvenile delinquents, he himself would participate in the training activity by taking tutorials on land reforms, rural development, and the issues of integrity, neutrality and other civil-service values. By being wholly accessible to trainees and systematically meeting them in small groups over tea and playing games with them on the sports-field, he frequently astonished the teaching staff by feeding back reactions of trainees they were unaware of and which came to their notice much later.

Without fanfare, Mr. A brought\* over to the Academy some of the sharpest brains in economics, management and public administration, for interacting intensively with

trainees. He began working towards affiliating the Academy with one of the best universities for facilitating research in training and developing staff expertise by keeping them in touch with latest developments in specialised knowledge areas. He also built links with other training institutes for exchange of ideas and experience, and liberally sent staff for training as long as it did not clash with course commitments.

Mr. A's priorities were very clear : training curriculum and methodology. He would spend hours examining each course design with the bourse Director, and personally compile pithy and relevant bibliographies so that trainees' workload was realistic. he insisted on reducing lectures to the inescapable minimum and based training on small group tutorials, syndicates, seminars, case-studies and management games.

Training was.....not a one-way process but a participative effort where trainees were encouraged to question and dissent to reach higher levels of understanding. Nothing *had* to be done because it had always been done that way.

With all this went an uncompromising commitment to punctuality, gentlemanly conduct (as opposed to the "brown sahib" attitude prevalent earlier) hard work of high standard, cleanliness and sanitation in living conditions of trainees and staff down to the lowest paid menial. Himself a Fellow of Harvard University; he encouraged staff and trainees to set demanding standards for themselves.

Mr. A resigned from service in protest against the Government not taking action against a trainee found guilty of reprehensible conduct. The entire staff, in a gesture of unprecedented unity, wrote to the government in protest and several of them exercised their option of leaving the Academy.

Mr. P who replaced Mr., A, assured the teaching staff immediately on joining, that he had total faith in their loyalty. Thereafter he proceeded to call the clerical staff and ask them how their supervisors were making money. The staff promptly reported these queries to their bosses. The staff-meetings were occasions for speeches on his training expertise and his having been selected by the prime minister for the job. The newspapers reported he had been thrown out of his earlier post for incompetence. He was mostly out of station visiting different institutes all over the country for supervising training as a whole all over India, The results of these visits remained a mystery to his colleagues. He took no part in training directly, besides the inaugural and farewell speeches which were entertaining, colorful performances spiced with anecdotes of his own exploits. The Academy facilities began to be used for his private benefit. He also had clear favorites among the trainers, who had been close to Mr. A. the majority, felt unwanted. Matters came to a head when Mr. P. misbehaved with wives of some staff. The teaching staff got into such a ferment that government had to ask Mr. P to proceed on premature retirement. He flew off to the USA to deliver a series of lectures in a University.

We find from the above, that the Director is like a multidirectional broker dealing with four estates : his immediate management team, constituencies within his organisation, forces outside his organisation and the media. We have not been able to describe the last owing to space constraints. In brief, Mr. A's skillful use of press and lobbies in parliament finally led to the dismissal of the guilty trainee, though not to Mr., A's recall

from retirement. It was the press which highlighted Mr. P's conduct, leading to a demand in parliament for an enquiry which ended in his removal.

So, the Director has a role within the organisation and also "without" it. In the organisation he functions not only as a figurehead on ceremonial occasions, but also as a leader building up an effective team and shaping the organisation to suit his own style. Mr. A did this by spotting what each trainer was good at, encouraging him at it, and establishing a mature, realistic, liberal and informal environment, which made learning a pleasant experience for all. Warren Bennis's First law of Pseudodynamics /£ routine work will always drive out the innovational. Mr. A kept emphasising this. Mr. P. believed in ensuring routine was managed perfectly according to the best management principles and practice. Perfection, of course, is I greatest enemy of achievement. Participation in training by i Director does a lot for the effectiveness of the Academy mi powerfully to both trainees a' staff. But it has to be backed by practice Mr. P. voiced all t] right, principles, but his no observance of them in practice made his rare interventions training a dysfunctional experience.

The Director also needs to see his priorities clearly, and keenly every avenue open for gathering, information on the functioning c the Academy on these priorities: Mr. A's disclaimer of expertise am complete accessibility, ensured this feedback, which is what Mr. 1 effectively shut out by trumpeting; expertise, playing at favourites and being mostly away from the Academy. Mr. P was stressing hip liaison role *outside* the organisation, but by doing it at the expense of his role *within* it he drastically reduced his effectiveness. As a matter of fact, he was known as the absentee Director, r and his extended tours, outside did not produce results. Mr. A achieved more of training effectiveness by staying in the Academy and getting eminent academicians, and trainers to come over as visiting speakers.

The Director who is an effective leader needs to do two more things: he must be able, as Campus said, to "Create dangerously," encourage risk-taking and experiments. Mr. A did this by adopting the suggestion of one staff member to replace lectures as a method, and change the attitude towards trainees to treat them as adults. The leader needs also to be able to get to the underlying issues of problems; what Shelley described as seeing the present in the past, and the future in the present. This ability Mr. A displayed when he discussed with trainees the relevance of civil service values amid, what he called a "disintegrating polity". Some of th e trainees described him as 'a man, with the rare faculty of going to the core of the problem without getting entangled in irrelevant detail and mincing words. His brand of idealism was not only courageous but also practical and hence found ready acceptance with us." Mr. P always claimed there were no problems which management could not solve. He did not solve any, but created a host of them, including shattering the team he found existing.

In conclusion, the role of a director of a major training institute seems to depend, for his success and effectiveness, very largely on three functions noted by D. A Berlew (cf. Kolb et. al. *Organizational Psychology* Prentice Hall 1979 P. 347).

1. The development of a "common vision" for the organization related to values shared by its members (i e. the "internal role").

2. The discovery or creation of value-related opportunities and activities within the framework of the goals of the organizations (i.e. chances for self-actualisation, achieving excellence and growth for staff-members).

3. Making organisation members feel, stronger and more in control of their own destinies, both individually and collectively (i.e. team building, encouraging experiments, not focussing only on mistakes). We need to add to this the role of effective liaison with the external environment for relating training to the real situation on-the job, for drawing on the best talent available outside to supplement internal resources, and developing relations with the media and power-centres for support to the training effort.

## A Cabinet Secretary Thinks Aloud – B. G. Deshmukh

Ideas of effectiveness and political neutrality are closely associated with the Anglo-Saxon ideas of politics .... administration dichotomy and organizing concepts, commonly employed to diagnose the problems of third world bureaucracy such as corruption, formalism, imbalance, imply better - worse scales of values on which the western values are at the good end and the rest are strung towards the bad end".

What should we do then? We must understand how the democratic polity functions in developing countries like ours. It is a debatable point whether we should compare our present bureaucracy to the bureaucracy say in Britain, where the democratic polity has evolved over centuries while we have been practicing our modern democracy under our Constitution hardly for the last 50 years. I am not suggesting that the qualities of integrity and efficiency are different for developed and developing democracies. But for the very sensitive quality of political impartiality of bureaucracy and the complementary quality of politicians not interfering in the internal working of bureaucracy can be qualitatively different in two types of democracies. Even the developed democracies had undergone the experience and the anxious period which the Indian bureaucracy is experiencing now and that too in an atmosphere of violence and crudeness. Yet I am a firm believer that [the Indian bureaucracy can come through this test with ? Renewed strength and confidence. There is a basic core of bureaucrats who can withstand and have actually withstood the political onslaught on impartiality. I would, therefore, like to suggest certain steps as to how the Indian bureaucracy can pass through this anxious time.

It is no use looking down upon politicians and calling them scoundrels. One must understand that they have to fight elections and win them, not only to come to power but to remain in power thereafter. This is a part of a democratic polity. It cannot be ignored. I can understand if they go beyond a certain limit; but within this limit, I think the bureaucracy has no right to cast aspersions on them (of course, this is my personal opinion).

Now, here it is difficult to understand how politicians in a real democracy function. You can't have an inflexible attitude. I will give an example. I was Deputy Secretary, GAD, in Maharashtra in the 1960s. As a Deputy Secretary, I was looking after the allotment of fiat cars. At that time, fiat car was a real boon. If I remember right, our quarterly quota was 90. When I took up the job, I found that a register was being maintained for applicants on the waiting list. When the file with the first 90 names in the waiting list went to the Chief Minister, he just kept the list aside and sent his own list back. I told the Chief Minister that a regular waiting list was being maintained and there was nothing wrong in going by the waiting list. He said, "Mr. Deshmukh, you don't know. As a politician I have some compulsions. I have to allot cars even out of turn to some people. What is wrong in it ?" - I said, 'Alright, how many cars would you require ? 'Give me about 20 cars', he said. Hence next time, while preparing the allotment

gist, I kept the first 20 names blank and from 21 to 90 went strictly according to the waiting list. This worked. Thus, it is important to understand how the politicians work.

At another time I complained to him that a Minister had asked me to make a particular transfer and I said, "I am not going to accept that." He said, 'Mr. Deshmukh, suppose a colleague of yours had asked for the transfer, would you not have done him a favour ? Then do a favour to me also."

One; should consider the personal establishment of a Minister. Only then can one understand how a politician functions. I still remember, I was Secretary, Urban Development. On one file I gave an order. The same file came to me when I became Secretary to the Chief Minister. It was the same file but now I was Secretary to the Chief Minister. I was looking at the file now from an entirely different angle, that is, from the Chief Minister's angle. And believe me, I had to reverse my own order, I had to over-rule myself. When one is a Secretary, one works with certain - I wouldn't say blinkers - but, with a different angle. But when you are working as Secretary to a Minister, one has to look from a different angle. I am only trying to emphasise that a bureaucrat should know how a democratic party works. You can't say, "I will work as a bureaucrat but not as a bureaucrat in a democracy".

Another example. I think at that time Dada (Mr. Vasant Dada Patil) was Irrigation Minister. The controversy was about a dam site in Kolhapur. One party was insisting that the dam be constructed at a particular site. There was another site, which was technically superior and cost effective; but the party was not ready to approve. I asked the Chief Minister why he did not approve the technically better and cost effective site. He said," Deshmukh, if this site is selected, there will be a lot of objections and there may be an agitation too. We will not be able to construct a dam there in the next few years. But, if we select the less favourable site, the dam can be constructed there within two years. There will be less cost and the cost over-run will also be less; and most important, the people will get the benefits earlier." This was his rationale. However, bureaucrats would have preferred that a technically superior and cost effective site should have been selected. This is what I am trying to say - one has to live in a practical world.

The bureaucrats will have to accept that all politicians are not scoundrels. There are good people too. As far as Maharashtra is concerned, a large majority of politicians are good people. And subject to some ethical limits, I don't think there is anything bad in seeing the view point of the politicians. I don't say you play politics or go out of the way to favour a political party, but it is important that the bureaucracy knows how it should work in a democratic polity.

I also know that bureaucrats should be protected and guarded in a democratic polity. Therefore, I have always advocated two measures - one, a code of conduct self-imposed by the bureaucrats themselves. This is very necessary. The responsibility is on the senior bureaucrats to follow this code of conduct. If they observe it, it will be easier to enforce it down the line. If they do not observe it, its enforcement will be difficult. A code of conduct need not be

elaborate. It could be a simple one viz (1) integrity beyond doubt; (2) You should have no favourites, or you should not play favourites, and (3) Try to be courteous and human towards your subordinates. I have given just three suggestions. But, one can work out one's own code of conduct according to the needs of one's job. After putting in 40 years of service, I would say that a code of conduct should be enacted and its copies be given to various officers.

Secondly, an Act should be passed by Parliament laying down the duties and responsibilities of the bureaucracy. Similarly, there should be a minimum period of posting in each post. Every officer appointed should complete the minimum period of posting. If he is shifted before that, the reasons should be recorded. Of course, Government will have to exclude certain sensitive posts from the purview of the Act. But, it should be done after due notification.

The process of selections and promotions should be more transparent. There should be a Selection Committee consisting of peers in the civil service who should decide about promotions and selections. The Government should not disagree with their recommendations and if the Government, that is, the political party disagrees, the reasons should be recorded in writing. I have not made the suggestion for Maharashtra alone but for all other states.

Another aspect of this Act should be a provision for the appointment of a civil service Ombudsman to deal with these cases. A dissatisfied civil servant should be able to go to an Ombudsman. I am not mentioning the Administrative Tribunals deliberately, because they are tied down to certain procedures and judicial proceedings which are very time consuming. I would rather suggest an executive authority. But, the person should be selected in such a way that his impartiality is unchallenged. The person should also enjoy the confidence of bureaucracy.

Another thing which I would like to suggest is accountability to parliament (hereafter the word parliament will be used to mean state legislatures also). Today what happens is that you tell the parliament what the minister approves and authorises the civil servant to tell the parliament. In some of the European countries if the civil servant thinks that the minister is not allowing him to tell the truth or is deliberately misleading the parliament, the civil servant can tell the parliament what he thinks should be told. And this is very necessary because this also serves as a moral force on the minister not to misuse the bureaucrat. I don't know how practical it would be. But, theoretically at least, this suggestion is worth considering. You must have read about the Scott Tribunal in Britain where this controversy is raging. The civil service is worried that the minister may pass the buck to the civil servants, saying that he signed that order, under what they call "claiming a privilege" only because the civil servant advised him, while the facts might be different. So the civil servant should have the authority to tell the parliament the facts, if the minister does not allow him to disclose the facts. This is also necessary to bring honesty in Government transactions and clean the atmosphere of corrupt practices.

Another thing which I advocated in the Government of India was that there should be voluntary retirement rights given to civil servants. He should be allowed to retire voluntarily any time he likes. Today, the minimum service requirement is

20 years. I was advocating that the minimum requirement of service should be five years, because a civil servant can take punishment upto a certain limit. Beyond that limit, he cannot accept the punishment. Either he crumbles or goes mad. So, it should be permissible for him to take voluntary retirement with some compensatory pension and permission to take up private employment.

Lastly, the civil service should be lean but well -paid. All of us should accept that the days of an omnipresent and omnipotent Government are over and the civil service will have to be lean but well-paid.

I sincerely believe that if some of these measures could be undertaken, the Indian bureaucracy can certainly meet the challenges of democratic polity, and to that extent could become efficient, render good public service, maintain its integrity, practice political impartiality and withstand political interference in its internal working.

Before I conclude, I am quite sure, you must be wondering why I am telling all these things after my retirement. This is a very legitimate question. I would have asked the same question. I am not rationalising. When you are in service, especially in a senior position, you are not only engrossed in your day-to-day work but also in fire fighting operations that you do not get time to sit down and think about it. And that's why I am making an appeal to the IIPA and other institutions like it that they should be vigilant and study these problems and advise the senior civil servants about what is happening in and to the civil service and what has to be done. If expert bodies like the IIPA do it, it will really help. I have always felt the need of somebody coming to me and telling me in an expert way what should be done. .

I know a lecturer in Public Administration who is present here. It was my misfortune that I had no friends in the academic world. But this should be done. I have always advocated that civil servants should take a week off every year and catch up with their reading. They should keep abreast of what is happening in the world and what can be done. I am also very keen about an informal code of conduct for civil service.

I had a very good team of colleagues and we kept a very high standard (of public behaviour). The institution of Chief Secretary of Maharashtra is very much respected in India because, the tradition here is that if a civil servant finds it difficult to resist political pressure, the standing practice is that he sends the file to the Chief Secretary who faces the music and absorbs the shocks. This is the institution of Chief Secretary in Maharashtra and I had been freely advocating it when I was in the Government of India. That's why I am keen that the post of Cabinet Secretary should not be politicised. Also, the civil servants should not lobby for the post of Cabinet Secretary.

These are some thoughts I felt I should put before you. You might say, 'Have you not made any mistakes while practicing these things?' I would conclude by stating

what Mrs. Margaret Thatcher, the former British Prime Minister, had to say, when she was interviewed about her autobiography where she has blamed everybody. The interviewer asked, "But Madam, don't you think you committed some mistakes?"

'I must have', she said, 'but I can't remember them offhand'.

(Yeshwantrao Chavan Memorial Lecture - 1993-94) *April, 1994*

## Ministers & Civil Servants

Servants, however, as a part of the permanent bureaucratic machinery, continue to work whichever may be the political party in power. The Secretary thus becomes a highly efficient, knowledgeable and expert officer on whom a generally not so specialised and knowledgeable Minister depends. This relationship becomes more pronounced as a modern democratic government is complex by nature and at many times specialised. Hence, the dependence of the Minister on his Secretary for guidance and advice becomes more important. This is especially so when what is known as the "memory function in administration" is mostly with the permanent civil service represented by the secretary.

All policy matters and other important matters have to be approved by the Minister in the light of the advice given by the Secretary and his senior colleagues. The usual practice is that if the Minister does not agree with the advice given or the proposal put forth, he discusses this matter with the Secretary and only then passes his final orders. Another unwritten convention is that if the Secretary feels very strongly, he resubmits the file for reconsideration. But, once after the Minister passes the order, then his decision is carried out and implemented fully and faithfully by the Secretary,

Apart from this courteous relationship between the two, there is also the relationship of confidence and trust. The Minister trusts his Secretary, and many a time the Secretary also has the confidence of the Minister. As such, the Secretary sometimes takes a decision in a case which should have been put to the Minister for final orders, in the hope and firm belief that he knows his Minister's mind. This becomes necessary as in urgent matters a decision has to be taken or order passed without any delay in public interest. The Minister fully appreciates this and confirms the secretary's orders. If, however, the Minister thinks otherwise, he may give a piece of his mind to the Secretary so that in future there is no misunderstanding between the two.

It is this system of confidence and trust between the Minister and the Secretary as also courtesy and consideration for each other which should govern this relationship between a Minister and his Secretary. As a matter of fact, efficiency of the Governmental machinery and the smoothness with which it functions depends much on such a relationship. Fortunately, in India, barring few exceptions the system has functioned on these lines. No controversy has become as public as it has happened in the present sugar import case. This is because of the unwritten convention that such disagreement should be sorted out internally and not aired on a public platform. The Minister calls his secretary and airs his displeasure or disagreement on file or in discussion. In an extreme case, the Minister may request the Prime Minister to shift the Secretary. Conversely, if the secretary also feels very strongly in a case, he may himself request the Cabinet Secretary to give him another Ministry. But in either case the things are sorted out in a more discreet way.

It may also happen that the Minister is too gentle and the Secretary overbearing, or the Minister is arrogant and the Secretary a meek civil servant. In such a case, the system functions but for different reasons.

Sometimes the Minister asks for a change of his Secretary not because he is unhappy with him but because he wants another Secretary whom he trusts or likes or knows. It may also be the case where a Secretary asks for a change because he apprehends that he may not be able to function with a particular Minister. This happens many a time when there is a change in government.

Further, a value system is required to sort out acute differences so that the system does not break or get distorted. One such distortion is that of leaking out information and details about disagreement between a Minister and his Secretary, by either or both of them approaching the press, quietly or discreetly. This is not very difficult what with investigative journalism being quite rampant. This assumes a rather exciting scenario if the disagreement between the two is due to an irregular decision or approach or even a hint on the part of either of them and especially the minister.

There is an escape route available to the Secretary. Many a time he approaches the Cabinet Secretary to sort out the difficulty with his Minister. The Cabinet Secretary is in an advantageous position being the head of the civil service and also because of his proximity to the Prime Minister. After studying the matter he may either, advise the Secretary to accept (gracefully) the situation or may go across to the minister to plead the case on behalf of the Secretary. Considering the eminent position of the Cabinet Secretary in the governmental hierarchy, the chances of sorting out the matter are very bright.

The extreme way out for a disagreement or dispute between a Minister and his Secretary is resignation or request for retirement on the part of the Secretary. This does not happen for a Minister. He conveys his unhappiness to the Prime Minister and insists on a change of Secretary.

Let me mention at this point the limitations of the Cabinet Secretary. In Government of India he cannot take any direct action in the case of any matter falling within the jurisdiction of the Ministry. He has to go to the Minister in charge and only the latter can issue instructions if he agrees with the Cabinet Secretary. Of course, the Cabinet Secretary can intervene with the specific approval or under direction from the Prime Minister. But, this is rare or very unlikely as the Prime Minister would either prefer to call the Minister and tell him what is required to be done. As a matter of fact, even a Secretary in the Ministry can decline to take instructions from the Cabinet Secretary who is first among equals. In practice, however, this happens very rarely because of the eminent position of the Cabinet Secretary in the bureaucratic hierarchy especially when transfers and postings of Secretaries are finalised between the Cabinet Secretary and the Prime Minister.

Let me quote some specific instances to illustrate this state of affairs where the system did not function smoothly and led to friction, during the period when I was Cabinet Secretary and then Principal Secretary to Prime Minister. I do not remember any case of such acute disagreement between a Minister and his Secretary during Rajiv Gandhi period. This was not surprising considering his undisputed leadership position, No doubt posting of Secretaries was done after informally sounding the Ministers concerned. Yet, the final choice was that of

the Prime Minister. The Secretaries, therefore, enjoyed a privileged position vis-a-vis their Ministers. At the same time to be fair to Rajiv Gandhi, He had asked me to send a message around that Secretaries must obey their Ministers' orders. He had also asked me to sort out any difficulties in this regard at the initial stage itself. Thus, I used to hold Secretaries' Committee meetings for various matters where such differences, if any, were always aired and I took care and precaution to sort them out at that preliminary stage itself.

I must, however, mention one or two rather unfortunate incidents when the Prime Minister publicly announced his displeasure with some of the Secretaries. The first incident involved Bandopadhyaya, Rural Development Secretary, and Srinivas Sastry, Agriculture Secretary. A large meeting of officials was arranged where these two officers were making a presentation about their Ministry's plans and programmes. Somehow the Prime Minister did not approve of some of the items and openly asked them whether they would like to go back to their states, thereby implying that they would be reverted to their state cadres. All of us were rather stunned. But I felt assured by the dignified response of the two officers who said they would not mind going back if the Prime Minister so desired. The other instance is quite famous. It was when at a press conference held in Vidyan Bhavan, the Prime Minister publicly announced the shifting of Venkateshwaran, the Foreign Secretary. Again we were stunned, including Venkateshwaran himself. I must, however, add that in both these cases, the Prime Minister later admitted to me very graciously that he was sorry about the slip on his part. Bandopadhyaya and Sastry continued in their positions, and the Prime Minister asked me to change Venkateshwaran's resignation into a request for retirement so that he could be sanctioned full pensionary and retirement benefits.

During V P Singh's prime ministership, however, there were many cases of friction and unpleasantness between the Ministers and their Secretaries. The most visible case was between Unni Krishnan, Communications Minister and Sam Pitroda, Chairman of Telecom Commission. It was apparent that the Minister picked on his Secretary as the latter was well-known for his proximity to Rajiv Gandhi. The Minister made his displeasure known on many occasions. But, Sam Pitroda responded in a subtle way. The Minister wanted to shift and send out Sam Pitroda. I, however, opposed saying that this had nothing to do with the work of the Secretary. Even then, we deferred any action in this regard as the Minister was holding charge of the Ministry of Communications as an additional charge. Fortunately, after some time Shri Mishra was appointed Communications Minister and the controversy subsided.

In another case, Otima Bordia was the Fertilizer Secretary under Devlal, Deputy Prime Minister and Agriculture Minister. An upright officer, she naturally found it difficult to work with her Minister. I sensed that something had to be done or else the system would break down and there would be a public scandal. I persuaded the Prime Minister to appoint her as a member of the UPSC.

Madhav Godbole, the Petroleum Secretary, with the approval of his Minister Gurupadswamy had announced some measures to control consumption of petrol, diesel and petroleum products. But, the Prime Minister was upset as he felt he should have been consulted. At that time, the Petroleum Minister was out of

India. So poor Madhav Godbole had to receive the dressing down from the Prime Minister. He naturally did not like this and asked for voluntary retirement. This again became a public issue. I as Principal Secretary, persuaded with the approval of the Prime Minister, Madhav Godbole to withdraw his request.

There was a proposal to export a large quantity of iron ore to Japan to earn foreign exchange. The Secretary opposed this move. Somehow this matter got leaked and newspaper reports flashed the details. The Prime Minister wanted me to find out how the leak took place and I had to bluntly tell him that this was happening everywhere in the government right from the office of the Cabinet Secretary.

External Affairs Minister I K Gujral wanted to shift foreign secretary S K Singh and wanted to appoint Munchkund Dube in his place. When the Prime Minister mentioned this to me I said that this had nothing to do with any differences on policy matters or even working of the Ministry. And this has to do more with the personal relationship between the two. Ultimately I had to relent, I tried to help S K Singh by offering governorship but, it did not materialise.

The present Kalpanath Rai - Sen affair is, however, something extraordinary. If the Minister was unhappy with the decisions taken by his Secretary, one fails to understand as to how the former could go public. His interview to a video magazine is something which is just not done. I am not going into the merits of the case but referring only to the public roles played. The reaction of the Food Secretary, Sen on the other hand has been more dignified, in that he has asked permission from Government to publicly state his side of the case. He is observing the correct decorum and code of conduct of a civil servant. The Minister should remember that if the rules of the game are not observed by both the parties he is bound to fall flat on his face. The Government would also find it difficult to refuse permission to the Food Secretary to go public as the whole bureaucracy is watching the scene. If the Government does not expect a civil servant to air publicly his grievances or disagreement with the Minister, it stands to reason that the Prime Minister asks the Minister also, to shut up or leave the Government if he does not listen to the Prime Minister. It is not an individual minister's behaviour that is under scrutiny but of the entire system. It would also encourage leakage of information as has happened in this case when a newspaper published the minutes of the meeting recorded in the Cabinet Secretariat. There can be other ways also to hit back.

We should learn something from the famous Scott Commission case in England. The differences between the Ministers and their Secretaries have come out in the open and there has been a tendency of passing the buck on the part of the Ministers. 'The Economist' has this to say in its 19th March, 1994 issue : "A start would be to adopt a device that is common elsewhere in Europe - an Act of Parliament governing the duties and responsibilities of the civil service. It should set out a code of ethics describing as explicitly as possible what is expected of the service and of its ministerial masters. It should include an obligation on civil servants to be honest with Parliament even when their Ministers seek to mislead it. Civil servants who feel that they are being asked by Ministers to act improperly can now appeal only to the head of the civil service - the Cabinet

Secretary who is also the Prime Minister's closest advisor. Instead, their recourse should be to an independent civil service ombudsman who is free to publish his reports". It is high time that in India also we examine such a possibility of having an Act of Parliament towards minimising the friction between the Minister and his Secretary.

Various rules and regulations are not getting suitably amended only because it would mean giving up the authority and power. Applicants have still to stand in long queues for permission and licences. For example, in Pondicherry even now the following approvals / clearances are required :-

### Number of Approvals / Clearances, at a glance

#### Required for a Project at Pondicherry

- I. No objection Certificate for Planning an Industry in Pondicherry
  1. NOC from Department of Industry
  2. Chemical Committee / Environmental Committee
  3. Land use board approval - from department of agriculture
  4. Ground water' permission - for sinking borewell
  5. Pollution department - NOC for water, air & noise pollution
- II. Permission for Establishing an Industry in Pondicherry
  6. Power feasibility certificate (to be renewed every 6 months)
  7. Water pollution clearance to establish
  8. Air pollution clearance to establish
  9. Plans approval for Chief Inspectorate of Factory & Boiler
  10. Commune Panchayat permission
  11. Land acquisition department approval
  12. Fire Department approval
  13. Health and Family Welfare department permission
  14. Town & Country Planning Department – Site clearance
  15. Pondicherry Planning Authority - Permission to erect the building.
  16. PWD permission for making approach road / culvert
- III. **Permission to run an Industry**
  17. Air pollution department permission to run a Industry
  18. Water pollution department permission to run a Industry
  19. Plans from Factory Inspectorate
  20. Commune Panchayat licence
  21. Fire department permission

22. Health and Family Welfare department
23. Pondicherry Planning Authority
24. Electricity department - for H T supply.

I am giving the example of Pondicherry because it is readily available for reference. But, similar would be the conditions in any number of states in India.

Rumour was that this was the result of strenuous efforts made by his ex-colleagues in the foreign service who had retired and were active in politics.

It was quite apparent, therefore, in December 1989, that Bhandari should have resigned when a new government came into office especially on an anti-Congress plank. Further, his tenure was visibly tilted towards the Congress. As a self-respecting person, he should have resigned on his own. For reasons best known to him, however, he did not do so. I was informally told that he was advised by the Congress leaders not to resign but to dare the government to dismiss him. May be he was hoping that V P Singh might not take this drastic step so soon. When this was mentioned to me, I advised the prime minister to take the well practised official step of giving transfer orders to an inconvenient destination. This worked, as Bhandari did not want to absent himself from the active political scene in Delhi then, and resigned instead of going as Lt, Governor of Andaman and Nicobar Islands.

I must also add that his successor as Lt. Governor of Delhi, Air Chief Marshal Arjun Singh, carried himself in a very dignified way and scrupulously maintained the status and position of the post.

- July, 1996

## CRIMINALISATION AND ACCOUNTABILITY OF INDIAN BUREAUCRACY

We are all worried about the criminalisation of politics and the politicians. An important aspect of this phenomenon is the criminalisation of the governmental apparatus, that is, the bureaucracy. Certainly if the bureaucracy would have remained untainted and unaffected, politics and politicians would have found it very difficult to succumb to this insidious force. It is therefore equally important to study as to how criminalisation came to affect bureaucracy, what are the reasons and how the menace can be countered and eradicated especially through the process of accountability.

The commonly accepted definition of criminalisation cannot be applied in the case of bureaucracy. For example, in criminalisation of politics and politicians, what is meant by this is that criminals, that is, persons convicted of, or charged with criminal offences can participate in political and public life. In the case of bureaucracy that does not happen as any bureaucrat served with a chargesheet or for that matter even picked up by the police and put behind bars pending investigation is suspended from service; and any bureaucrat convicted in any court is removed from service.

The most common example of criminalisation of *bureaucracy* is corruption. The bureaucrat may himself be corrupt or may indulge in corrupt practices for somebody else. This somebody is mostly his corrupt superior or his political master, that is, the political party in power. Often this corruption for somebody, is indulged in by a bureaucrat, not because he wants to or likes it but because he is forced to, mostly through pressure in the form of disciplinary action or transfer to an undesirable station. A bureaucrat may then succumb to pressure from politicians and actively indulge in corruption to serve the political party in power.

The root cause for corruption in bureaucracy is not necessarily the poor pay structure even though it may be one of the principal ones. But, the most important cause for corruption and absence of accountability is tremendous power, patronage and discretion given. The political system adopted by us, when we became free in 1947, allowed the government to become omnipotent, omniscient, and omnipresent. The visible manifestation of such a government are the politicians and bureaucrats who therefore came to assume overwhelming power. This power could not be challenged and the bureaucrat's word became the final decision. He could not be made to give reasons for his decisions. This also suited the politicians because the bureaucracy came to serve the political party.

In some places, the bureaucracy became so arrogant that it became law unto itself. This is especially true in the case of lower bureaucracy in rural areas like revenue and police officials. They often indulged in, or connived at free use of force and violence, sometimes senseless, to get whatever they wanted or to defeat and eliminate personal opponents or adversaries of a political party.

Sometimes this even degenerated in satisfying personal lust.

I am not trying to suggest that the above dismal picture applies to the Indian bureaucracy across the board. What I am trying to say is that this has happened, at least, in some states of India, and that unless effective steps are not taken in time, the rot is likely to spread to other parts of the country too including the central government. A classic example is the government and bureaucracy in the state of Bihar. The conditions in this state in the early 50s were so good that it was referred to in glowing terms by Appleby in his report. The state administration produced a number of civil servants who occupied eminent positions at all levels in the country. The political leadership, however, then started deteriorating and that too very fast. This not only criminalised politicians but also the bureaucracy. Corruption is now rampant there. Bureaucracy especially at the lower levels in the districts indulges in violence freely; for example, the blinding of undertrials in Bhagalpur. Atrocities by unlawful elements are connived at with the knowledge of the bureaucracy because of castiest considerations or because such elements belong to certain political parties. Even the senior bureaucracy seems to be indifferent to this rot. In fact, many of them have become active players in this process.

In a democratic polity like ours bureaucracy is accountable to the people through elected popular representatives. This unfortunately is not happening in India, in many cases, as the elected representatives themselves are highly criminalised. This has also affected the efficiency and efficacy of internal governmental mechanisms administered by the senior bureaucracy as they are helpless many a time because of the interference by politicians. This is the picture in many states in India and unless the elected representative machinery is cleansed thoroughly, it would be very difficult to eliminate criminalisation from bureaucracy. This, however, is a long-term process. Some measures that could be taken to make the bureaucracy accountable are as follows :

1. In most states Ombudsmen mostly called Lokayuktas have been appointed. There is a Chief Vigilance Commissioner at the centre. These Ombudsmen should be given more teeth and power to investigate expeditiously complaints against bureaucrats and initiate effective action.
2. Investigating agencies like the Anti-Corruption Bureau (ACB) or the Central Bureau of Investigation (CBI) should be made as autonomous as possible.
3. Our legal procedures are too cumbersome and lengthy. Hence, any legal proceedings initiated against a corrupt bureaucrat takes years to complete. No doubt under the Prevention of Corruption Act, the burden is shifted to the accused person; but even then the accused bureaucrat can take recourse to legal loopholes and legal processes such as appeals, etc., to prolong the proceedings almost indefinitely. This makes exemplary punishment a rarity. The same is the case with internal departmental inquiries. We should also have a new look into the provisions under Article 311 of the Constitution whose protective provisions are many times misused and abused by delinquent bureaucrats.
4. Hopefully, under the new climate of liberalization and deregulation, the

regulatory and discretionary powers of the bureaucrats will be vastly reduced. This would remove a large field of patronage and arbitrary powers from them.

5. Governmental rules and regulations should be made more transparent and it should be made obligatory for the bureaucrats to record reasons in writing for any decision taken.
6. The Official Secrets Act should be reviewed thoroughly and no privilege should be claimed by a bureaucrat or government for any document or information which is obligatory to place on the table of legislature. Even where such a privilege is to be claimed, it can be done only after the document is shown or information is disclosed to the presiding judge or presiding officer of the legislature.
7. We should seriously think of enacting a law for Right to Information. A similar measure for accountability of public expenditure should also be adopted.
8. Consumer courts should be more active where the service is rendered by any public department.
9. Entry to private parties should be given to render services which compete with those of the public departments or undertakings.
10. Non-governmental organisations (NGOs) and public leaders should build a strong and active public opinion.
11. The Press also has a special responsibility in being the public watchdog.

If the above measures are activated, there is every likelihood of enforcing accountability of the bureaucracy, which hopefully will also help in its decriminalisation.

■ *August, IViHi*

## Performance Appraisal in Indian Administration: An Examination of Surinder Nath

### Group Proposals

*Dhrubajyoti Bhaumik*

Performance appraisal is adopted as an overall methodology by an organization to assess the performance and capability of an individual employee. The most commonly used tool for the purpose is Annual Confidential Report (ACR). ACR provides the basic inputs for assessing a public servant's suitability for confirmation in service, crossing the efficiency bars, promotion, deputation and other special assignments. Aimed primarily at improving the performance of employees, the main focus of ACR is envisaged as being developmental rather than merely judgemental. Therefore, it is an effective tool for proper personnel management.

#### ADMINISTRATIVE REFORMS COMMISSION AND PERFORMANCE APPRAISAL

Since the dawn of independence in India, administrative reforms remained a part of government agenda and way back in 1969, the Administrative Reforms Commission recommended some changes in the performance appraisal system. While suggesting replacement of 'Confidential Report' with 'Performance Record', it was emphasized that at the end of the assessment year the government official should furnish an account of the work done by him during the year to the reporting officer on the basis of which the official concerned should be assessed. However, these recommendations were not accepted by the government till 1980s when some attempts were made to incorporate a measure for *ex ante* specification of performance expectations in the assessment process without making it a part of the All India Services (Confidential Rules) Rules, 1970. The present format of ACR came into force in 1986 after detailed deliberations in the workshop organized by National Council of the Joint Consultative Machinery which demanded for greater openness in the system. The format was based on the concept of 'Management by Objectives' in government in order to usher in new work culture.

## FIFTH PAY COMMISSION AND PERFORMANCE APPRAISAL

The Fifth Pay Commission, in its report, addressed the question of performance appraisal and made certain changes in the system in keeping with global perspective and with emphasis on productivity thus: (a) in place of awarding grades like 'outstanding', 'very good', 'good', 'average', or 'poor' finer distinctions in grading should be made. In order to remedy this deficiency grading of officers on a ten-point scale was suggested; (b) to ensure transparency in reporting and to serve the intended objective of providing a feedback to employees for improving their performance partial openness is highly desirable; (c) to attain greater objectivity in reporting and make ACR more focused and content-specific, there should not be vague or terse comments; assessment and appraisal of performance should be a continuous process highlighting achievements, shortcomings and in a given time schedule; (d) to be realistic and objective performance appraisal should not only assess traits and attributes of an individual officer *but* also assess team work and collective performance; and (e) counselling to an employee, who has been adversely reported upon, should form an integral part of performance appraisal.

After reviewing a welter of promotion schemes, the Fifth Pay Commission recommended an assured career progression scheme providing two promotions in the entire career span of an employee. This has to be dovetailed with the cadre review conducted for the purpose of maintaining a balance in functional requirements of a post and career aspirations of the members of the cadre. However, the scheme was conditional upon Performance Appraisal Report (PAR).

Barring broad summary observations, the Fifth Pay Commission neither proposed any philosophy of performance appraisal nor provided a detailed scheme for the purpose.

## SURINDER NATH STUDY GROUP ON PERFORMANCE APPRAISAL

The report of the study group, under the chairmanship of Lt. General (Retd.) Surinder Nath, former chairman of the UPSC, submitted in July 2003 on the system of performance appraisal in respect of all-India services, provides an important step in the management of the civil services in India. It would help in some tangible way in restructuring the civil services, and also contributing to the realization of good governance and economic reforms in the country.

### *Terms of Reference*

The terms of reference reveal that the study group was asked to make wide-ranging changes in the system of performance appraisal to ensure transparency, career advancement and placements etc. Terms of reference of the study group, which had been expanded twice, finally covered the following : (a) to comprehensively review the present system of recording Annual Confidential Review (ACR) so as to bring greater transparency and efficiency in order to motivate good officers; (b) to develop a system of recording of ACRs so that better performance or lack of performance gets properly and fairly reflected in place of 'happy family syndrome'<sup>1</sup>; (c) to evolve a new system of performance appraisal after looking at practices being followed elsewhere, particularly in defence services, leading corporate houses and multilateral organizations as well as the civil services of some other countries; (d) to review the present system of promotion of all-India services and other group 'A' officers to ensure greater transparency, objectivity and more clearly defined linkage with the performance appraisal system; and (e) to make recommendations for establishing a more clearly defined linkage between performance appraisal system and the background etc and their lateral movement in all-India services. Interestingly, the present system of writing Annual Confidential Reports (ACRs), governed by All India Services (Confidential Roll) Rules, 1970, remained unchanged since 1985. A committee was constituted under the chairmanship of Dr. N.C. Saxena to study the ACR system, but its recommendations had not been implemented as it was felt that the systems prevailing in other countries and corporate sector also need to be studied. In the light of this, recommendations of Surinder Nath Study Group have deeper significance and wider ramifications.

### *Proposed Performance Appraisal System ; US Philosophy*

Given the fast developing challenges of public management, the objectives of performance appraisal need to be widened and deepened to respond to the emerging needs of governance. The study group has recommended that there is a need for a paradigm shift in the philosophy of appraisal system. Accordingly, it has listed the following objectives to which performance should be linked : (a) training and placement, (b) feedback and counselling, (c) planning of work, (d) promotion, (e) recognition in service, and (f) strengthening of governance. A brief discussion on the objectives is appropriate here to reflect on the depth of its significance ;

1. *Training* : Given myriad challenges of development, governance, technological innovations and external environment, the performance appraisal system may be an effective tool to identify gaps in an officer's capabilities and training should be addressed for proper skill development.
2. *Planning of work* : Performance appraisal may identify performance expectations of the appraisee in relation to goals, targets and functions of the organization as also of self-realization and development of appraisee.
3. *Feedback and counselling* : Appraisal undertaken by the superior in recognition of his duties and responsibilities is to develop the subordinates. Such feedback is essential for appraisee's growth and better performance.
4. *Promotion* : A key function of the proposed performance appraisal system has been to judge if an officer is suitable for occupying a higher position. Such function in current performance appraisal system can hardly be discerned.

5. *Recognition* : Performance appraisal system may be a useful tool for recognizing exceptional work by appraisee as well as for using it as a basis for special assignment and other rewards including inputs to promotion.

6. *Strengthening governance* : Performance appraisal may refer to identification of performance expectations of the appraisee in relation to furtherance of 'good governance' within the organization. Good governance involves enhancement of time and cost efficiency, professional integrity in decision-making and procedural innovations.

An officer should prepare annual work plan in quantitative/financial or qualitative terms along with key assumptions. Mid-year updating of the plan should be admissible to take account of changed circumstances. This work plan should be filed with the review officer.

It has been suggested to assign overall responsibility for both monitoring and maintenance of the performance appraisal dossiers to one agency. For all-India services, this task may be assigned to cadre controlling authority in the central government who in turn may work with its counterparts in the state governments. Needless to say that a computerized system may in this context serve useful purpose, such as, timely writing of appraisal report by appropriate reporting/reviewing official, development of Master Data Sheet (MDS) to be used by promotion/screening committees, providing assistance to promotion/ empanelment committees, etc.

#### *Some Novel Features*

(a) *'360 degree' reporting* : The most novel recommendation of the study group has been "360 degree' reporting. In the annals of civil services in India, there has been no practice for evaluation of officer's performance and qualities by peers, subordinates and clients (termed '360 degree' assessment). The study group has found it worthwhile to supplement Performance Appraisal Report (PAR) with an institutionalized means of ascertaining the reputations of civil servants in consonance with our culture and ethos. Suggestion has been made for setting up of an Eminent Persons Group (EPG) (whose names may be kept secret) consisting of persons of acknowledged character and wisdom and who clearly do not have any personal stakes in the civil service of any-one in particular. The EPG may, through appropriate means (e.g., discreet personal enquiries or more structured surveys) ascertain from a range of peers, juniors and clients (e.g., public representatives, media persons, NGO functionaries, business persons, and the like) the reputation (both financial and moral), professional competence and attitudes of each civil servant once in every five years beginning from the tenth year. E.P.G findings in a confidential report should be delivered to cadre controlling authority and may be useful in the following contexts:

- (i) Placement to sensitive or special posts.
- (ii) Counselling officers at 20 years of service or 50 years, whichever is earlier.
- (iii) Advisability of accepting Voluntary Retirement Scheme (VRS).
- (iv) Confidential counselling of officers regarding their attitudes or conduct (towards juniors or public representatives) or activities bearing on moral or financial integrity.

(b) *Screening of deadwood*: The study group strongly recommended that officers who lack in demonstrating innovation, competence or who are unqualified or of doubtful moral or financial integrity or who are in unacceptably poor health should not be retained in service. It suggested that existing provision [Rules 56(1) and 16(3)] for compulsory retirement of those who have completed 50 years of age or 30 years of service should be properly utilized, elaborating its own scheme, the study group suggested : (a) a standing committee may be set up under Cabinet Secretary every year; (b) the committee should review the records of all officials who have reached the age of 50 years, or have completed 20 years of service; (c) records should comprise the Performance Appraisal Reports, report of performance in Specified Career Courses; (d) results of vigilance enquiries, disciplinary proceedings faced by the officer in his/her career: and (e) statement of pending proceedings etc. The norms for identifying officers to be screened out have been spelt out as below :

- (i) an officer who has failed to qualify for promotion to the next higher grade three times;
- (ii) an officer who has encountered three proceedings resulting from vigilance enquiries;
- (iii) an officer who has failed three times to qualify' in the requisite career courses for next promotion; and
- (iv) an officer who is permanently medically unfit to perform normal duties of the service as evidenced from biennial medical examination.

(c) *Domain assignment* : Suggestion of domain assignment is a novel feature in Central Staffing Scheme. While noting its usefulness for empanelment and placement of officials, the study group has identified the following eleven domains :

1. Agriculture and Rural Development
2. Social Sectors (Education, Health, Tribal Welfare etc.)
3. Culture and Information
4. Natural Resources Management including Environment
5. Energy and Environment
6. Communication Systems and Connectivity Infrastructure
7. Public Finance and Financial Management
8. Industry and Trade
9. Domestic Affairs and Defence
10. Housing and Urban Affairs
11. Personnel and General Administration Governance Reform and Regulatory System

Officers may be assigned to a maximum of three domains out of eleven. Officers due for consideration of empanelment may submit a write-up (not more than 1.000 words) summarizing their experience, academic background, training courses undergone, research accomplishments. recognitions relevant to the domain areas and significant achievements during their career germane to these areas. These write-ups may be scrutinized by the empanelment committee presided over by chairman/ member of UPSC and should include at least two eminent professionals agreed upon by Chairman, UPSC and Cabinet Secretary.

Domain knowledge may be distinguished from specialized knowledge in that the latter relates to more specific policy relevant knowledge within a given domain but is also based on relevant backgrounds. Further, definition of areas of specialised Knowledge is more difficult and issues involved happen to be numerous. However, the study group has sought to provide a matrix giving an indicative set of academic backgrounds and areas of training, higher study or research that would be relevant for each of the domains. A few illustrations are given below for understanding : the domain of agriculture and rural development requires no specific academic ground but training and study in agricultural economics *und* development studies is essential; for culture and information, academic background of liberal arts or social sciences is needed, followed by training and research in media, arts and culture administration; for the domain of public finance and financial management, academic background of economics training in public financial management or public finance and macro-economics are relevant; and for personnel and general administration and governance, though no specific academic background has been earmarked, training and research in personnel administration, management, public choice, regulatory studies and O&M are essential.

Diverse are the challenges inherent in civil service reforms. Perspectives and views on how they may be addressed also differ. While making its recommendations, the study group has sought to reconcile different viewpoints and perspectives keeping in view the overarching objective of achieving greater professionalism in administration. According to the study group, the approach and recommendations would, by and large, apply to all other non-technical services. True, existence of divergence may, however, call for some flexibility. Implementation of the recommendations, it is hoped, would help in restructuring the civil services and realization of 'good governance'. These can very well be foundations or seed-plots upon which a new administrative culture may blossom.

The study group has rightly enumerated plethora of weaknesses extant in the current system of performance appraisal : virtual non-transparency, weak monitoring system, problem of grade inflection due to 'the happy family syndrome', absence of quantifiable targets and impersonal attitude of the assessor, absence of the provision for recognition of innovation and creativity, non-recognition of leadership, team work skills, behavioural and reputational aspects etc.

While formulating the proposed scheme the objectives of performance appraisal at work in countries/organizations like the UK, the USA, UNDP, Tata Chemicals etc. have been adequately recognized in order to make it a suitable vehicle for decision-making in human resource planning, development and management.

Holistically, the recommendations of the study group provide a unique performance appraisal scheme, which is intended to undo bureaucratic placebo in the administration. The scheme may also suitably be adjusted in keeping with the needs of various organizations. It is possible to implement the recommended reforms within the constraints of democratic political system and government structure to achieve the overarching objectives of 'professionalism'.

Administration's tasks of India, which has been variously described as 'the Continent of Circe' or 'an area of darkness' or 'a wounded civilization' are increasingly becoming complex. It has now to confront 'a million mutinies'. Disadvantaged sections of the society have waken up to their rights. Everywhere, there are struggles against marginalization and these have to be resolved by proactive, innovative and management-oriented administration. Recommendations of the Surinder Nath Study Group would go a long way to measure up to the tasks

ahead.

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## Judging the Judges

*The frequent reports of acts of impropriety by some of the most senior judges should persuade the judiciary to take steps to improve its image and restore its credibility among the people*

SUMANTA BANERJEE

The **revelation** about justice K Venkataswamy's decision to simultaneously occupy two remunerative posts raises once again the question of the need for a code of conduct for our judges— whether sitting or retired. It may sound ironical to suggest such a code for judges, who themselves are supposed to be models of ideal conduct. But the frequent reports about acts of impropriety by some of the senior-most judges should persuade the Indian judiciary to take steps to improve its image and restore its credibility among the people.

Justice **Venkataswamy**, a retired judge, was heading a committee probing the government's conduct in a defence-related corruption case (the Tehelka inquiry) and while hearing the case in that capacity, he agreed to accept the same government's offer to become the chairman of an office of profit under its finance ministry - the Authority of Advanced Rulings on Custom and Excise. Shouldn't this raise eyebrows? The learned judge, surely aware of the controversial implications of his decision, should have chosen the most honest option. He could have made a clean breast of it, informing the public that he had accepted the government's offer of a job, and therefore decided to resign from the Tehelka inquiry commission as his continuance in that capacity might be seen as having prejudicial implications for the future judgment. But justice Venkataswamy chose to remain silent all these months (although the offer was made, by his own admission, as far back as January 2002 and his appointment was confirmed soon after), till a national newspaper broke the news. Only after this, he announced his resignation from both the positions.

The honourable judge's defence is rather peculiar, to say the least. At a press conference in New Delhi he disclosed that the then chief justice S P Bharucha had sounded him about his accepting the post in [the finance ministry. He added that **although he did wonder whether he should** take up another assignment when he was still dealing with the Tehelka probe, he agreed because "My wife told me then that when the chief justice asks, I should not say no" (*The Indian Express*, November 26, 2002). With due respect to our feminist comrades, should wifely power be harnessed to the careerist ambitions of a husband - and a judge to boot?

Justice Venkataswami came out with another argument in his defence at the same press conference. He said: "It is wrong to think that a retired judge will ever be influenced by any government posting". Can we trust this statement? Are all retired judges shining examples of honesty and independence? Whether sitting, or retired, judges who are corrupt will persist in their habits. Have we all forgotten the cause celebre surrounding the exploits of justice V Ramaswamy of the Supreme Court just a decade ago? Two audit reports indicted him for irregularities in withdrawal of travel and dearness allowances and extravagant expenditure on his house when he was the chief justice of the Punjab and Haryana High Court. Later a committee of judges headed by justice P B Sawant found him guilty of misconduct, but he escaped impeachment thanks to the political correlation of forces in parliament, which alone could initiate the impeachment proceedings. After his retirement, however, his proximity to chief minister Jayalalitha of Tamil Nadu earned him the coveted job of chairmanship of the Law Commission there. The last time we heard about him was in 1995, when he was named as a respondent in a petition filed in the Madras High Court by one of his tenants who alleged that the retired judge had threatened him with a gun when he resisted his pressures to quit the house. But at least three judges of the

high court refused to hear the petition against their retired colleague. Was it yet again another example of the trend that is current in our society - loyalty to members of our 'biradari' prevailing over professional codes of conduct? No one knows about the fate of the petition. But if a retired Supreme Court judge with a proven record of malfeasance, could threaten to kill his tenant, obviously assured of immunity from the powers that be to which he was close, we are surely entitled to take with a pinch of salt justice Venkataswami's clean chit to all 'retired judges'.

This is not a reflection on justice Venkataswami's judicial performance as the head of the Tehelka probe committee. In fact, the interim orders passed by him so far appear to demonstrate his sense of independence and ability to resist government pressures. His continuation in this judicial inquiry, instead of his acceptance of a government assignment that has got him embroiled in an ugly controversy, could have perhaps enhanced his reputation in his profession. But now it is too late for him to salvage the situation.

Meanwhile, lack of propriety in the conduct of some senior judges continues to plague the judiciary. The latest scandal is the indictment of three high court judges for their involvement in the **multi-crore** Punjab Public Service Commission (PPSC) scam. But what is baffling in this case is the behaviour of the apex court on the administrative front, which also amounts to a kind of impropriety. On August 26 this year, justice A B Saharya, the then chief justice of the Punjab and Haryana High Court, submitted to justice B N Kirpal, the then Supreme Court chief justice, a report on the allegations against the three judges. Incidentally, it was justice Kirpal himself who asked justice Saharya to conduct an 'in house' inquiry into the allegations made against the judges in the press. But justice Kirpal neither made public the contents of the Saharya report (despite demands from the public) nor took any action on the report for almost two months. It was only on the eve of his retirement last month that he decided to discharge his duty on the matter. And it was a strange decision! He transferred one of the scam-tainted judges, Amarbir Singh Gill, to the Guwahati High Court in Assam. The Guwahati Bar Association is now up in arms against his appointment in their court, holding demonstrations and quite rightly asserting that the north-east cannot be treated as a 'dumping ground' for corrupt judges from the north.

This purling gift by justice Kirpal before his retirement could have serious implications for the running of the administration in our judiciary and raises several questions. First, by virtue of his/her position, should the Supreme Court chief justice transfer to another high court a judge who is under a cloud and yet to clear his/her reputation? Secondly, should not the chief justice of the apex court be aware of the sensitivities of a corner of the country - the north-east - where the people had been always accusing the centre of ill-treating them? Why did he decide to choose this particular judge - still to be cleared of the charges made against him - to transfer not only to such a sensitive area but also to a high court which has the largest jurisdiction covering seven states of the north-eastern region? Thirdly, as the chief of the national apex court and expected to be well informed about the positions of the judges in the high courts in all the states, should he have not informed himself of the existing chain of command among judges in the Guwahati High Court before appointing a judge from outside? As things stand now, the scam-tainted judge on joining the Guwahati High Court will become the second senior-most judge after the present chief justice there, thus superceding others. Did the honourable ex-chief justice of the Supreme Court realise these untoward consequences of his administrative decision?

The appointment or transfer of judges has always been a bone of contention between the executive and the judiciary. Since the Constitution empowers the president to appoint or transfer judges 'after consultation with the chief justice of India', it was felt among judicial circles that mere 'consultation' did not ensure that the president would finally abide by the chief justice's recommendations regarding appointments or transfers. The bitter experiences of the emergency period, when judges were selected on the basis of their political loyalty to the ruling Congress Party (under the euphemism of the then newly coined term 'committed judges'), alerted both the public and the members of the judiciary to the need for maintaining the independence of the judiciary through some fool-proof me-

chanism. Eminent jurists like Setalvad and Chagla had earlier suggested such mechanisms, but no government acted upon them. Finally, the Supreme Court itself intervened in the dispute and in a judgment in a 1994 case (Supreme Court Advocates-on-Record Association vs Union of India) took upon itself the power of appointment of judges of the superior judiciary. In the judgment, the apex court ruled that 'consultation' (as envisaged in the Constitution) implied 'concurrence'.

Laymen expected that henceforth the judiciary would be rid of corrupt judges, since the apex court itself would have the final say in appointing judges on sheer professional merit without political pressures from the government. But (the experience of the last few years since the judgment was delivered proves just the opposite. There is no transparency in the selection of judges, as we do not know by what criterion the chief justice of India and his senior colleagues arrive at the final choice. There are allegations about family members of some senior judges having been promoted to the higher courts.

Even in its judicial verdicts, the Indian judiciary had not always covered itself in glory, what with the frequent tendency of some of its judges to slap contempt of court cases on reputable journalists and eminent writers at the slightest pretext that amount to suppression of freedom of speech or deliver judgments which often favour the continuation of the most obscurantist beliefs and practices that go against the directive principles of the Constitution. Such cases of miscarriage of justice are now being compounded with acts of misdemeanour in administration and malfeasance in society by some senior judges, both sitting and retired.

As a footnote, let me recall the words uttered by justice G B Pattanaik, as a judge of the Supreme Court when sentencing Arundhati Roy for contempt of court on March 6, 2002. Describing her affidavit as "a destructive attack on the reputation and the credibility of the institution", he condemned it since "it undermines the public confidence in the judiciary as a whole". Justice Pattanaik is today the Chief justice of India. While we earnestly share his concern for the "reputation and credibility" of his institution, may we respectfully request him to reconsider whether it is Arundhati Roy's affidavit or the behaviour of his own judges that 'undermines the public confidence in the judiciary'?

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## Bureaucracy Needs Structure Of Core Values

By Probir Sen

The state of the administration is uppermost on the prime minister's mind. Both, the NDA as well as the UPA government recognise the need to review and alter the way officers of the Indian Administrative Service (IAS) function. The P C Hota committee report is under the consideration of the PMO. The report, which suggests a process of recruitment after the completion of school, has generated considerable debate.

In the mid-eighties, former ICS officer R C V P Noronha described an ideal officer in the lines of Housman: 'Their shoulders held the sky suspended;/ They stood, and earth's foundations stay;/ What God abandoned, these defended...' Two decades later, in 2002, I was part of the National Human Rights Commission (NHRC) team that visited Ahmedabad in the aftermath of the communal carnage. The IAS and IPS officers, capitulating before political forces, failed in performing their fundamental duty of protecting life and property, and providing relief. Yeats' well-known lines of the 'Second Coming' summed up the situation: 'Things fall apart; the centre cannot hold;/ Mere anarchy is loosed upon the world;/ The blood-dimmed tide is loosed, and everywhere/ The ceremony of innocence is drowned;/ The best lack all conviction, while the worst/ Are full of passionate intensity'. What had happened in less than a generation? Apart from the inability to handle crises, pride in the profession and genuine self esteem in officers had been replaced by arrogance or subservience. To most clients we are, to use Shakespeare's unforgettable phrase, 'simians dressed in brief authority'.

Yet, whenever I have interacted with the young, whether in the IIMs, NHRC or colleges, I have been impressed by their talent, earnestness and capacity to imbibe ideals. What is missing in the IAS is a set of core values and purposeful training. Any organisation that aims at excellence — be it the army, a corporate house, or the erstwhile Indian Civil Service (ICS)—lays great emphasis on training. Training bridges the hiatus between a raw recruit and a role model, and in the process injects, most often imperceptibly, core values. Today, IAS officers lack both.

In almost all societies, values are transmitted through parents and grandparents, religion and the arts, be it literature, music, films. With the break-up of the joint family system and working parents gradually taking their place, the transmission from elders has ceased. Imbibing values from religion or the arts requires leisure and a capacity to reflect, which the young today never experience, due to their incessant preoccupation with obtaining impossibly high grades for access to institutions of higher learning. Good teachers and schools, who used to pride themselves on their ability to mould character, have been reduced to merely processing students for examinations.

The LBS National Academy of Administration, Mussoorie, the training institute for the civil services, is unable to transmit a set of values to young IAS probationers. This is due to the absence of unanimity among members of the service over what qualities make up a good officer. Unlike the ICS, young IAS officers have either a whole range of role models or none at all. Probationers reach the academy in their late 20s without values, or with values that are far from desirable, having already spent five or six years working. They enter the field with high IQs but no core values whatsoever, which is a potentially explosive combination.

Both, the Hota committee report and the proposal under consideration of the PMO to set up a 'National Academy' proposes inducting officers at much lower ages. There is an urgent necessity to do so. Together with this, it is equally necessary for those involved in training to have a clear concept of what the end product should look like. Once this exists, probationers could be encouraged to read particular books, go through certain case studies and be exposed to films and lectures from those who have lived their beliefs. Within the ICS, there was almost total unanimity regarding the qualities that good officers should possess. "What has to emerge is the picture of a man who gets through his files quickly because he wants to be out of doors and because he wastes no time on looking up the rules; who writes short decisive judgments because he is clear in his own mind where the right lies and does not seek to justify himself; who expects his subordinates to do their own work and trusts them unless he has reason not to; who likes to get about his district and see things for himself" (P Woodruff).

The concept of excellence for the IAS will in all probability differ greatly from that of the ICS. However, the important point is the need to have a vision of an ideal officer, with the attendant core values. Without this, training is reduced to transmission of knowledge that lacks both focus and purpose.

It is important to have faith in people. Unfortunately, there is repeated emphasis on having a whole set of levers to null and bind officers. This is entirely unnecessary. Selecting, nurturing and placing with care, providing direction and protection, and spaces to perform, will produce officers who will lack neither integrity nor sensitivity. If this be the case, then much else will follow. (*Writer is former secretary to Govt of India.*)

Mumbai city's first woman chief of the Crime Branch, Meera Borwankar, 46, is a photographer's delight. However, while the shutterbugs revel in the image of the attractive police officer, scribes have been hard put to get a word out of the businesslike and circumspect cop. To be a woman police officer in a force that has barely one or two per cent women is unique in itself; but to head an investigative force of 300 police officers is definitely a first.

Mumbai's Crime Branch is known as the premier department of the city's police force, handling the investigation of organized and white-collar crime, and law enforcement in the mega-polis. While it didn't exactly cover itself with glory during the Mumbai riots in the early 1990s, it has had to deal with the operations of rival underworld gangs remote controlled by Dawood Ibrahim, Chhota Rajan and even the don-turned-politician Arun Gawli. It has had to grapple with criminal cases against big film financiers like Bharat Shah, the ignominious Prevention of Terrorist Act (POTA) case against Mohammad Afroz and myriad encounters against gangsters by trigger-happy cops who call themselves 'encounter specialists'.

In recent months, the biggest damage has been done by the Telgi fake stamp scam that indicted several top cops, including ex-police chief R S Sharma.

Perhaps in an effort to mitigate the controversy surrounding the post, Borwankar has maintained an extremely low profile since taking over in July 2004. "Strictly no interviews," her personal assistant says, as 'Madam' wants to get to grips with her work before she talks to the Press. Years ago, when she was District Superintendent of Police, Satara (Maharashtra), Borwankar was much more amenable, even naive, with the media. This writer, who met Borwankar in Satara, recalls a surprisingly candid discussion with her on honesty and corruption in the police force. She said people around her often questioned why she wasn't part of the regular *hafia* (weekly bribe) system. Today, corruption is still, perhaps even more so than ever, a major issue in the police force and Borwankar has been chosen to stem the rot.

As Joint Commissioner of Police (Crime), Borwankar is no stranger to action, chalking up an impressive array of experiences in different departments of the police force. But she took charge at a juncture in Mumbai's police history when several senior officers of the force had been discredited for their involvement in the Telgi fake stamps scandal. At least 53 senior police officers (including the ex-police commissioner and a deputy commissioner of police) have been transferred or charge-sheeted.

Oddly enough, for someone who deals with the seamier side of life, Borwankar has done her Master's in English Literature! She graduated from Lyallpur Khalsa College and did her post-graduation from DAV College in Jalandhar, Punjab. She was, by all accounts, a very good student and became head girl of her college. Her father, O P Chadha, was with the Border Security Force. She is married to Abhay Borwankar, who quit the Indian Administrative Service to start a food-processing business.

In 1981, she became an IPS officer of the Maharashtra cadre, served as Deputy Commissioner of Police at Mumbai between 1987-91, held independent charge of Aurangabad as District Superintendent of Police (and later of Satara in 1996-99) and was posted at the state CID crime branch in 1993-95. She worked with the Economic Offences Wing of the Central Bureau of Investigation (CBI) in Mumbai and was DIG of the Anti-Corruption Bureau of the CBI in New Delhi.

Borwankar, who studied Policy Analysis in Law Enforcement at the University of Minnesota, USA, was awarded the President's Medal for meritorious service in 1997, apart from the

police medal and the Director General's insignia she had received earlier.

Accolades came her way when she conducted a lengthy investigation into the infamous Jalgaon sex scandal in which local politicians were accused of luring young girls on the promise of jobs and loans for financial distress. They were actually blackmailing them after taking photographs of them in compromising positions. The case rocked the country and investigations were rendered well nigh impossible as few of the girls were willing to risk social stigma and retaliation by lodging complaints.

However, Borwankar managed to secure some evidence from a few complainants on the basis of which First Information Reports were filed against the politicians, Raju Tadvī and Pandit Sapkale.

However, while the accused were convicted in lower courts, they succeeded in securing acquittals in the high court.

While that, unfortunately, is history, Mumbai's crime rate is not. For Borwankar, the challenges are many. Crime statistics in the city are alarming: Mumbai recorded a crime rate of 177 per 100,000 of population (Delhi, however, tops the list with 385 per 100,000, according to the National Crime Records Bureau, 2003).

Her immediate concerns are the extradition of gangsters like Abu Salem and his partner Monica Bedi from Portugal, Iqbal Mirchi and Tariq Parvin from Dubai and Sharmila Shanbhag from Germany. Many feel she is on the right track: she is keeping a low profile unlike her predecessors (she doesn't like to be invited as a chief guest for any social function) and is completely apolitical. With poverty constantly pushing a burgeoning population to the brink and organized crime jostling for space with white collar crime, Borwankar has her job cut out for her. - **Geeta Seshu**

## **Bihar IPS Officers Take Recourse to Insanity, Voluntary Retirements**

"Most of my seniors and colleagues are like dead bodies": DIG, Bihar  
Bihar IPS officers try to take recourse in insanity, voluntary retirement, and long leaves.... A senior IPS official of the Bihar cadre pleads to be declared insane. The story is somewhat similar for a few other senior IPS officials as well. Law and order in the state is at its nadir.

There are people who can bring about a constructive change for the state but they somehow do not fit the plans of the state government and are thus cooling their heels on non-cadre posts. The officers who are ready to comply with the wishes of their "Political Masters" are sitting pretty and comfortable, others are struggling against the odds.

Bihar is yet to forget the "DP Ojha" imbroglio. DP Ojha, the controversial DGP of Bihar was sacked by the state government on December 6, 2003 for criticizing Bihar's police brass and decrying its criminal links. However, several DP Ojhas are in the making.

Police officials seem to fit as appropriate victims of bias, who either opt for Voluntary Retirement Scheme (VRS) out of frustration, or go on long leaves. These are some of the ploys used by the officials to escape the anarchy prevailing in the state. The point of Achilles heel comes to light with the example of an official's request to be declared insane.

Ajay Kumar Verma, a 1985 batch IPS officer of Bihar Cadre, requested the government to declare him insane. Verma is currently posted as Deputy Inspector General (Crime Record Bureau). In a letter addressed to IG (Police Headquarters), Neelmani, on 30 September 2004, Verma has implored to be declared insane. His action has come in the wake of frustrations relating a series of departmental harassments. Verma is considered to be an upright officer and thus has to undergo the jitters of being posted at a low profile place. As SP (Vigilance) he made it to the headlines when he unearthed a scam regarding the appointment of lecturers. In another case, criminal cognizance was taken against five top IAS officials on Verma's investigation.

It is interesting yet appalling to note here that Verma was not paid his salary for four years at a stretch, starting from June 1, 1998 to March 2002. And in such trying times no one came to his rescue—neither the IPS association nor his fellow-mates. He was able to procure his salary only when he appealed to the High Court.

Verma threw a challenge of sorts to the state government, claiming he would make Patna a crime free city on the lines of a metropolis, if posted as the Commissioner of Police. He said about 95 per cent of his fellow officers were useless and were not in a capacity to perform.

"Most of them are yes, men, fulfilling their own goals," he says.

Coming down heavily on his seniors and colleagues, Verma says, "My seniors and fellow officers are like a pile of dead bodies, and they are worthless, insensitive and incapable. Most of the brilliant officers are cooling their heels on non-cadre posts.

When they can't help their own cause, how are they supposed to work for the society? Even the Director General of Police Narayan Mishra is not worth his chair. Till officers like Mishra continue to don the mantle of police chief in the state, no good can be expected."

But, senior IPS officer Arvind Pandey, who is also the secretary of Bihar IPS Association, calls Verma's statements as his personal opinion and refuses to endorse it. According to him,

"Verma's statements are highly uncalled for. It is only the greatness and wholeheartedness of the state government for which he is able to speak and write so much against the establishment." He stresses, "However, some of the steps taken by Verma are really laudable.

But many people are working and performing well. IPS officers are no dead bodies, it is sad that someone considers them as dead bodies."

In his letter, Verma has accused the government of violating rules by posting a chosen few on lucrative posts. He says, "Some IPS officers are posted at places where they hardly have anything to work, and on the other hand some are manning three cadre posts at a time, which is in gross violation of the rules." The officer also cited the example of Ashok Kumar Gupta, who is controlling three cadre posts at a time. Gupta is simultaneously IG (C1D), IG (Special Branch) and ADG (CID). On the other hand, brilliant officers like MK Sinha and Manoj Nath are posted at places, which hardly needs officers of their calibre and rank, says he. Once again the secretary of the IPS association comes to the rescue of the government and says, "It is the prerogative of the government to post any officer. No one should give an extreme statement."

Some IPS officers including Verma have demanded for a "Property Declaration Act" to be introduced. Under the demand they want all officers who are legible to move on election duty should declare their assets in public, along the same lines as politicians.

Arvind Pandey welcomes this move of Verma and says, "I am all for such an act, it is a must to curb corruption. But accusing the government of partisan attitude is not fair. In fact some people hanker for "plum" postings and blame government for not getting the same." Another senior IPS, Rituraj's sufferings are similar. He has sought Voluntary retirement from services with effect from February 1, 2005. Rituraj belongs to the 1983 batch, and has a long career ahead—alas he is not prepared to serve! His future plans—opening a computer institute and a non-formal school at his native place in Nalanda. Rituraj was in the limelight when he took on the controversial RJD MP Shahabuddin.

However, when contacted, the IPS officer chose to play safe and said, "I have Applied for VRS and the reason is extremely personal." He adds, "There is nothing like politico-police-criminal nexus or political pressure in the state and everything is going well." Ajit Joy seems to be another disgruntled IPS officer of the state cadre. He was the Inquiry Officer in a case against the Chief Secretary KAH Subramaniam, Deepak Singh, IG (Prisons) and Rameshwar Singh, a senior IAS officer. According to some sources from the Police Headquarters, he was allegedly forced by these IAS officials to submit a report according to their wishes. He was even promised some 'sops'. But due to the immense pressure, he

underwent severe mental trauma and stress. He moved out on a six-month leave out of desperation, with effect from October 1, 2004—few days after he submitted the report. He is said to be looking for another career alternative.

Another IPS has found a novel way to ease out his "joblessness". An officer of the rank of IG, Abhyanand, is presently a coaching instructor for IIT entrance examination and is a hot cake in the market. He has found his calling in the teaching profession and it seems he is more a teacher than an IPS.

But the movers and shakers of the state should not forget the day when a minister of the Rabri cabinet was roughed up by a group of audience during a public show for making undemocratic remarks on DP Ojha. On December 6, 2003—the day Ojha was sacked, the Excise Minister of the Rabri cabinet, Shivanand Tiwari was attacked by a mob at a book fair in Patna after he allegedly made some uncharitable remarks about ousted DGP DP Ojha. The mob started throwing slippers and brickbats, and chased Tiwari who was hurriedly escorted by his security men to a safer place. This was the first incident of its kind where the masses challenged the might of the "power house" of the state. The incident strongly indicates a public outburst in the offing, if things continue to get worse.

Ironically, the RJD Chief and better half of the former Chief Minister of Bihar said that the government has decided to initiate a departmental proceeding against Ojha; following a letter from the CBI that Ojha suppressed the investigation into the fodder scam as Additional Director General (Vigilance). RJD Chief Lalu Prasad Yadav is himself an accused in the fodder scam. It is tough to comprehend what were Ojha's interests in the fodder scam or why he suppressed the investigations or for that matter whether his superiors pressurized him? The masters of the state need to hear the ringing bells; they are the awakening alarm for a greater alarm that might befall them. They need to pull up their socks and act fast. Time and credibility are becoming a thing of past. - Arunoday Prakash

## **1 Deteriorating governance & its impact on delivery**

Poor governance and weak implementation are the main causes of poverty, backwardness and low human development in India. While the functions of the state in India have steadily increased, capacity to deliver has declined over the years due to administrative cynicism, rising indiscipline, and a growing belief widely shared among the political and bureaucratic elite that state is an arena where public office is to be used for private ends. Jockeying for positions of power has almost become a business today. Both politicians (this includes panchayati raj functionaries too,, and government servants make huge investment in grabbing such positions, and then have to recover their investments (and save enough for the next round of power capturing' by milking the state.

Rajiv Gandhi described the nature of public mal-administration in the following words: -

We have government servants who do not serve but oppress the poor and the helpless, who do not uphold the law but connive with those who cheat the state and whole legions whose only concern is their private welfare at the cost of society. They have no work ethic, no feeling for the public cause, no involvement in the future of the nation, no comprehension of national goals, no commitment to the values of modern India. They have only a grasping mercenary outlook, devoid of competence, integrity and commitment.

A note circulated by the Department of Administrative Reforms and Public Grievances vide its letter No. K-I 1022/23/96-P dated 6<sup>th</sup> November 1996 observed -

"The public administration and the civil services at all levels are passing through difficult times in terms of eroded credibility and effectiveness of the civil service, growing public perception of an unholy nexus between certain elements among politicians and civil servants and criminals and increasing criticism of the low level of honesty, transparency and accessibility to the political and bureaucratic elements in-charge of administration.

The present lack of transparency and the scope for manipulation of the system results in the criterion of merit being undermined by considerations of personal loyalty and complicity with unethical dealings. The absence of a well-defined structure for rewards and punishments, and the confusion regarding the desirable service norms for civil service has led to low morale and pursuit of career advancement at the expense of ethical values."

In a well-functioning democracy, the political process would ideally find answers to governance problems, but this is not happening in India. The political system in many states is accountable not to the people but to those who are behind the individual Members of Legislative Assembly (MLAs); these are often contractors,

mafia, corrupt bureaucrats, and manipulators who have made money through using the political system, and are therefore interested in the continuation of chaos- and patronage-based administration. The fact that half of the politicians in some states are either criminals or have strong criminal links and thus have no faith in the rule of law further compounds the problem. We

need to build a new code of accountability for the politicians and the officials alike, which would force them to perform their functions for the betterment of the people.

This is not to suggest that Ministers should have no role in administration; even MPs and MLAs should keep a watch over the performance of the services. Political pressure can be healthy if it results in greater demand on administration for efficiency and better services to the people. Pressures properly regulated and wisely tempered, improve the spirit of administration and help to keep it on an even keel. Unfortunately the main problem today is that the politics of the country has itself become divorced from public welfare and is more concerned with narrow sectarian interests. Politicians think that electoral behaviour can be manipulated through precipitating caste or other populist wave at the time of elections, which does not require sustained work in the constituency. At the same time elections require funds which have to come through the looting of the Government treasury. A vast gap exists between stated and unstated objectives of government. On paper the avowed objective of government is to give clean administration, but in some departments and states many posts are auctioned to the highest bidder. People have unfortunately accepted the position as *fad accompli* and resigned themselves to their hue. They too tend to seek short cuts and exploit the system by breaking rules or approaching mafia gangs and politicians for favours.

To be fair to the modern brand of politicians, it must be admitted that except for high integrity, neutrality towards party politics, and provision of minimal administrative services in times of emergency, the senior civil service even in the past had little to commend for itself. Efficiency in the civil services was always very narrowly defined; it was in terms of contempt for politics and adherence to rules, but never in terms of increased public satisfaction. Over the years, whatever little virtues the civil services possessed - integrity, political neutrality, courage and high morale - are showing signs of decay. Many civil servants are deeply involved in partisan politics: they are preoccupied with it, penetrated by it, and now participate individually and collectively in it. This is understandable, though unfortunate, because between expression of the will of the State (represented by politicians) and the execution of that will (through the administrators) there cannot be any long-term dichotomy. In other words, a model in which politicians will continue to be casteist, corrupt and harbourers of criminals, whereas civil servants would be efficient, responsive and change-agents is not a viable model. In the long run administrative and political values have to coincide.

### **Box 1: Governance in the X plan**

Chapter 6, Volume 1 of the Tenth plan on GOVERNANCE AND IMPLEMENTATION candidly admits delivery problems in the implementation of poverty alleviation schemes. We quote below from this chapter:

'The Mid-Term Appraisal of the Ninth plan, for instance, points out that an amount of at least Rs. 400 billion per annum flows for rural development by way of Central and State schemes in sectors like health and family welfare; social justice and empowerment; watershed development and agriculture; tribal development; subsidies on food and kerosene; and through schemes of rural development. This is in addition to public investment in infrastructure like roads and power which also directly benefits the rural poor. All this is directed to about 50 million poor families who, on an average, are thus being allocated roughly Rs. 8,000 per annum. This amount is sufficient to buy nearly 3 kg of foodgrain per day at the average rate of Rs. 7.50 per kg. potentially permitting them to overcome their state of deprivation significantly. The reason that this money is not being directly transferred to the targeted poor, and is being spent on State run development schemes, rests on the assumption that such initiatives are likely to build capacities, raise income levels and have multiple spin-off effects in the long run. The fact that benefits are not percolating at the desired pace is a reflection on the governance of these schemes.'

The challenge is extremely difficult but other countries have surmounted it in the past. In Mexico, for example, which possessed a notoriously corrupt electoral system until quite recently, reforms have yielded one of the cleanest systems in the world, relying heavily on public funding for elections, high but realistic campaign ceilings, an independent supervisory body charged with monitoring party and campaign spending on a regular basis, and stiff penalties for candidates and political parties that violate the new rules; candidates who do so are liable to criminal prosecution, while political parties can lose their registration and right to participate in elections if found guilty by the Electoral Tribunal. Indeed, the Electoral Tribunal recently imposed a fine of 8100 million on the former ruling party, the Institutional Revolutionary Party (PRI), for violating electoral laws in the '2000 presidential elections, the largest such fine imposed on a political party in the world, and is now investigating the party in power, the National Action Party (PAN), for violating spending laws in 2000.

In India too, deterioration in governance is not uniform throughout the Indian states. Whereas states like Andhra Pradesh, Karnataka, and Madhya Pradesh have taken concrete measures to improve the responsiveness of their administration, many officials and politicians in other states such as Bihar, UP, Punjab and most of the north-eastern states have often tolerated and even encouraged corruption and have looked upon the State as an open treasury. Even if political will in these states were not lacking, technical capacity in the civil service to reform itself is almost zero. There is complete paralysis of decision-making in Bihar, for instance, especially in the secretariat. The harm caused by indecision cannot be attributed to any particular individual or political party, and hence has no political costs. Thus the goal of 'development' does not appear attractive to the rulers, nor is the road map

very dear.

In these states the civil servants think that government is not a level playing held, one cannot expect fairness from government, and one has to approach the politicians with right kind of contacts for favours, whether due or undue. There emerged a new culture winch can be best summarised as "lick up and kick below", and "rules are for fools". Authority is delinked from accountability as most levels,

and in respect of most functions. As a result most state functionaries have realistic and plausible alibis for non-performance. All organs of state arc affected In the malaise of governance. The political executive, legislators, bureaucracy and judiciary no class of functionaries can escape responsibility. For instance. 20-2:") million cases are pending in courts, and justice is inaccessible, painfully slow and costly. Police reforms will remain ineffective if criminal cases are not disposed off expeditious!).

While Article 31 1 of the Constitution gives the bureaucracy lifetime security, the individual official has no security of tenure in specific assignments, irrespective of quality of performance. There is no incentive for better performance as promotions are often time-bound. In several states, the average tenure of key public officials is less than one year. Whimsical arbitrary, and partisan transfers have tended to reward dishonest public officials. Public interest is severely compromised, and power has become highly personalized and unaccountable. In many states, government power is reduced to exercise of patronage and arbitrary bureaucratic placement to serve transient, partisan, personal or sectarian interests of those in authority. Many governments are incapable of controlling or guiding the bureaucracy. They often end up serving the interests of bureaucracy at the cost of the public, collecting taxes only to pay wages.

Perverse incentives are not the only factor undermining the effectiveness of the bureaucracy. Its composition is also skewed. For instance, in most states, about 70% of all government employees are support staff unrelated to public service. - drivers, peons and clerks. A highly feudal culture of hierarchies detrimental to clear lines of accountability or effective decision-making prevails. Key public services education, healthcare, police and judiciary are starved of people, whereas many wings are overstaffed. Even when employees are deployed in productive sectors, their productivity is low and accountability is weak. The prevalent rent-seeking behaviour makes most basic services inaccessible to the poor and marginalized set lion-.

**Bad governance and the poor** - If power is abused, or exercised in weak or improper ways, those with the least power- the poor are most likely to suffer. Weak governance compromises the delivery of services and benefits to those who need them most; the influence of powerful interest groups biases policies, programs, and spending away from the poor: and lack of property rights, police protection, and legal services disadvantage the poor and inhibit them from securing their rights. Thus, poor governance generates and reinforces poverty and subverts efforts to reduce it. Strengthening governance is an essential precondition to

improving the lives of the poor.

For instance, teachers need to be present and effective at their jobs, just as doctors and nurses provide the care that patients need. But they are often mined in a system where the incentives for effective service delivery are weak, and political patronage is a way of life. Highly trained doctors seldom wish to serve in remote rural areas. Since those who do serve are rarely monitored, the penalties for not being at work are low. Even when present, they treat poor people badly.

Although many civil servants hold the view that it is the nature of politics which largely determines the nature of the civil service and the ends to which it would be put. and therefore civil service reforms cannot succeed in isolation, causation is also in the other direction. The reasons for decline in administrative capacity may be linked to politics, but the civil service too has its own autonomy. Non-performing civil service leaves little choice to the politicians but to resort to populist rhetoric and sectarian strategies.

The vicious cycle of distortions in politics leading to bureaucratic apathy (and vice versa, and both resulting in poor governance can be set right through taking a large number of simultaneous measures. A discussion on political and electoral reforms (restriction on the number of ministers through law is a good beginning), though absolutely vital, is outside the scope of this paper. But at the same time bureaucracy must realise that good governance is also undermined by lack of transparency, weak accountability, poor organizational and technical capacity, lack of responsiveness, inefficiency and poor motivation. These are the areas where civil servants have to take initiative. A vibrant movement towards good governance would itself create a demand for better services from the people, thus putting pressure on politics to move away from non-issues or sectarian gains to take more interest in the real livelihood issues of the people.

However many states in India, especially the poorer ones, have lost the dynamism and capacity to undertake reforms on their own without any external pressure. These states are ruled by people who understand power, patronage, transfers, money, coercion and crime. The language of professionalism, goal orientation, transparency, building up of institutions. and peoples<sup>1</sup> empowerment is totally alien to them. In these states neither politics nor administration has the capacity for self-correction, and therefore only external pressure can coerce them to take hard decisions that will hit at their money-making tactics. In the Indian situation (where foreign donors provide very little aid to the states as compared with what is provided by the Centre) this can come only from the Centre, backed by strong civil society action. Gol must, at the very least, do the following:

1. Improve incentive mechanism by linking fund transfer with performance
2. Improve monitoring mechanisms so that authentic information is available to planners about the quality of implementation for all important schemes
3. Amend the All India Services Rules to control the flourishing transfer industry in the states
4. Improve governance in central government departments, especially those with public interface, before lecturing on this to the states. For instance, Gol asks states to provide long tenures to senior officers, but the average stay of a Secretary to Gol Ministry was only 11 months in 2000, with only six out of 82 Secretaries

having completed (two years on the same post. Gol circulars to the states lose their credibility if it cannot demonstrate strong political will to control short tenures.

While points 2 to f are discussed elsewhere in this paper, we elaborate how performance can be improved by linking it with devolution.

**Link devolution with performance** - Go) transfers roughly Rs 1,50,000 crore annually to the states, but very little of it is linked with performance and good delivery. Often incentives work in the other direction. For instance, Finance Commission gives gap filling grants so that revenue deficit of the states at the end of the period of five years becomes zero. Thus, if a State has been irresponsible and has ended up with a huge revenue deficit, it is likely to get a larger gap-filling grant (West Bengal is a good example). In other words. FC rewards profligacy. States that have tried to reduce its revenue deficit are likely to suffer. Similarly Planning Commission transfers roughly 50,000 crore to the states, but without linking it to performance. It may be recalled that in May 1999 the Planning Commission decided to link the central assistance under its mandate with performance, and

a circular to this effect was sent to the states. It was felt that measures to improve accountability and transparency, and to make the civil service more productive and pro-poor would not be taken by the states on their own unless a supordinate body monitors and helps the states in such an endeavour, coupled with a threat of withdrawing assistance in case of default on agreed programmes. Commitments to reform have been made several times in the past but these have remained mere rhetoric because there were no immediate disincentives associated with inaction.

However, the states resented such monitoring by the Planning Commission, and pressurised the Deputy Chairman to continue approving central assistance without linking it to performance. The circular issued in May 1999 died a natural death. Since then there has been no new initiative in that direction.

The states argue that the Gol does not have any moral authority to improve governance in the states, as it has done little to take similar steps to reform its own administration. Whether it is downsizing or reduction of subsidies on fertilisers, food, gas and higher education, or passing a Freedom to Information Act. or reducing the number of centrally sponsored schemes, or providing long tenure to its senior civil servants Gol's record is almost as dismal as that of the man)<sup>1</sup> recalcitrant states. Constitutionally too, the states are elected governments in their own right and Gol does not have any constitutional right to 'discipline' them through administrative measures.

It is interesting to note here that the states accept several stringent conditions while borrowing from the World Bank and other donors (including conditions such as implementing any transfer of project staff only after consultation with donors) but fiercely defended their autonomy when the Planning Commission sought to introduce financial discipline and monitor projects in 1999.

The concept of good governance needs to be translated into a quantifiable annual index on the basis of certain agreed indicators such as infant mortality rate, extent of immunisation, literacy rate for women, sex ratio, feeding programmes for children, availability of safe drinking water supply, electrification of rural households, rural

and urban unemployment, percentage of girls married below 18 years, percentage of villages not connected by all weather roads, number of class I government officials prosecuted and convicted for corruption, and so on. Some universally accepted criteria for good budgetary practices may also be included in the index. These would include, among others, revenue deficit/surplus, quantum of fiscal deficit, outstanding loan repayment liability, interest burden, capital expenditure and the extent of government guarantees. Once these figures are publicized states may get into a competitive mode towards improving their score. Central transfers should be linked to such an index.

I hope the present Planning Commission would have the courage to revive the proposal of linking devolution with performance. An annual fund of about Rs. 10,000 crore should be created at the Planning Commission to augment plan resource of those states who agree to improve governance on the lines suggested in this paper. This fund would be available to the individual State only when it signs a MOU with the Planning Commission about the proposed reforms the State would undertake and the time period of completing various bench marks to be identified jointly by the Planning Commission and the State. Six-monthly meetings would be held with the participating states and the progress of implementation of various commitments made by the state governments would be reviewed, in addition, quarterly progress reports would be obtained from the state governments, on the basis of which monthly releases would be made to the states. In case the progress is not rated satisfactory, funds meant for the particular State would be transferred to other states in the same category. States will

be divided in three categories, those whose per capita income is below the national average, those where it is above the national average, and the special category states (such as the north-east and hill states). The advantage of this categorisation, which already exists in the Planning Commission, is that poorer states like Orissa will not be competing with better off states like Tamil Nadu.

Through a process of stratified random sampling five to ten villages can be identified in every State for impact studies and obtaining progress report in these sectors. This work can be given either to the academic institutes or consultants approved by the Planning Commission or to the Programme Evaluation Unit wherever possible. The allocation of additional funds to the states can be made in such a manner that the states which perform better get a corresponding weightage over the states which do not implement these programmes effectively.

## **2 Improving delivery: practical suggestions**

The success of public administration depends on the quality of the civil service and its accountability. The initial capacity of India's civil service is among the highest in the World, with meritocratic and fair recruitment. Yet India's civil services, the principal "face" of the government to the public and responsible for implementing government programs, must shoulder some of the responsibility for dissatisfaction with government's performance in providing a sound business environment, curbing corruption, and providing public services. The problem is not initial capability but institutional deficiencies. Non-transparency, limited accountability, poor incentive structure, and inadequate performance appraisal weaken

the civil service's administration, as do the standard problems of political interference in specific situations and government's widespread and intricate interventions that delay actions, create unwarranted power and provide opportunities for corruption.

### **2.1 Accountability**

As a consequence of its colonial heritage as well as the hierarchical social system administrative accountability in India was always internal and upwards, and the civil service's accountability to the public had been very limited. With politicisation and declining discipline, internal accountability stands seriously eroded today, while accountability via legislative review and the legal system has not been sufficiently effective. Often too much interference by Judiciary (as in Bihar) in day to day administration further cripples administration. In the absence of reforms to improve accountability, downsizing and better remuneration may result in a smaller, better-paid, but still corrupt and ineffective civil service. The question that needs to be asked is: accountability for what and to whom? (For example, greater "accountability" of civil servants to the political leadership may compromise their integrity and autonomy).

Strengthening civil servants' accountability to their administrative superiors (and, one hopes, to their subordinates as well) may be necessary. But strengthening internal administrative accountability is rarely sufficient to produce an improvement in government efficiency and the quality of services to the public, because internal controls are often ineffective— especially when the social ethos tolerates collusion between supervisors and subordinates.

"Outward accountability", therefore, is essential for greater responsiveness to the needs of the public and thus to improve service quality—whether it is the individual civil servant who is directly accountable, or the service unit, or the ministerial department as a whole. Outward accountability can be increased in a variety of ways—user surveys, investigative journalism, media access (e.g., radio talk programs), external monitoring, public opinion polling, etc. Various devices to this end have been pioneered in Australia, U.K. and New Zealand.

Priorities for enhancing both internal and external civil service accountability should also include: improved information systems and accountability for inputs; better audit; **face-to-face** meetings with consumers and user groups; publishing budget summaries in a form accessible to the public; a stronger performance evaluation system; scrutiny and active use of quarterly and annual reports; and selective use of contractual appointments.

One way to bring in accountability is to start the system of holding public hearings in matters pertaining to the works handled by each office. Prominent social workers and NGOs should be associated with this exercise for more productive results. Departments such as the Police and Revenue, which have more dealings with the **people**, should be assessed once in three years by an independent Commission, consisting of professionals such as journalists, retired judges or members of the armed forces, academicians, activists, NGOs, and even retired government servants. These should look at their policies and performance, and suggest constructive steps for their improvement. At present the systems of inspection are elaborate but often preclude the possibility of a 'fresh look' as they are totally governmental and rigid. The system should be made more open so that the civil service can gain from the expertise of outsiders in the mode of donor agency evaluations of projects. The teams would undertake surveys of quality of service delivery

in key areas; scrutinize policies programs and delivery mechanisms. Civil servant's views on work constraints and reporting fraud and corruption should be elicited. The reviews conducted should also form the basis of time bound changes and improvements which should be monitored.

## **2.2 Accountability through decentralisation**

Consequent on the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment Act political decentralisation has taken place in almost all the states where elections have been held. Though providing a framework for decentralized development, trends so far suggest that the panchayati raj and the municipal system have not **been** able to enhance participation and empowerment. Despite the fact that some village level panchayat leaders have done commendable work, on **the** whole the **PRIs** have not benefited the people to the extent of funds provided by government. Several empirical studies on the working of panchayats have brought out the following features about the functioning of these bodies.

- Gram Sabha meetings were regularly held only in a few places, and in most cases, participation in Gram Sabha meetings was low. Often such meetings were only on paper.
- There was little knowledge in the villages, of the amounts of funds received by the panchayats and the heads under which expenditure had been incurred.
- The criteria for the selection or rejection of beneficiaries was not clear to the poor. In many cases, it was obvious that lists were manipulated by the village chief and/or officials, and that only those who had the ability to pay bribes were selected as beneficiaries.
- Elected village sarpanches have spent huge amounts, often up to several lakhs in elections.
- The quality of delivery of benefits to the poor was low and leakages ranged from 20 to 70 percent. Most elected officials had the propensity to make money, and almost in all cases, panchayat sarpanch/ beneficiaries paid 'commissions' to officials. In effect, there were only a small proportion of cases - perhaps 25-30 percent where the delivery of programs had improved after the recent spell of decentralisation.
- Although not hostile to the process, local and Block level officials were still not facilitators of the devolutionary process.

Reasons for limited improvement are many.

Firstly, the control which is exercised by the Block level officials over the village Panchayats and gram sabhas (which rarely meet] has not only buttressed corruption and diluted accountability, but it has also led to pessimism that villagers at their own level cannot change and improve performance. The Constitutional Amendment mandates political decentralisation, leaving issues of design and implementation on sectoral, administrative and fiscal aspects to the states. The transfer of sectoral, administrative and fiscal responsibilities to PRIs has not taken place in most states. The State Acts have not clarified powers and responsibilities of the different tiers of PRIs nor the jurisdictional issue between PRIs and administration. The latter has been left a grey area deliberately so that in the absence of clear jurisdictions the state administration retains the power. Today PRIs

are not yet 3<sup>rd</sup> tier of the government, but an extension, of the 2<sup>nd</sup> tier. They are not functioning as institutions of self-governance, but only as agencies for executing a few programs of the state government/Gol.

Secondly, the system of reservations (though desirable from equity point of view) adversely affects the sustainability of these institutions. The seats held by women and scheduled castes/scheduled tribes are to be allotted by rotation to different constituencies. In practice, this implies that a woman or a scheduled caste/tribal elected to a panchayat will normally have a term of five years, with no prospect of re-election (In Karnataka the term is only for 20 months). This goes against the spirit of democracy, as people work hard for their constituencies in the expectation that they would be returned to power in the next elections.

Thirdly, the elected members of the PRIs at the block and district level behave more or less as contractors, with no institution of the gram sabhas at that level to put moral pressure on them. ZP and panchayat samiti members look upon devolved funds as equivalent to MP or MLA quota funds, and the Adhyaksha and the block President have been coerced to distribute these funds equally between all members. They in turn choose the contractor and the nature of schemes. Obviously schemes that offer maximum commission and least risk of verification (such as earth work, which of course is done by machines but shown to be performed by fake labourers) are preferred.

Fourthly, heterogeneous and unequal village societies often throw up leaders who have little concern for the poor.

Fifthly, factional fights at the local levels divert the energies of the elected officials from working for public welfare to consolidating the power of their group.

Sixthly, panchayats are mostly busy implementing construction oriented schemes, which promote contractor - wage labour relationship. These do not require participation of the poor as equals, on the other hand these foster dependency of the poor on Sarpanch and block staff. In such a situation panchayat activities get reduced to collusion between Sarpanch and block engineers. Panchayats are not active in education, health, SHGs, watershed, pastures and forestry programs, which require people to come together as equals and achieve consensus.

And lastly, PRIs are excessively dependent on the State and Central Governments for funds. Rather than receiving a share in taxes and Central grants the panchayats should have the right to levy and collect taxes on their own in order to reduce their dependence on state and central governments. Today the PRIs hesitate to levy and collect taxes, as they prefer the soft option of receiving grants from Gol or state governments. This must be discouraged and the local bodies be encouraged to raise local resources for development and then receive matching grants from the Centre/states. Therefore panchayats should not only collect taxes on land, irrigation drinking water, power, and houses, but also be given the authority to levy taxes on politically unpopular subjects such as agricultural income tax on large holdings. Even if one percent panchayats start doing it, the fear that collecting such taxes is a political

liability will disappear.

The more dependent a PRI is on the mass of its citizens for financial resources, the more likely it is to use scarce material resources to promote human development and reduce

poverty. External funds with no commitment to raise internal funds make PRIs irresponsible and corrupt. Flow of funds from the State/GOI should be dependent on good work or mobilization done by them. For instance these could be linked to the efforts made by panchayats in population and disease control, cleanliness, school attendance of females and their performance, and negatively with hunger deaths, crime, and civil and revenue suits.

Because of the factors stated above, panchayats have not emerged as responsive and equitable organisations. Mechanisms of accountability and in particular Gram Sabhas are not working, and neither are the right of recall, the vigilance committees or recourse to higher authority. People do not see Panchayats making decisions that are relevant to their lives, probably because PRIs have neither the resources to undertake development, nor the power to influence existing programs. Gram Panchayats (GPs) have become multi-village institutions and the resolution of competing village demands is made through less than perfect, sometimes opaque decision processes. Voting and rules of voting procedures within PRIs are not specified as mandatory in the Panchayat Acts. And caste and gender bias pervade the workings of PRIs, despite the reservations.

Limited progress so far does not mean that panchayats or other peoples' organisations have no potential. The following steps may improve their performance:

- Finance Commission and other Development funds to local bodies should not be given to states unless effective powers are transferred to them.
- As already argued, rather than panchayats get a share in taxes they should have the right to levy and collect taxes. External funds with no commitment to raise internal funds make PRIs irresponsible and corrupt.
- Panchayats should be graded and the amount of funds plus the degree of autonomy should be linked to their grading.
- Constitution should be amended to enable the states to abolish either the district or the block level tier of the panchayats, if they so wish, and retain only one out of these two, in addition to the village tier, which has the highest potential for direct democracy and participation through the institution of the gram Sabha.

### **2.3 Audit of panchayats**

Large expenditures are now being incurred by PRIs. Their accounts are to be audited by Local Fund Audit, but there are several problems. First, there are huge arrears, and in some cases accounts have not been audited for more than ten years. Secondly, the quality of their reports is very poor, therefore the utility of such audits is doubtful, the impact it makes on improving systems is at best marginal, perhaps negative. Thirdly, there are complaints of corruption, and the general impression is that audit reports can be bought. Lastly, elected officials are not held accountable for any lapses noticed in their reports, only officials are. which breeds irresponsible behaviour on the part of non-officials.

The quality of work done by panchayats should be closely monitored by a team of journalists, civil society members, panchayat leaders from the neighbouring districts (who have already done excellent work), and stakeholders. Based on these reports, panchayats should be graded, and future funds should be linked with their grade. Strengthening financial management and audit procedures will also strengthen accountability of the local bodies, their standing committees and its representatives.

In fact their capability for achieving transparency, participation, inclusion and ownership

can be enhanced by sustained work among the poor and marginalized

people for increasing their awareness. Non-governmental and voluntary organisations have a particularly key role in obtaining and disseminating information on the working of government (including local government), making people aware of their entitlements and obligations, and enabling them to vent their grievances and seek redress. Therefore to support panchayats in India Gol and donors should mainly invest in two types of initiatives: (i) efforts to build the capacity of panchayats and of citizens, especially from disadvantaged groups, and fii) advocacy efforts to persuade state governments to devolve more responsibility especially for tax collection to panchayats.

Rural decentralisation and PRIs are a profound change in the Indian rural institutional scene. They may ultimately offer a better option for rural development and poverty alleviation. Disadvantaged jurisdictions could then be the main winners. It is an important opportunity. However, it was a mistake to think that PRIs will emerge as caring institutions in an environment of rent-seeking politics and unresponsive and inefficient bureaucracy. If district level civil servants and politicians are indifferent to public welfare, it is too much to expect that village and block level politicians will be any different. To hold that the directly elected MLA is wily, corrupt, and irresponsible, while the indirectly elected Adhyaksha or Samiti President can be trusted with crores, is honest, and committed to public welfare is neither a good theoretical argument, nor has any empirical validity.

Thus there are big risks in premature promotion of PRIs. Past attempts at decentralisation failed in India, in part because of resistance of the vested interests of the bureaucracy and state level politicians. These vested interests remain. Steep deterioration in political morality has further distorted the scene. If not carefully designed, sequenced and implemented, decentralisation can increase the fiscal burden on the states and lead to a break-down in service delivery<sup>1</sup>, in particular to the poor. Strengthening PRIs, institutional reforms, and civil service reforms should all go together.

To sum up, effective panchayats/user groups would also require effective district and block level administration, hence need for better governance on the lines indicated in this paper should precede any expectation that the elected ZP and block leaders would change their perception of the Indian state being an 'open treasury'.

### **3 Improving M & E capacity for better impact**

Officials at all levels spend a great deal of time in collecting and submitting information, but these are not used for taking corrective and remedial action or for analysis, but only for forwarding it to a higher level, or for answering Parliament/ Assembly Questions. Field staff reports only on activities, it is not involved in impact assessment, or in qualitative monitoring. The concept of stakeholder monitoring is unknown. No indicators exist for assessing public participation or their awareness.

Emphasis is laid only on the initial or current expenses. After five years, little is done or monitored. Secondly, when money has been allocated for a particular activity in a particular area, it is assumed that the work in question has been done, and that it was sufficient. This ignores the fact that either of the above assumptions could be wrong. The primary monitoring activities have to do with fiscal accountability. While it is necessary, it should not be allowed to overshadow the need for technical and resource monitoring and planning work accordingly. At present, there is great pressure on the field staff as a whole to account for funds utilized, but not in terms of longer-term results, because those are not

monitored. Thus financial planning is divorced from physical planning.

The need for evaluation, both concurrent and post-project, as a part of the project schedule has yet to be recognized. In this respect, Externally Aided Projects are definitely on an advantage since the donor agencies have regular evaluations of their projects. Absence of evaluation mechanism in case of other national projects makes

it difficult to know the progress in various components and apply mid-course corrections. Project and policy are seen as separate inputs, impact of projects is monitored, but not of policy.

There is a vested interest all along the line in bogus reporting. For instance, according to NFHS -2 (1998-99), 54 percent children in Orissa under three years of age are underweight, out of which 21 percent are severely malnourished. But the data collected by the State from districts shows that the percentage of severe malnutrition in the age group 0-3 years was only 3.8 percent in Sept 98 which came down further to less than 2 percent of the children weighed in Feb 2001!

Similarly in UP the number of fully immunized children that is being reported by the state government is almost cent percent, as can be seen from the following Table:

**Percentage of children that were given immunization in 2001-02 in UP**

BCG	104
DPT	103
Polio	103
Measles	97
TT	100

However, independent surveys put the figure of fully immunized children in UP as between 16 and 20 percent only, and this figure seem to be falling every year. According to NFHS (II), this was only 16.3 percent in rural UP as opposed to 26.8 percent in MP and 43.3 percent in rural Orissa.

This kind of reporting defeats the very purpose for which information is collected. No learning takes place from this.

### **3.1 Mechanisation in employment programmes**

Recent reports point to an alarming trend of "mechanisation" of public projects and even relief works. Machines are being used in employment generation programmes in flagrant violation of the guidelines. In many states projects are being executed by using excavators, trucks and tractors instead of more labour intensive approaches. The use of labour-displacing machines {e.g. tractors and excavators} on public projects is increasingly common, even in cases where these machines do not serve any clear purpose other than lining the pockets of enterprising contractors and intermediaries. This is being done with full knowledge of the senior officials. For example in one of the study in Krishna district -out of 54 works, excavators were employed in 40 cases. Poclaines (the trade name for a kind of earth excavator) are becoming the preferred machine for undertaking a variety of village works through all kinds of programmes from the point of view of the rich (often

MLAs and other political leaders) who own the machines and hire them out for public works. The ideal policy should be to discourage its use even by construction Ministries, such as Railways and CPWD, and compensate them financially to build incentives for employing more manual labour. However, the reverse is happening. Not only labour is being displaced in the so-called employment oriented schemes, food meant for the poor is then sold in the market. thus distorting market for farmers.

In Sendhwa (Madhya Pradesh), a public hearing held on 29 May 2003 exposed the widespread use of tractors on relief works in the area, and this practice appears to be common elsewhere as well. Clearly, the use of labour-displacing machines defeats the purpose of relief works and other "labour-intensive" employment programmes. It can be seen as a violation of the right to work, and this practice should be nipped in the bud. This also leads to fudging of records and other malpractices. Clearly state governments and central government need to be more vigilant on this score, by stepping up its monitoring.

In some cases academic institutions are asked to review the schemes. Their approach emphasizes rigour, but often its completion requires years and policymakers lose their patience with their work. There are also reports by professional consulting organisations. especially on centrally sponsored schemes. However, the Ministries look upon giving of funds to consulting organisations as a patronage activity. Little interest is taken in ensuring the quality of the report, or in following up on their recommendations. The apathy of senior managers leads to poor quality reports, thus rendering the entire exercise futile.

It is not enough that the central government departments and the state governments use professional and academic organisations to undertake impact studies from time to time. Their findings must be publicised and discussed with key stakeholders so that improvements in design and delivery can be effected at the earliest. Governments should also put on its website findings of the impact studies, and distribute these in the workshops it organizes. Dissemination of results is critical for use.

### ***3.2 Role of the CAG and Audit in enforcing accountability***

Independent audits by the CAG are a major institutional mechanism to ensure accountability of the executive. Yet, this admirable institution too has been unable to curb mismanagement of expenditure. The CAG audit focuses mainly on financial irregularities and while systems or performance appraisals are carried out, these fall short of management audits and do not indicate how management can be strengthened. Also, physical inspection is rarely undertaken. CAG should involve social scientists and professional experts in auditing schemes and programs. There is no effective system to establish individual accountability for lapses pointed out by the CAG. The problem stems, in part, from the nature of program management since individual responsibility is not easy to establish under existing management procedures. In any case, all Departments and Ministries should publish in their Annual Reports action taken on GAG's findings in the last two years.

The reports of the CAG are discussed in the Public Accounts Committee (PAC) of the Parliament and State Assemblies, but general public is not sufficiently informed on the working of the PAC or their potential for safeguarding the public interest. Committee's hearings are also not open to the public, in line with best practice. Furthermore, the role

of the PAC appears to be reactive. It does not inform the CAG on the kinds of issues that it believes are significant for independent assurance nor does it normally call outside expert, civil society or private sector witnesses to contribute to its recommendations to the legislature. Other issues that may constrain the PAC's effectiveness include the time lag between the audit finding and the PAC's deliberation, a hiatus that delays government action in response to audit.

It is necessary to underline that the only justification for any government activity is that it subserves the interests of society, and particularly its economically and socially weaker sections. In this light, it is necessary that the work of all wings of the government is reviewed periodically and audited by the stake-holders themselves. It is obvious that this function is not done adequately by the audit of CAG which concentrates excessively on compliance with the formalities laid down for incurring the expenditure and neglects the output and outcome generated by such expenditure.

Rather than wait for the reports of the CAG, state governments should on their own announce their intention of conducting social audit of some of its main spending departments through well respected, knowledgeable and non-political bodies of individuals, who will involve in a transparent manner all categories of stakeholders. Special care will have to be taken to see that the composition of the social audit committees will command universal respect and will be above any party politics.

### **3.3 Shift focus from input controls to monitoring of outcomes**

The root cause of the implementation problem is that government (both politicians and bureaucrats) is neither adequately focused on nor accountable for social outcomes — the health status of the people, learning by students - and do not hold personnel providing the service accountable either. The literacy level of scheduled tribe women in Malkangiri (Onssa) is just two per cent, and yet no one's explanation has ever been called for this dismal outcome. Incentives to public providers are not such that anyone feels responsible for better or worse outcomes. The policy makers have insufficient means of influencing the incentives facing service providers. This weakness of administration hurts the poor and denies them basic services.

One way to make outcomes more of a motivating factor in service delivery is to generate and disseminate information regarding rights that people have vis-a-vis government services. Parents and patients should know what they are entitled to and have a place to lodge complaints when they are not received. Public officials should know whether the public is satisfied or not. Providers and policy makers should know (and be constantly learning) about what works. This requires outcomes to be more regularly measured and their determinants analysed. One critical role of the state government, when panchayats and departments have the primary responsibility for the delivery of publicly-funded services, is to be an independent source for this measurement. Initially, measurement of outcomes may just be for information and the sake of openness. Over time, such measures could be used to hold districts and departments accountable for improvements perhaps to the extent of conditioning fiscal transfers to panchayats based on progress. It is in the experimentation that such flexibility allows that solutions to the problem of implementation can be found. Lessons learned will help all districts and panchayats improve their performance.

The basic problem is most Secretaries, both at the Gol and State level, are not prepared to accept the reality of poor service delivery in their files, lest they and their Ministers would be taken to task in the Parliament/Assemblies. Thus vested interest develops from top to bottom in hiding the reality and resorting to bogus reporting. This is where PMO, Cabinet Secretary or the Chief Secretary can clearly lay down that government would encourage honest reporting, and the secretariat staff should exercise greater control over the HOD, who in turn should have greater operational autonomy than at present.

### **3.4 Social audit**

Financial audit aims at making organizations accountable to the government and to the legislature. Social audit makes them accountable to their stakeholders especially in relation to the social objectives. The key concern of social audit is the relationship between resource use and achievement of the social objectives. There is also an implication of how effectively resources can be mobilized so that the objectives can be fully met. Unlike conventional audit, social audit cannot be fully done relying on records and documents. It has to build in the judgments of the stakeholders who are associated with the organization. And, in addition to accountability, efficiency and effectiveness, equity also is a major theme for social audit.

Social audit helps an organization to understand its functioning and improve the quality of its decision making. It enables the organization to set right its relationship with its stakeholders. In a broad sense it is not fault finding and punitive but it is fact-finding and

corrective. This is the formal kind of social audit, which requires an organization or a trained group to carry out the audit.

Rather than rely only on the reports of the CAG, governments should on its own conduct social audit of some of its main spending departments through well respected, knowledgeable and non-political bodies of individuals, who will involve in a transparent manner all categories of stakeholders. Special care will have to be taken to see that the composition of the social audit committees will command universal respect and will be above any party politics.

Such an audit will supplement conventional audit and will often provide leads to it. It will help public agencies to understand their performance as perceived by the stakeholders and subsequently draw up action plans to improve on that performance.

At the same time of much more relevance in the context of decentralisation is the recently emerging version of social audit, which is citizen audit of spending by governments particularly local governments. This is an advanced form of participation and affords a new kind of continuous accountability to the citizens going beyond the traditional paradigm of democratic accountability at the time of elections. It offers a challenge to conventional practices and privileges like secrecy of public accounts and public expenditure decisions and patronage in dispensing benefits. This form of citizen or community audit is also a micro level performance audit where both actual investment of funds and its propriety are examined by the people. This kind of local audit helps citizen intervention in public matters to influence the development process.

Governments should introduce social audit service delivery performance by assessing the experience of the people service providers are intended to serve. With community participation, the evidence will be collected from households, communities, and the service itself. The social audit which has already been used by national and international agencies will promote accountability, equity, effectiveness, and value for money.

#### **4 Citizen's Charter**

All talk of improving performance is meaningless unless a bottom line of minimum acceptable standard of performance is stipulated. This has to be at two levels viz. organisational and individual. It is imperative that each Ministry/ Department of the central and state governments and all departments and agencies under the district administration, have a well defined and spelt out criteria by which performance of their functionaries can be evaluated. For example the Railways/ Airlines promise running of trains/planes as per the announced schedule. Non-adherence to this should entail adequate compensation for nondelivery of promised service. This concept could also be extended to other service sectors, such as urban bodies, Telecommunications, and Post Offices.

Citizens' charters are one vehicle to empower the public in their dealings with service providers. The Charter is essentially a statement on the part of government department on the levels of services which the citizen is entitled to, and which it is willing to guarantee to him. It is important, however, that such charters be developed in consultation with major stakeholders and widely disseminated. NGOs can also play a vital role in collecting raw data, transforming it into usable information, and disseminating it to a wider audience. One model charter is that developed by the Greater Mumbai Municipal Corporation (BMC) in June 1999, with assistance from an NGO, Praja.

Many countries in the world have used concepts like the citizen's charter or service

delivery agreements to attempt a prior specification of the service to be delivered. This ensures that the people who avail of services know what they can expect in terms of the quality and quantity of services. Therefore each department should select some pilot institution which would draw up citizen's charters for specific activities under them. This would begin with the identification and selection of those activities, which impact the maximum number of people and use the largest share of resources allocated to improving that activity. Gradually the citizen's charters would be extended to cover more and more activities under each department or agency. Finally performance in Government can only be enforced if non-performance invites due sanctions and penalties and good performance comes in for recognition and reward. This calls for introduction of some clear-cut changes in the management of the civil service in the State. The people cannot be penalized for the inefficiency of the public service. Gradually this will foster a more pronounced commitment to act in accordance with the value and ethics of the civil service.

Most government offices present a shoddy, dusty and neglected look. From the moment a citizen enters a government office, he is put off by its appearance. Working in such environment adversely affects the efficiency, productivity and motivation of the staff. Therefore adequate maintenance budget should be provided, and HODs should compete with each other in proper maintenance of the office premises.

All employees, including the senior ones, should wear name tags while on duty in their offices. There should be computerised attendance system to ensure that everyone attends office *on* time. Let Gol *introduce* it in its various Bhawans first to *set* a good example.

There should be periodical exit polls of all government offices which have large interface with public. Some of the questions could be:

How long did it take to have his work attended to? Did he receive courteous and helpful treatment? Was he asked to pay any bribe? Etc.

During introduction of citizens' charters, it should be noted that merely notifying citizen's charters should not be an end in itself. Each department should organise large-scale capacity building programmes to bring in attitudinal change in their employees. Officials should interface with public on at least one fixed day in addition to routine interaction, so that a system is devised for ensuring a speedy disposal of grievances at all levels of governance.

The Central Government has taken an initiative to get Citizen's Charters framed by various Ministries/Departments/Organizations. The Centre has framed 61 such Charters and six states/UTs have framed about 93. Some state governments have issued citizens charters under pressure from the donors, but without any commitment to reforms. As the example of UP given in the box shows, such charters and transparency GOs remain only on paper and are not taken seriously in the absence of constant review and monitoring of such practices by the senior departmental heads.

**Box 2: Making Governance Reforms Work: Transforming Ground Realities remains a significant challenge**

In pursuance of the World Bank initiative, 15 Departments in UP introduced citizen's charters in 1999. An effort was made to verify the ground reality with respect to two important pieces of reform. - the Citizen's Charter issued by a

number of government departments and an order issued by the Panchayati Raj Department to ensure transparency of functioning of the PRIs and giving people the right to obtain copies of muster-rolls etc at nominal costs ("Transparency GO")

In order to check whether Citizen's charters were operational, two offices of the government - the office of the Senior Superintendent of Police and that of the Chief Medical Officer were visited in a district of the State. Functionaries in the Police Department were unaware of any Citizen's Charter having been issued for their Department. In the Health Department, it was reported that an order with instructions to publicize the Charter for their Department had been received, but since there were no funds for the publicity, the order had been filed.

In order to analyse the implementation of the "Transparency G.O.", we made enquiries in a village panchayat with the Pradhan, the panchayat secretary and other villagers and asked them whether they were aware of such an Order. The enquiry was then pursued upwards through the administrative chain right up to the District Development Officer and the Chief Development Officer. The answer at every level was "No".

Finally, officials of the Panchayati Raj department (the originator of the Order) were asked. They also expressed ignorance. But the Deputy Director (Panchayats) was generous enough in directing the enquirer to two volumes of government orders on PRIs, and sure enough one of these related to ensuring transparency!

However, nothing much has changed since the issuing of the GO regarding the Charters. Both the political and administrative will has been lacking. Not much thought has been given as to what services can be guaranteed to the citizen, and what would happen if these services are not provided.

**Unleashing Citizen Pressures for Change:** The highly complex institutional terrain, particularly at the district level, dilutes the potential impact of attempts to mobilize public pressure to bear on the system to effect change. Pressure in this context thus becomes less efficient in realizing its objectives. Yet, without pressure from citizens, the prospects for change dim further. NGO's, for example, can generate public pressure for change through Report Cards, user surveys, and public hearings ("jan sunwais"). In Bangalore, the Public Affairs Centre (PAC) has focused on user surveys and report cards, Janagraha on analysing local-level budgets and making that information as widely available as possible, and the MKSS in Rajasthan on public hearings for improved local-level accountability. Other groups have concentrated on public interest litigation (PIL) to prod the government into taking action to improve performance in laggard services. NGO's have also played a significant role in improving service delivery: In Bangalore, the PAC conducted a user survey of maternity wards that provided necessary feedback to restructure the service by the Bangalore City Corporation (BCC), while Civic, another Bangalore-based NGO, helped design the Transport Department's new citizen charter. The PAC has since-conducted several additional surveys, including the first millennial survey of key services across states, particularly basic education, primary health, drinking water, public buses, and public distribution, as well as an evaluation of Karnataka's *Bkoomi* program, which revealed that land records computerization has resulted in a

steep decline in the perception of corruption to negligible levels.

**Citizen Report Cards** - The phenomenon of citizen report cards has been popular in developed countries since the early 80s. Its evolution followed the idea of looking at "citizens as customers" and public services as commercial products. Thus, market-based instruments such as consumer satisfaction surveys were used to measure citizen satisfaction with the services that they receive from government.

The strength of this model lies in the fact that it is very quantitative. The data generated from the surveys are very rich source of information for planning and can provide precious information for targeting of services. The biggest impact of the report card model is the presentation of its result to the public. Since no one can dispute customer satisfaction, the glaring evidence of public dissatisfaction that the report card makes public can heighten public pressure on non-performing government agencies. The critical success factors of the model are: availability of technical group that will pilot the methodology and will have the desire and capability to transfer such technology to citizen groups, the availability of external financing to pilot the system, the availability of resources as well as interest of citizen groups to sustain the project and an effective strategy to make the result of the report card public.

However successful replication of the model would require involvement of a large number of NGOs. These organisations need to be trained, appropriate partnerships with government need to be developed, and their findings should then be discussed in workshops with delivery agents and policy makers. Hopefully such discussions and its wide dissemination will lead to formulation of pro-poor policies, better design of development programmes, and improved delivery. The recommendations of such workshops can also be used by civil society for policy and legal advocacy, so that institutional improvements can be sustained on a permanent basis.

## **5 Nurturing civil society in India**

The central and state governments, while replicating or adapting these concepts in its settings, will need to pay close attention to the prerequisites for its success. One of the areas where public-private partnerships can be introduced in the states is in the running of care homes. Asking government servants to run such homes is expensive (as salary and pension burden in government is two to three times what the civil society pays to corresponding levels), and they lack the skills and motivation to provide care to the elderly or the disabled. Transferring such homes to the NGOs is cost-effective, as well as will ensure better services. Some other areas where GO-NGO (and of course, panchayat) partnership can be effective in making administration citizen friendly are

- Peoples' participation in natural resource management
- Community health and sanitation
- Monitoring primary education
- Village development schemes

Yet, despite the enormous burden posed by mal-governance, civil society action has been weak. This could be a reflection on the general state of civil society in the country and its priorities, but largely it is because government has unwittingly promoted bogus or pliable organisations, and has either ignored or has hostile relations with those NGOs that wish to speak for the poor and empower them.

Government's efforts to nurture and bring into its fold good NGOs have been constrained partly due to the ineffectiveness of the eligibility criteria to debar a number of so called

NGOs, whose activities are more akin to fly-by-night operators, from getting assistance from Government. For getting grants from government the proposal must look good on paper, and anyone who can produce such papers cannot be denied grants, as government cannot work on subjective satisfaction of the Joint Secretary! Government procedures are such that it is generally the corrupt and mediocre NGO who can wade his way through the maze of procedures and grab government largesse. Government's intention of weeding out fake organisations and thus setting up a stricter procedure for screening acts like a self-fulfilling prophecy, as procedures deter self-respecting NGOs and reward manipulative ones. Weak monitoring mechanisms in government has prompted social climbers and manipulators (that includes defeated politicians and civil servants' wives) who use their extra-professional 'resources' to obtain grants from several Ministries/Departments of Government and spend it fast, with no commitment to sustainable development or poverty alleviation. What used to be a sleepy office, the Registrar of Societies Office is now a prize posting for officials as they can extract rents from prospective NGOs for quick registration. Some well reputed NGOs notwithstanding; there are organisations that have sprung up in the last two decades for self-aggrandisement, and for the sake of easy money. These organisations have little interest or expertise in mobilising people's participation in development, and in empowerment of marginalized groups. They are contractor-type organisations who 'specialise' in raising awareness of the people (simply because it cannot be measured, often they would show expenditure of lakhs on workshops when actually they spent only a couple of thousands;. They also like to take up construction activities involving earth work for which again there is no measurement once the rains set in. Even when some assets are created its shelf life is short as felt-need for these assets has not been generated, nor adequate institutional building has been done to take care of maintenance of these assets. They have no clue about building up of village organisations.

A very large number of organizations funded by Government of India (specially from CAP ART and Ministry of Social Justice and Empowerment) are such who are basically promoting themselves rather than helping the poor. Even non-existent NGOs can get funding from Government, if they could manipulate a favourable report from the lower level officials or from manipulative consultants. This procedure of blindly relying on the report generated by the low level officials rather than on reputation of NGO in the field and face to face discussion with them encourages a very large number of self seekers to apply for grants. Instances are not wanting where the previous contractors, on finding drying up of state budgets for buildings and construction, floated their NGO organizations under a fancy name and succeeded in cornering Government funds.

Another reason for proliferation of bogus organisations<sup>2</sup> is the government's emphasis on fulfilment of targets and fund utilisation, which shifts the focus from the important task of supporting exclusively good and grassroots NGOs to funding as many projects and NGOs as possible. Some Ministries do have a system of sending NGO applications for pre-funding appraisal to monitors, but they are low paid consultants (often appointed on patronage considerations) whose intentions are not always honourable. Even non-existent NGOs could thus get funding from Government, if it could manipulate a favourable report from the monitor. When Ministers find NGOs pocketing government funds they do not plug the loopholes but encourage their own supporters to join the loot<sup>3</sup>. Bureaucratic reaction is to prescribe more formats and tighter procedure which deters good NGOs but crooks can always find their way through by bribing at all levels, and thus a vicious cycle is established.

### Box 3: NGOs: Dime A Dozen

An article (Outlook 22<sup>nd</sup> Sept 2003) summed up the NGO scene in the hilly State of Uttaranchal as:

- 45,000 NGOs
- Nearly 10,000 NGOs and societies have come up since November 2000
- A large majority are non-functional or bogus
- Widespread misappropriation of funds by NGOs

Faced with reports and allegations of such misconduct, Dehradun's District Magistrate ordered a survey of registered NGOs and societies in June last year. Dehradun district is home to 7,469 NGOs, the largest concentration in the State. The initial results of the survey show that of 223 organisations checked so far, 139 NGOs and societies are fraudulent or registered only on paper. "It is quite evident that barely 10 per cent of the NGOs in Dehradun district are functional. The rest just sit there, waiting for funds to come by," says chief development officer P.S. Jangpangi. He says the situation in the rest of Uttaranchal is "even worse".

Moreover, even where the NGOs were genuine, Government is not able to effectively monitor the large number of sanctioned projects, draw appropriate lessons regarding technology, reasons for success or otherwise and thus be able to guide the other NGOs wanting to intervene in that sector. The blind emphasis on fund utilisation played havoc with the quality of projects.

A third factor for the reluctance of good NGOs in applying for Government's support is the availability of Government's assistance to strait jacketed Government schemes only and keeping innovative proposals (i.e. those which do not fall within the framework of strait jacketed Government's schemes) outside consideration. Fourthly, Government has not played a pro-active role in establishing partnership with committed NGOs and has generally confined its attention to only those who apply for funds to its office. It has on its own not requested good NGOs to come to its fold and begin a relationship. Finally Government subjects all proposals including those from good NGOs to a uniform appraisal procedure inhibiting sensitive or well-established NGOs or those engaged in social activism from approaching Government.

Unlike Government which seeks satisfaction on paper before sanctioning grants, the donor agencies (such as Ford or Norad) follow an entirely different approach. There are a series of meetings held with the prospective recipients. The Program Officers or well paid consultants (whose integrity cannot be questioned) visit the NGO and see for themselves the past work done by the voluntary organisation. This procedure of aiming at subjective satisfaction of the Program Officer may increase overheads but it screens out the bogus societies, and reduces the scope of fraudulent practices. Since the number of grants that the donors make is limited (Ford makes less than 100 grants a year as against some 500 by CAPART with one-third of the total budget of Ford), it is possible to ensure quality and reduce the risk of grant going to a bogus organisation.

It must be recognized that improvement in governance would take place only when countervailing forces in society develop confidence and autonomy to oppose

inefficiency and corruption in government. Therefore in addition to promoting genuine organizations, the Home Ministry should relax FGRA provisions so that NGOs have access to independent funding.

According to a large number of NGOs the FCRA is a major impediment for the voluntary sector. Getting registration is difficult and as a result a lot of very deserving and small NGOs are not able to access foreign funds. The premium on getting FCRA is such that it has led to corrupt practices. It has also resulted in NGOs obliging NGOs who do not have FCRA number, although it is not permitted under law. This would not be a problem if quality funding from Indian sources were available to the sector for long term institution building work and strengthening of civil society at the grass root level. For the private commercial sector there is a friendly and liberalised regime while for the important issues of development connected with the poor and deprived sections of society there are restrictions that are inconsistent with the spirit of democracy and pluralism.

Given the relatively low levels of human capital in certain states in India, NGO's and other groups will also have to play a leading role in mobilizing pressure to empower citizens in a fashion similar to the work of MKSS in Rajasthan or Parivarthan in Delhi (on the subject of public distribution of food grains) to improve access to information and combat corruption at the local level. Without citizen participation and involvement, there is always the risk that even the most carefully crafted reforms might eventually run out of steam and stall altogether. However, the experience of GAPART and the Ministries of Social Justice & Empowerment and Tribal Affairs shows that government looks upon giving of grants to NGOs as a source of patronage at its best, and a source of commissions at its worst. Government has thus corrupted the NGO sector or encouraged crooks to float NGOs, and thus given the entire sector a bad name.

Since it is not possible to change the work culture of the Ministries and Departments dealing with the NGOs, I suggest that Gol through the Planning Commission (which is the nodal agency for dealing with NGOs) make a direct contribution of, say, 100 crores to the recognised trusts, such as NFI, Ratan Tata Trust, Action Aid, who should be dealing with grassroots NGOs, without the direct intervention of government officials in sanction of grants. The Trust could have government officials on its Board to safeguard the interest of the public money.

Capable NGOs have several strengths, including their capacity for independent thought and action. They make strong partners because they maintain their independent voices, which allows them to represent beneficiary views to governments and donors clearly and without obfuscation. The strengths of the NGO delivery system are increasingly being appreciated by policy makers in government. In the 1990s, India has witnessed the rise of several governmental programmes in which the NGOs have been assigned an important role. The best examples of these programmes, in which both government and NGOs act as facilitators, are: the mass campaign for literacy; the Watershed Development Programme; and Joint Forest Management. Lately they are actively involved in the AIDS and anti-polio campaign. The major difference in these programmes from the past has been their focus on empowerment through mass mobilisation, motivation and organisation, with information on rights, laws and schemes through training.

Several changes in policy can be attributed to policy advocacy done by the grassroots organisations. The best example is the Right to Information Campaign in Rajasthan that has led to not only passing of a law but has vastly improved sharing of information by government with the civil society. There is anecdotal evidence to show that corruption is

much less in Rajasthan's rural development programmes than elsewhere.

Because the philosophy of empowerment runs counter to the established image of government as a hierarchical and coercive institution, such efforts at policy advocacy are not very well understood by the bureaucracy, especially at the lower levels.

The relationship between the NGOs and bureaucracy in India is a complex one, characterised by mutual suspicion and hostility. While the NGOs regard bureaucracy as inherently insensitive, oppressive, inefficient, parasitic and corrupt, the image of NGOs among government officers is that of trouble-shooters and wasters, and totally dependent' on government or foreign funding. The fact that most NGO staff today, unlike their predecessors 30 years ago, no longer have an austere life-style and are well-paid professionals opting for social work as a mainstream (and frequently globalised) career adds to such an impression. Several bureaucrats think that if a NGO professional frequent!) travels abroad and is well paid he must be a hoax. This is unfair. We should judge them by their deeds and output and not by their salaries.

As the best NGOs in India depend on external funding, we discuss some of the issues connected with such funding.

Government in donor projects often seeks NGO involvement in order to fill gaps, often short term. Gap-filling leads to contractual relationships where NGOs are employed for a fixed period for a fee. Continuity and, as a consequence, sustainability is often not expected. Contracts with NGOs are attractive to donors when they cost less than comparable service provided by government and because they offer flexibility. Contracts can be of short duration—and they enable donors to work outside the rules of public service employment. which are often seen as restrictive. But what is good for donors may be bad for NGOs. Narrowly defined contractual relationships allow little room for the innovation or flexibility that NGOs may bring to their work. Rather than look upon NGOs as cost-effective implementation mechanisms engagement with civil society has to touch all parts of development assistance, including core funding for institution building.

Often the agenda is set by donors who expect civil society to conform, and to conform very quickly. On the one hand donors on paper at least aim to put civil society in the driving seat but then tell the driver where *to go!* /s civil society in the driving seat or is it the taxi driver? NGO contracts are often written as if villages were identical when they were complex and varied and could not be organised or motivated at the same pace. NGOs also find the reporting requirements as excessive, raising the overhead costs of lean organisations to unreasonable levels.

Then, some of the better known NGOs are already over-funded and their capacity to absorb more funds is limited. Then, presently the reach of donors to remote NGOs is inadequate. Norad fears that NGOs based in Delhi might corner donor funds to the detriment of more deserving rural organisations. Most of the voluntary agencies in India are working in isolation and they are scattered, unorganised and operate at micro-level. They lack coordination and cooperation between themselves and with other institutions as well. This also explains why the

lobby for aid is so weak in India. If the donors do not develop mechanisms to reach the remote NGOs, Norad's fears may well be justified. Therefore, not only the donors should expand their reach, but fund intermediate organisations, such as the National Foundation of India (NFI), which would then work through smaller and remote organisations. NFI and other such intermediate organisations, such as IUCN, Oxfam, etc should also organise capacity building workshops, disseminate knowledge about best practices from other states, and document the grassroots experience for wider circulation. Lastly, as already argued, best results are obtained when government collaborates with civil society in programme design and implementation, as it combines the scale of government with NGOs' empowering strategies supported by constant monitoring and reviews funded by the donors. NGOs are valued partners when they complement government rather than substitute for it. There are four main advantages in working through the Government system in spite of its Haws and bureaucratic approaches. Firstly, working through government in itself may contribute to strengthening and improving the government institutions. Secondly, working through government also gives better opportunities for replication and scaling-up of achievements and innovative approaches. Thirdly, this is the best way to avoid creating parallel structures which in the long run may generate problems. Fourthly, it is administratively more demanding to work through NGOs because of their small size and limited capacity. On top of this there is the problem of bogus NGOs and how to avoid them as well as the fact that NGOs are unevenly spread.

If government wishes to continue funding NGOs. it must do so in a transparent manner. Gol and the state governments should establish a system of grading of the NGOs based on their commitment and performance into 4- categories as follows:

- (1) NGOs that more than adequately meet the eligibility criteria - grade A,
- (2) NGOs which adequately meet the eligibility criteria - grade B
- (3) NGOs about which government does not possess adequate knowledge - grade C.
- (4) NGOs whose work was not found satisfactory in the past - grade D

Care would be taken to ensure that smaller but committed NGOs with new ideas and enthusiasm are not ignored in this process. They should find their due place either as Grade A or Grade B. Government grants should generally be limited to grade A or B NGOs only. Normal procedure of pre-funding assessment should also be relaxed for grade A NGOs.

## **6 Transparency**

An integral part of modernizing government is making it transparent and accountable. Public servants withhold information from citizens for many reasons. Relevant information that is jealously guarded by officials (this might include prices, forms, officers to be contacted for grievance redressal, and existing procedures to be negotiated by applicants) yields asymmetrical returns to them. Most manipulations succeed because of the environment of secrecy that pervades government functioning. There is no early check because decisions are taken behind closed doors. Greater access by the people and transparency cuts those returns to officials and reduces their capacity to extract rents from citizens seeking information. The sharing of information and making the entire system more transparent would

certainly reduce the danger of the system being hijacked by the undesirable elements. Transparency builds external demand for reform and makes administration more responsive and performance oriented.

The Government of India promulgated the Freedom of Information Act 2002, which empowers access to all its citizens to the administrative information, government records, and related data. Under this Act, information which can be made available to the members of the parliament or members of the state legislatures would also be accessible to the common citizen, but with a few exemptions and exceptions, which unfortunately seem to be rather wide and indiscriminate. However, the Act has still not become operational for want of Rules. This needs to be expedited.

If the right of the ordinary citizen to information is recognized, it will dramatically increase the strength of the citizen to understand and challenge corruption and the arbitrary exercise of state power. It should be the duty of each officer to pro-actively attempt to increase the power of the citizen in his or her relation with the state, through building in transparency into all official procedures and systems, and suo-motu making available all relevant information to the people.

In the context of development works, for instance, this would mean enforcing the rule that all muster rolls and bills are regularly read out and explained to the people in Gram sabha. To do this, no radical change in official rules is required. On the contrary, existing rules already provide for such sharing of vital relevant information with the public and gram Sabhas. However, such rules are mostly observed in the breach, because it suits the bureaucracy to conceal such information to enable its arbitrary, malaise, nepotistic and corrupt exercise of power. As an experiment, all muster rolls be put on the Internet in at least one block of a district (choice to be left to district administration in consultation with local civil society) where Internet facilities exist- Gol should provide funds for computerisation.

Sometime in 1998 Gol decided to start the practice of putting information kiosks in their offices. However, most of them today contain what has been called cynically as government junk like the annual reports and other reports which generally people do not read. What is needed is to provide in these kiosks information which the public needs and which is important for those who have to interact with that organization. It is possible for the nongovernment organizations and enlightened citizens to take up with the concerned departments the question of providing such information as is needed for greater transparency and checking of corruption in those departments.

Government departments should also mount surveys of the perceptions and experiences of the ordinary people and civil society in sectors which have a public interface. These surveys will both measure public perception and experience of the integrity of staff interacting with the public and overall performance in the delivery of services. Surveys should be carried out by an independent institute/survey body of recognized survey experience and integrity, and the results will be published in time bound manner. Implementation of the recommendations of these surveys should be ensured. Similarly publication of reports of state-sponsored commissions and key policy papers should be compulsory. Transparency is also needed in internal matters relating to civil servants.

The Official Secrets Act, 1923, should be repealed and replaced with a law with more restrictive scope confined to certain matters such as national defence, national security, law and order, investigation of crime, external relations and atomic and trade secrets, etc, and pending such an enactment, the existing law be amended to provide at least for public interest as a defence by a person charged under the Act.

Rule 9 of the All India Services Conduct Rules which prevents information from being provided to an ordinary citizen should be deleted, and another rule is added highlighting the intention of the Government in favour of transparency and stating that all such information

which is generally provided by the Assembly/Parliament to a Member of Legislature, should also be provided to any member of the public, including NGO. This would drastically reduce the cost of answering Parliament/Assembly questions, as today for an ordinary citizen the only route of getting information about administrative matters is to approach a Member of the Legislature who, in turn, would raise a question in the Legislature. This all can be avoided if information is provided at the point at which it is generated.

Property and tax returns of all senior officers and politicians should be available for scrutiny by the public. These could be put on a 'home page' of the government on the Internet, so that anyone having access to Internet could access such an information and inform government if the stated facts are contrary to his knowledge.

An officer seeking deputation to the GOI should be free to suggest the names of the Ministries where he would like to go, or the Ministries for which he would not like to be considered. This would avoid a great deal of heart burning and frustration that results when an officer lands up in a Ministry where he does not like to work.

In view of the large-scale misuse of the power of suspension by some state governments, the rules should, inter alia, provide that suspension of an officer can be effected only after preliminary enquiry and after seeking the advice of the civil service board (CSB). In the case of an IAS officer, the suspension order should be signed by the Chief Secretary, and it should be a speaking order fully explaining the circumstances leading to suspension.

The control that the politicians exercise on the civil servants often amounts to backseat driving. In the present system it is difficult to fix responsibility for decisions, or for not taking decisions. The term public interest is most abused today, as it is used to cover hidden and malafide motives knowing fully well that the public is not in a position to challenge the bonafides of decision-makers. It is here that a fundamental change is required in the Rules of Business. It should be mentioned in each government order the level at which decision has been taken. The reasons for disallowing a petition should be fully mentioned, that is. it should be a speaking order, and the reasons for delay in disposal of petitions should be fully explained. For instance, it is seen that the requirement of seeking FCRA clearance by NGOs before getting foreign funds has been misused for harassment and extortion by the IB officials, because the order that is ultimately passed by the Home Ministry is not required to disclose the reasons why the application has been rejected. Often the IB official does not even visit the NGO, and just gives a one line report that the reputation of the NGO is not satisfactory in the field. Things would be different if the order from the Home Ministry is required to mention in detail the date on which the

official visited the organisation, persons contacted, and disclose the reasons for rejecting FCRA clearance.

### **6.1 Corruption in Registration Offices**

Rent seeking appears to be on a massive scale when it comes to getting sale deeds registered. A study found that formal transaction costs (registration fees and stamp duties'; totalled about 17 percent of the value of the land transacted, but informal transaction costs upon sale e.g., making repeated visits to *tehsildar's* and registrar's office, "unofficial" payments to expedite issuance of relevant documents, but *not* accounting time and other opportunity costs total at least another 17% of the land's value. The study also indicated that effecting the necessary changes in land records following a sale transaction in Orissa can take a minimum of 3 months, but more typically took 3-5 years, and could take as long as 12 years. [R. Mearns & S. Sinha, Social Exclusion and Land Administration in Orissa, India, World Bank Policy Research Working Paper No. 2124, May 1999 at 28-32]. Such rigidities make land markets imperfect and obstruct productivity. Government also loses revenue, as often sellers/purchasers adopt cheap and simple practices for transferring de facto 'title', including the General Power of Attorney, Agreement to Sell, and Wills, none of which is legally-required to be registered, and all of which is to a greater or lesser extent uncertain. Heavy transaction costs in land sale-purchase markets falls disproportionately on the rural poor.

**Recent changes** - Although the office of Stamps and Registration is generally considered to be very corrupt, given proper will and leadership it is possible to introduce transparency and reducing rent seeking even in the registration of sale deeds, as the experiment in Maharashtra has shown. The Government of Maharashtra (GoM) has upgraded service delivery in the State's 300 sub-registries, responsible for registering documents relating to jyroperu and other transactions, and stamp/registration duties. The discretionary power of sub-registrars about when and whether to register a document or return it was eliminated: now documents that meet specified requirements (and these have also been simplified will automatically be accepted for registration and returned within a specified lime. Other .improvements in Registration in Maharashtra include:

- The time required to register a document has dropped from weeks to an average of 50 minutes per transaction.
- The number of documents registered per day has increased substantially (e.g. by 30% in some polities)
- Revenue has jumped by 2,1% from Rs.2.000 crore in 2001/02 to
- Opportunities for corruption have been vastly reduced in the Department.
- Feedback forms collected by the Department indicate greater public satisfaction stemming from the greater transparency and speed of its operations.

## **7 Fighting corruption**

Honest) at lower levels was as rare in the colonial past as it is now. The British appeared to believe that as long as the man at the top was honest, corruption at lower levels would not really do much damage and would remain confined within

manageable limits. As corruption today is on the increase even in higher echelons of bureaucracy, the fear in the minds of lower level officials against making money has disappeared, and corruption at all levels has become a "low risk and high reward' activity. People in the past looked upon functionaries at the cutting edge levels as an organised band of exploiters. In the not so recent past, senior Class I officers were not considered a part of this mafia. Rather they were looked upon by the people as saviours from the tyranny of lower level functionaries, and were never considered **corrupt**. But of late the distinction seems to have got blurred in public perception, if not totally eliminated. Corruption at the top has emboldened lower level officials who now openly exploit the masses with impunity.

Implementation of a comprehensive anti-corruption strategy should include:

- Immediate compulsory retirement of officials whose record and reputation is tainted, and prosecution against those whom there is evidence of corruption
- Strengthening of powers of the state Vigilance Departments, Lok Ayukta and the Anti-Corruption branch of the State police enabling them to effectively initiate and pursue investigations independently of government direction
- Guaranteed protection of civil servants who expose corrupt practices
  - Annual awards for whistle-blowers - Governments should in each department institute annual awards for recognition of the contribution made by such persons in exposing wrong-doings in the government.
  - In particular, property and tax returns of all senior officers should be available for scrutiny by the public. These could be put on a 'home page'<sup>1</sup> of the government on the Internet, so that anyone having access to Internet could access such information and get in touch with government if the stated facts are contrary to his knowledge.
  - In addition, each State should be asked to pass the Corrupt Public Servants (Forfeiture of Property) Act, already drafted by the Law Commission. This will ensure that the illegal wealth of the corrupt is confiscated and is not enjoyed by them. There is already a law called, the Benami Transaction Prohibition Act 1988. Under this Act benami properties (bought in some one else's name to avoid declaring the source of income' can be confiscated. The states should be asked to frame rules and procedure for this law. The number of cases prosecuted under this law should be monitored.
- The Lok Ayukta should be the appointing authority for at least 50 percent of the "stall" under his control and he should be allowed the freedom to recruit, transfer, promote and terminate the staff independently.
- Action against corrupt officers cannot be initiated in many states as the power to sanction prosecution is vested in state governments. This should be declared a semi-judicial process, and the powers to sanction prosecution should be vested with a designated authority, which should pass a speaking order on receipt of

complaint from  
CBI or other agencies.

## **8 Making the Civil Service e-governance friendly**

There are several reasons why e-governance should figure prominently in any programme of administrative reform and modernisation. First and foremost, technologies have advanced rapidly and cost effectively in recent years to bring e-governance applications within the reach of governments. Second, these applications are easier to implement today than many other types of administrative reforms. A lot of experience has now been gained with respect to their introduction. Technology can inject greater transparency, discipline in terms of deadlines, systematic monitoring, and security of data that standard administrative systems are unable to enforce. Third, they can make the citizen- state interface much easier, reducing transaction costs and public dissatisfaction. Finally, e-governance is less threatening to those in authority in contrast to some of the complex administrative reforms that have remained dormant in official reports. An e-governance application may look simple and limited in scope, yet it may have far reaching implications for the operating culture and performance of governments. Conventional administrative reforms in India have had a mixed record for several reasons. A major problem is in mobilizing the kind of political and administrative will necessary to implement them. Vested interests are able to block many reforms and make it difficult to monitor the few that tend to get adopted. It could also be that people are not certain about the final outcome of some of these reforms. As a result, many ambitious reforms are proposed in official reports that are seldom acted on. Much time and money are wasted on exercises that produce no impact on the ground. Today, technology can be used to bypass these barriers, using a low key approach that need not be so threatening to many interest groups. We need not therefore wait till complex administrative reforms are accomplished to tap the potential that technology has to offer. E-governance applications are a good example of how the discipline of information and communication technologies could be used to compensate for the inherent difficulties in implementing organization intensive administrative reforms. They could in fact be used as short cuts to demonstrate "quick wins" while the ground is being prepared for the more difficult administrative reforms.

What are the expectations from e-governance? What has this approach achieved elsewhere? Developed countries are at the forefront in e-governance applications. They have used new technologies to streamline and speed up their interactions with and services to the public in almost all sectors of activity. They have also used IT in a big way in improving the internal management of their systems with respect to funds, personnel and assets (internal housekeeping). Based on this experience, the benefits of e-governance can be summarized as follows:

- It improves government's overall productivity,
- It promotes greater transparency and public accountability.
  - It simplifies and speeds up the delivery of a wide range of public services.
- It improves service quality and thus increases citizen satisfaction
- It aids dissemination of information and thus empowers people.

Box 4: Discretion and truck inspection in Gujarat, India

Inspectors responsible for enforcing restrictions on overloaded trucks in the Indian State of Gujarat were notoriously corrupt. They had considerable discretion over which trucks to stop for inspection. Moreover, since there was no system for reporting to the motor vehicle department the number of trucks found in violation of overloading rules, individual inspectors could negotiate a combination of reported fines and unreported bribes with individual truckers. In 1998 a program to reduce corruption using information technology was implemented. Individual checkpoints—and their weigh-scales—were connected by computer to central offices, so that information on vehicle weights and collected fines was automatically reported to the motor vehicle department. In addition, inspectors' discretion over which trucks to stop was removed. The combination of these two measures to reduce discretion dramatically reduced opportunities for corruption.

Source: [www1.worldbank.org/publicsector/egov/gujaratcs.htm](http://www1.worldbank.org/publicsector/egov/gujaratcs.htm).

Some of the areas where computerization would improve delivery are described below.

### **8.1 Creation of individual database for BPL population for selected villages**

At present, for getting various certificates, a citizen has to apply and furnish various details to support his claims. The Village staff do the enquiry and then issue necessary certificates. This consumes a lot of time. There is no comprehensive individual database available in the Village Office. It is suggested that a Village level individual database should be created to begin with only in selected large villages and for BPL population. With spread of computers the experiment can be upscaled to more villages, it should be possible to keep the database of the BPL population of the selected villages by using comprehensive forms so as to cover a variety of purposes and certificates. Once the database is created, the same can be used effectively for fast and efficient service to the general public.

One may also mention here that a large number of government departments in the states collect information on the households. These are Social Welfare, Food & Civil Supplies, and Rural Development, to name a few. These are parallel activities which consume a great deal of time, which can be reduced through proper coordination and sharing of information through computers.

### **8.2 Police**

By introducing e-governance in Police one could simplify procedures for filing FIRs, or for getting police verification done for passport, etc. For instance, if the list of those who have been convicted or prosecuted for serious offences is computerised it may be possible to do away with field verification of a person's reputation through constables for the purpose of issue of a passport, and verification formalities could be completed centrally on the basis of the computerised database only. Similarly, it may be examined if FIRs should be accepted through fax, or through email. The objective should be to reduce personal contact with the Police personnel to the extent possible.

### **8.3 Computerise pensions**

There are several Social Security Schemes in the states, some supported by Gol, such as pension schemes. These are at present sent through money orders once in three or six months causing financial burden on the schemes, as money order commission. In some states the distribution is via local government officials, where it is prone to distortion for personal gain. Besides, it causes delay.

In some states, the old age pension scheme (NOAPS) provides for payment on a monthly basis through an account either in the Post Office or a bank. It has been observed that this method of payment is least prone to corruption or delays. It may therefore be appropriate to restrict payment through Post Office or bank channels only. However, the scope for discretion by local officials resulting in long waiting periods for registration, bribes and inappropriate inclusion or exclusion is substantial, and needs to be reduced. Once those eligible have been registered, there is a high degree of automaticity and transparency in payments. Computerisation can do much to strengthen the automaticity of transfer processes. Many district-level development offices are now equipped with computers, and some of (the more progressive states, these have broadband access to State government databases.

Pursuing the Following objectives by the states would be both equitable and feasible:

- Link the payment of pensions and allowances to computerised records of births, deaths and marriages
- insure that the personal discretion of local level officials or politicians over beneficiary selection is kept to a minimum
- Provide all adults with a printout of their personal identification details as held on the computer
- Ensure that the various rights enshrined in these records to claim benefits, to vote etc. are 'portable' i.e. can be used by migrants wherever they are
- Consider the range of information to be stored in the computers to serve several schemes
- Ensure that records are periodically updated 'ideally, through updates sent via broadband: as an interim measure, by mailing out CD-ROMs), and put on a website for verification by civil society.
- Put in place safeguards on access to data, manipulation of data, virus protection and so on.

Such a system will not be entirely 'watertight' there will remain problems of elite capture and leakage but careful piloting, and some experimentation with the 'watchdog' roles that civil society organisations can play, will create mechanisms that deliver a far higher portion of intended benefits to the poor than do present ones.

#### **8.4 Redressal of *public grievances***

Villagers today spend a lot of time and money in sending petitions by registered post, and often they do not get any acknowledgement of their application. One could introduce a system of on-line receipt of such applications for which the petitioner needs to go only to a kiosk, and send his application by email. Even copies of documents can be scanned and sent along with the application. The applicant should immediately within seconds get an acknowledgement with a particular

number so that he could trace the movement of his application on the computer itself. In a World Bank funded program on drinking water described above) for poor localities of Hyderabad similar procedure has been evolved where people do not send any written application, but they only have to dial a toll free number and get their complaint registered as well as trace its movement.

One of the prime reasons for the harassment of citizens by government agencies is the need of the people to approach state agencies for various requirements from time to time. It is not uncommon to hear from people complaints regarding harassment, waste of time and money, repeated visits to offices, and institutionalised systems of informal payments which have to be made for getting services. A great deal of corruption and harassment can be reduced if these requirements can be met, without approaching the government departments, through single-window stations such as the TWINS, in Hyderabad, funded in the course of time by private operators. A beginning can be made by permitting payment of all government dues through banks and even post offices.

### **8.5 Computerisation of land records**

Many states have tried to computerize land records (CLR), but feeding incorrect and out-of-date entries in the computer without field verification has not added to consumer satisfaction, and for most states it is 'garbage in, garbage out'. Absence of periodic updation made by the revenue authorities led to an anomaly as the computerized data was not current and did not reflect reality. Only in Karnataka, the "mutation" process was made on-line as a result of which (the data base of land records was updated as soon as a mutation was approved. This has been the crucial factor behind the success of the CLR project in Karnataka.

The CLR scheme has succeeded in states like Karnataka, Andhra, Gujarat, and Rajasthan. These are the states which have created an overall acceptance or ambiance for absorbing IT in their work culture. These states have also taken steps to improve administrative delivery in other sectors. The scheme of CLR needs an ecology at the field level to grow up. In Bihar it has not been implemented even in one district at the data entry level. In general it may be taken as reflection of the general state of affairs. In UP, data entry has been done but delivery of ROR (record of rights) is not being done at field level. Due to frequent changes in government and thereby in bureaucracy, UP has not been able to adopt a long term sustainable approach for implementation and monitoring.

However, even in southern states, its ultimate success would depend whether it is able to reduce the dependence of the landowners on petty bureaucracy, by making records available on-line through a web-site. In Karnataka where computerisation has satisfactorily progressed, role for private kiosks is still to be sufficiently developed. **The** farmers still have to come to the tahsil (sub-district) for a copy of land records. Since the Karnataka government has banned giving manual copies, dependence of the ordinary land owner on government machinery has in no way declined. He has now to travel all the way [to the tahsil as compared to the old system of getting it from the village accountant. Often in a tahsil only one clerk is authorised to issue the certified copy. If by chance he is on leave the journey of the land owner to the tahsil will be wasted. Delay also takes place because rural tahsils have frequent power failures.

Land Records Manuals in the states lay down detailed procedure for creating and sharing the records. But these were designed from the point of view of manual

record keeping. If we are replacing manual system with the electronic system, there is need that all IT related issues should be addressed in the revised Land Record Manuals and procedures, because in day to day working, the field level functionaries adhere to them as standards. However, this subject has not received much attention in many states.

## **9 Curbing transfer industry**

Appointments and Transfers are two well-known areas where the evolution of firm criteria can be easily circumvented in the name of administrative efficacy. Even if the fiscal climate does not allow large numbers of new appointments, a game of musical chairs through transfers can always bring in huge rentals to corrupt officials and politicians. As tenures shorten both efficiency and accountability suffer. Rapid changes erode the mandate of the Department or Organisation. It leads to lack of confidence to act firmly and equitably for the public good.

In U.P., the average tenure of an IAS officer in the last five years is said to be as low as six months. In the IPS it is even lower, leading to a wisecrack that 'if we are posted for weeks (Haftas) all we can do is to collect our weekly bribes (Haftas). Chronic political instability in states such as UP has led to the frequent collapse of government, which has in turn led to a new round of transfers as the next group of political leaders has sought to reward supporters and put their "own" staff into place. Transfers have been used as instruments of reward and punishment, there is no transparency, and in the public mind transfer after a short stay is categorised as a stigma. Officers who are victimised are not in a position to defend themselves. Internally the system does not call for any reaction to explain one's conduct while externally public servants are debarred from going public to defend themselves. The topic of reducing political interference is a sensitive one, for the right to transfer civil servants is dearly vested within the political leadership under Article 310 of the Indian Constitution, which maintains that civil servants serve at the "pleasure" of the ruling authorities. Yet few would disagree that this power is often abused by both civil servants and politicians the former in seeking prime postings, and the latter for a variety of legitimate and occasionally illegitimate reasons. The prime concern of the political executive is to manage jobs and favourable postings for their constituents. This means a high degree of centralisation at the level of the state government and little accountability.

Frequent transfers and limited tenures are playing havoc with public organisations. With every quick change in the head of the office, a funereal air is noticeable and down the line the respect for authority is whittled away. Rapid changes erode the mandate of the Department or Organization. There are two other consequences. The incumbent himself is not sure how long he will stay. This affects his attention to detail, the capacity to master the situation and begin thinking, even incrementally, about how to change things and improve them. Since he is not too sure of what has to be done, the preference is to opt for whatever was tried out in the past and seemed to have sufficed. In the process, changes which may have been initiated by the predecessor are either disregarded or thought of as being disruptionist. Most public organisations do not possess the 'memory' which will absorb change and continue it even under adverse circumstances. Second, there are even more deleterious consequences down the line. Other staff in the organisation do not extend the commitment so necessary for change to be institutionalised. Their

assessment is that everything new being temporary administrative improvement and practice, different from the ordinary way of doing things, represent the foibles or prejudices (at worst) of the incumbent, to be sent packing immediately on the departure of the officer. An attenuated hierarchy, which distorts intent and initiative, further impels the status quo.

It is in this context that it is crucial and critical to remove uncertainty and imbue the officers with a certain security of tenure in every post.

### 9.1 Rationalising transfers

A good transfer policy should have several objectives, such as;

- the need to curb the overall incidence of transfers
- eliminate 'transfer industry\*' and politicised transfers
- the policy should be seen as fair, objective, and leading to career development

in Punjab, the total period IAS officers of Punjab from 1967 to 1987 batches have spent on their current posts on 25<sup>th</sup> October 2003 was as follows:

No. of months	No. of officers
Less than 3	18
3 to 6	20
6 to 12	5
12 to 18	3
18 to 24	6
more than 24	5
Total	57

Of the five officers who had spent more than two years on their posts, four were holding posts which are 'dumping ground' with no challenge; such as Principal Secretary Freedom Fighters, Principal Secretary Programme Implementation. Secretary, Department of Relief and Settlement, and Commissioner of Departmental inquiries. Thus the more important Secretaries were being shuffled quickly to deny them the leadership role that they could potentially play in promoting reforms.

Similar is the story in Police, a priority sector in Punjab. The tenure of SHOs Station House Officers was about 7 months, where as for DSPs it was 8 to 9 months.

Several suggestions can be considered to reduce this menace.

To begin with, the Department of Personnel in each State should calculate the average tenure of Principal Secretaries, Secretaries and Deputy Commissioners/Suptd of Police every quarter, and publicise this fact, so that political consensus is built up on the need for longer tenures.

There should be adequate publicity about who can transfer officials at various levels in government. This will ensure that government does not meddle with the transfers of low level officials- Powers of transfers of all class II officers should be with the HOI, and not government. This will however not eliminate the menace of oral or unsigned orders from Ministers to the HODs. but might reduce secretariat's interference in transfers which would be within the powers of the Deputy Commissioners

and Divisional Commissioners, as these officers can resist oral orders from Ministers much better than the HOD placed at the State capital.

in many state governments, secretariat departments (at the behest of their Ministers) have assumed powers, which were earlier delegated to heads of departments and district officers, to transfer personnel within the district. For instance, postings within a district of doctors, Naib Tahsildars, and Block Development & Planning Officers is now being done by government (by Ministers with Secretaries being merely post offices, or helping their own favourites in the process) although this power should be the district Civil Surgeon or the Deputy Commissioner. This is contrary to the role that government should play. Government should deal with transfers of only HODs and Addl HODs, or at the most of Class I officers. After all government's role is policy making and objective impact assessment, and to ensure that the transfer policy as laid down is being followed by senior people in the field. If government itself violates norms for fair play, what moral right will it have to enforce discipline in its workforce?

Stability index should be calculated for important posts, such as Secretaries, Deputy Commissioners, and District Supdt of Police. An average of at least two years for each group be fixed, so that although government would be free to transfer an officer before two years without calling for his explanation, the average must be maintained above two years. This would mean that for every short tenure some one else must have a sufficiently long tenure to maintain the average. Just as every government order carrying financial implications has to quote the authority of the Finance Department, every transfer order must indicate in arithmetical terms how the average has been affected by the transfer in question.

The maximum period of three years prescribed in the government circular should be changed to five years for at least all such higher positions where leadership qualities are important.

For each cadre post, officer of the higher rank could also be posted. In other words promotion should not mean transfer.

There should be a high powered and statutory Civil Services Board (with representation from eminent and non-political people), which should process all proposals of postings and transfers and there should be an ACC kind of procedure (followed by the Government of India whereby an officer joins a Ministry for a fixed term of 4 - 5 years). The ACC system does ensure stability of tenure at the Centre. If it is operated properly in the states there is no reason why it should not succeed there too.

At least for higher ranks of the civil services e.g. Chief Secretary and DGP, postings may be made contractual for a fixed period of at least two years, and officers be monetarily compensated if removed before the period of the contract without their consent or explanation. A statement giving reasons therefor should be recorded on the file and placed on the table of the legislature/parliament; whenever cabinet secretary or chief secretary or director general of police is proposed to be shifted peremptorily before completion of his term and/or retirement.

Transfer policy should not be seen in isolation, it calls for other reforms in the personnel policy. For instance, in many cadres and departments there are useless posts which have little challenge and *need* to be abolished. The very existence of unimportant posts causes an unhealthy attitude amongst officers and divides them in their service interests, which is exploited by politicians. This also leads to a tendency of using the mechanism of transfer for punishment.

At the same time it must be recognized that some posts would have more attraction for the employees than others. These may be due to better location where good schools or cheap government housing is available, more challenges, the pull of private practice for doctors, or simply more opportunities to make money. Except for the Indian Foreign Service, no other service categorises posts according to its demand so as to ensure that everyone gets a fair chance to serve on both important and difficult (such as in remote and tribal areas) assignments. One should categorise posts in each department according to the nature of duties and geographical location into A, B and C posts, and chart out the kind of mix that should dictate the average officer's span of career. At least for Group A officers, one should be able to know through websites that total transparency is being observed and whether some 'well connected' officials have not been able to get 'plum' postings and avoid difficult areas.

Some of the suggestions given here could be incorporated in the form of a legislation on the pattern of Maharashtra to improve the prospects for effective implementation.

It is not correct to assume that there would be political resistance to the idea of stability of tenure. Many Chief Ministers would welcome this proposal, as they are often pressurised by their MLAs to resort to frequent transfers, and with a change in procedure, they would be able to resist the pressure in a better manner. It may also be mentioned here that many transfers are initiated at the request of the officer himself, and this tendency will also get curbed with new Rules.

One progressive element introduced by some states relates to the computerised counselling system based on transparent consultation with departments, with decisions on transfer being related to incentives and objective criteria. Based on the recognition that staff transfers in the past have been too frequent, and not sufficiently based on merit criteria, it is important that transparent policies are adopted, which increase employees' morale and faith in professionalism.

It may be mentioned here that countries like Japan and Singapore do not pursue the practice of annual transfers. If an employee is corrupt or inefficient, the traits would get displayed wherever the employee is posted. What is required is effective supervision and the prompt commencement of disciplinary action against such employees instead of shifting them to another place.

## **9.2 Reduce post-retirement temptations**

Another area of reform relates to post-retirement bonanzas. The Fifth Pay Commission while recommending the age of superannuation as 60 years, suggested the complete abolition of the provision of extension in the service rules. The State and Central Governments as well as PSUs should implement this particular recommendation and also avoid post retirement jobs to the civil servants as also the judiciary. If the talent of any particular individual needs to be used even after his retirement, it can be on a short term consultancy basis to meet a specific time bound requirement at the end of which the contract should be terminated. In any case no officer above the age of 60 should get government housing. By throwing open the jobs in the organizations like Administrative Tribunals, Commissions of Inquiry, Pay Commission, Vigilance Commission and the other regulatory authorities etc. to the serving civil servants as against the retired, the prevalent congestion at the top levels of the civil service can also be substantially reduced.

As the service conditions of the three most powerful services at the State level - the IAS, IPS, and the Indian Forest Service- are all controlled by the Centre, a few changes in the All India Services Rules and close monitoring by the Department of Personnel in Govt. can help in professionalising the three services, help prevent their decay, improve their backbone, so

that they not only resist plundering of the treasury by the unscrupulous elements, but also provide pro-poor and efficient administration in the states.

### **9.3 Reduce administrative fragmentation**

Within GOI and in many states, the number of ministries and departments has proliferated far beyond any rational assignment of functions. Compounding the problem are relatively weak mechanisms for policy coordination. In many states, since most departments report directly through their own minister. Nor does fragmentation end with administrative structures. Budget heads are not always closely aligned with departments. The civil service is divided into dozens of cadres, each with its own service terms and conditions, whose controlling authorities are widely disbursed throughout the various departments. Rigid terms and conditions make it difficult to transfer staff between cadres where they can be better utilized. Therefore, institutional reforms are needed to reduce the current administrative fragmentation, and align the size and structure of the civil service more closely with modern-day functions.

For Group A & B posts requiring high performance, one may continue with recruiting them young, but one should retire 25% to 50% of the officers at the age of 48 to 55, as it is done in the Army. For new recruits to government service for this category it should be a compulsory condition in their rules of recruitment that they would be asked to take leave with pay for two years and without pay for 5 years at a stretch after they have put in 10 years of service. This will build their capability and confidence, giving them a backbone so that they can resist temptations and stand up to sectarian pressures. At the same time many posts at the top should be earmarked to permit lateral entry of people from NGO/ professional institutions at various levels to bring in a fresh outlook.

An important factor which contributes to the surrender of senior officers before political masters is the total lack of any market value and lack of alternative employment potential of government officers. Beyond government they have no future, because their talents are very few. As the process of liberalisation of the economy catches momentum, the only job for which they were suitable, that of liaison officers for private sector, would also no longer be available for them. Most senior officers thus end up as dead wood by the time they reach mid-career. Their only talent lies in manipulation and jockeying for positions.

Therefore one needs to encourage officers to join NGOs, educational and research institutes during mid-career. The Department of Personnel should play a more active 'placement' role by maintaining a list of officers who wish to be out of the service for a temporary period, and liaise with the desirous NGOs and other institutions.

## **10 Summing up**

A good civil service is necessary but not sufficient for good governance; a bad civil service is sufficient but not necessary for bad governance. Thus, a dilapidated civil service has been a key factor in Africa's economic decline. Conversely, a strong civil service is one of several reasons why in several east Asian economies, especially Japan and South Korea, authoritarianism has co-existed with excellent economic performance. It can be argued that the link between authoritarianism and economic decline, so evident in Africa, has been inoperative in these Asian countries largely because of their strong civil service. Greater responsiveness and openness can legitimately be demanded of public administrations in some East Asian countries. Clearly, however, civil service systems in most East Asian countries cannot be considered a problem; they are, rather, an important part of the solution to these countries' other problems.

Civil service reform is intractable under a "kleptocracy" that exploits national assets for its

own benefit and is, by definition, uninterested in efficiency and development. For this type of regime, the real risk of reform is loss of control. A pliable and unskilled civil service is actually desirable from its point of view—public employees dependent on the regime's discretionary largesse are forced to become corrupt, cannot quit their jobs, and reluctantly become the regime's accomplices. Providing financial assistance to such states without linking it with performance and reforms would be a waste of resources. In all other cases, civil service reform is manageable, albeit difficult, complex, and slow.

## External Impediments to the Growth of Organisations of Rural Poor in India.

1.1 To assess the magnitude of the problem it is necessary to look at certain figures relating to agricultural workers for the entire country. According to the Census of India, 1971<sup>2</sup> the number of agricultural labourers is 47.48 million. The figure was 31.51 million in 1961 and 27.49 million in 1951. Agricultural workers constitute 27% of the total workers according to the 1971 Census. The percentage was 17 and 20 in 1961 and 1951 respectively. According to the census definition, cultivators include share-croppers. It is well-known that the share-croppers in India as, perhaps, elsewhere in the world, constitute the bulk of the rural poor, Economically and socially their conditions might be a shade better than that of the landless agricultural labourers, but by absolute standard they belong to the same category of the rural destitutes. The figure for cultivators, according to the Census of India, was 73.17 million in 1971, 99.52 million in 1961- and 59.73 million in 1951\* A large number of these cultivators are sharecroppers. It is not possible to make any accurate estimate of their number since in most of the States they are not registered. One has to depend on one's experience and impression to hazard a guess about the percentage of sharecroppers to the total cultivators. In a small State like West Bengal, the estimated number of share-croppers is 2.4 million, whereas the number of registered share-croppers—in the Record of Rights is 0.89 million. Though the incidence may vary from State to State, the system of share-cropping is widely prevalent in India. Even though it may be severely regulated or abolished under LAW, it continues to exist in informal way in a large number of States, particularly having -wet paddy-cultivation. On a conservative guess estimate sharecroppers would constitute at least 20% of the cultivators.

1.2 Any organisation of the rural poor should include not only landless agricultural workers but also landless share-croppers. Even if we take the estimate of share-croppers at 20% of the figure, according to the 1971 Census would be 15.60 million. Thus, adding this number to the figure of agricultural labourers, we have to reckon with a working force of 63-60 million of rural poor in India who require to "be organised for advancement of their economic and social interests,

2.1 From 1936 onwards the All India Kisan Sabha (then it was known as All India Kisan Congress) has been trying to organise the poor peasantry and the agricultural workers under the general auspices of the Indian National Congress. Later on, this organisation came away from the Congress fold and became the rural wing of the undivided Communist Party of India. After the split of the Communist Party, there are now two All India Kisan Sabhas attached to the Communist Party of India and the Communist Party of India (Marxist). These two organisations have been historically active in certain pockets of India and still now have considerable influence and

followings in certain States. According to the report of the General Secretary of the All India Kisan Sabha (CPIM) placed in their 22nd Conference held at Sikar (Rajasthan) in April, 1974, the total membership in 1973 was 1.17 million. The figure registered some increase from 0.82 million in 1972. The high water mark of the membership of this organisation was 1971 when it shot up to 1.27 million. The All India Kisan Sabha (AI-KS) includes in its fold not only the peasantry but also the agricultural workers. They registered a few agricultural labour unions who functioned under the banner of All India Kisan Sabha. The Communist Party of India have also their own All India Kisan Sabha. They have a separate organisation called Bhartiya Khet Masdoor Union exclusively for agricultural workers. The membership figures of these two organisations in 1973 were approximately 1 million and .4 million respectively.

2.2 The Indian National Trade Union Congress has, as its affiliate, an organisation called the Indian National Rural Labour Federation. According to their published figure as on 21.10.71, this organisation had 15 unions of rural workers with a membership of 4,458 and 51 unions of agricultural workers having a membership of 15,760. According to the latest information this organisation claimed a membership of 80,000 to 85,000 in July-August, 1974. This sudden jump in the figure was due to a big rise in the membership in their West Bengal Branch which alone accounted for 62,000.

2.3 There are other local organisations which are operating in a restricted way in some pockets in a few states though they may have all India nomenclatures. In some local areas they may be very important but they do not have any serious impact on the national level. The total membership of such organisations taken together would not exceed .5 million according to an intelligent

2.4 The total figure of membership of different organisations claimed and estimated will be round about 3.07 million. This is slightly less than 5% of the estimated number of the poor peasantry and agricultural workers. This shows how weak is the organisation of the rural poor in India. In our country the influence of an organisation cannot, however, always be assessed by the strength of its membership. If it can espouse a popular cause, it may catch the imagination of the people and, thereafter, it may initiate a mass movement of a far greater magnitude than what its membership figure could justify. But in such cases the organisations act merely as catalysts of essentially spontaneous mass actions. Such movements, however, have life-cycles of their own. After a halting and hesitant beginning, they reach a crescendo and thereafter peter off, leaving, perhaps, a few tell-tale marks of death and destruction. But it is acknowledged that without basic internal strength no organisation can carry on sustained and prolonged activities which are likely to generate conflict and confrontation with the established order.

2.5 This fact of basic organisational weakness has been admitted by the leaders of the Kisan

Sabha themselves. The General Secretary of the All India Kisan Sabha (CPI-M) in his report at the 22nd Conference on 11-14 April, 1974, admitted "In spite of some advances, the Kisan movement, taking the country as a whole, remains 'weak and extremely proven. In the context of deepening crisis and growing mass discontent this lag in Kisan movement is a serious weakness. The General Secretary of All India Kisan Sabha (CPI) in his report to the 21st National Conference held at Bhatinda in September, 1973, stated "finally, this situation has revealed the utter inadequacy of the existing Kisan Sabha organisation to discharge the great political responsibility of leading and guiding "the countrywide diversified mass peasant movement for radical land reforms as also the movement for an upsurge in agricultural production so essential for lifting our agrarian economy out of the morass of the present crisis and putting it on the road to progress." The General Secretary of the Bharatiya Khet Mazdoor Union (CPI) in his report to the Third Conference held at Tenali, Andhra Pradesh, in May 1971-j was quite unhappy about the state of organisational progress. He stated "But despite this progress in the organisational sphere, I should frankly state that there is an element of stagnation in our activities in regard to most of the state units. This is naturally causing much anxiety to us. The main reasons for these are -(1) shortage of cadres; (2) lack of finance. In fact it is these twin problems of cadre and finance which have become the real stumbling blocks in our further advance. It is surprising that there are a number of states where not even a single whole timer is functioning on the agricultural labour front either at the state level or at the district level. Even in states where there are whole timers allotted to this front, their maintenance has become a big problem due to lack of finance. This shortage of finance affects the mobility and the effectiveness of the whole timers.

2.6 This cadre problem is also being faced by the rural wing of the INTUC. Shri B.C.Bhagawati, M.P. President, INTUC, in his brochure entitled Rural Workers' Problems and Organisation" posed the issue as follows: It has been rightly felt that Congress should have a cadre, who have faith in socialist ideal and programmes of the Congress. The question now is how to build up such a cadre."

2.7 These problems, however, genuine and inhibiting they might be are basically matters of internal organisation. An attempt is being made in this paper to identify a few external factors which have impeded the growth of the organisations of rural poor in our country.

3. In India we have a fairly long history of about 38 years to analyse the factors which have impeded a faster growth of organisation of the rural poor. Broadly we can categorise them under the following heads:-

- (i) Multi-interest coverage and conflicting ideological objectives.
- (ii) Legal and administrative set up.
- (iii) Economic dependence and
- (iv) Social backwardness.

4.1 It may look rather strange to categorise coverage and ideological objectives as external impediments to the growth of the organisation of rural poor. The fact remains that the objective situation prevailing at the time when the All India Kisan Congress was born made it to adopt a line which after some time proved to be a drag on its development. The initial thrust of the All India Kisan Congress (later on renamed All India Kisan Sabha) was against landlordism. Its first President Swami Sahajananda asserted (in 1936) "no compromise was possible -between the peasants and the landlords except dispossession of zamindars of their lands. The landowners - zamindars, talukdars, etc. - generally identified themselves with the British rule. Hence, an anti-imperialist mass movement required a multi-class alliance directed against not only the British rulers "but also against those institutions and classes who had an abiding interest in continuation of the Raj". In the early days of the formation of All India Kisan Sabha not only the leadership was exercised by the rural "gentry"<sup>71</sup> but its membership also largely belonged to various categories of secured tenants including rich and middle peasantry. The rich and the middle peasantry had a grudge against the zamindars and the land-owners because irrespective of their economic position, social prestige and political power belonged to the landowners. Thus at the initial stage the Kisan Sabha had under its banner various conflicting class interests loosely knit together against the common enemy i.e. British Raj and their proteges the landowning proprietors. Though there were tensions within the Sabha organisation, by and large they maintained a common front till about 1942 when due to sharp divergence of opinion on the issue of war and Quit India Movement between the Congress leadership and the Communist dominated Kisan Sabha within the Congress, the whole movement got disorganized. Immediately

after the World War II, the Kisan Sabha, of course, gave leadership to the militant movement in Telengana in Hyderabad and of the Thebhaga movement in the then Bengal. But the movement in both these cases was started by the local initiative of the oppressed peasantry- The Communist Party and the Sabha came in later -on and gave an ideological content and useful tactical directions. According to Hamsa Aavi, "The Tebhaga and the Telengana movements had both risen from, the local roots rather than from any initiatives by the Communist Party, although the Communists provided the leadership and played a vital role in both.

4.2 But by and large in the post-independent era the focus of the Sabha got rather "blurred. The combination of various interests under the same organisation prevented it from taking a vigorous and militant posture in the interests of the lowest strata of the rural people. It was in the 12th Session of the Sabha held in September, 1954 at Mogha (Ferozepur) Punjab that it took a special resolution on the condition of the agricultural labourers. On this issue the Sabha resolved "it is time that agricultural labourers are brought in large number into the organisation of agrarian movement. This can best be done by organising them in their separate agricultural labour unions. In view of the division into a separate class of wage workers and of their separate class demands as distinct from the demands from the peasantry, they required their own organisation to fight better for their own demands beside their common demand for land. Nearly after 18 years of its existence, the Sabha for the first time took a separate line on agricultural labourers. Not that the demands of the agricultural labourers were not stated earlier, but these were all lumped together with various other demands like security of tenure, reduction of rent, reduction of irrigation tax, proprietary rights for different grades of tenants, etc. The particular necessity of landless agricultural labourers for higher wages was not brought in sharp relief, perhaps, to avoid raising the suspicion and anger of the rich and the middle peasantry who happened to be the backbone of the Sabha so long. The obsession of the Sabha to have a broad class alliance to fight a common enemy thus made it almost oblivious of the peculiar need of the vast multitude of the rural poor who are the landless share croppers and agricultural workers.

4.2.2 Since they had no definite line to espouse for the agricultural workers, they could not expect a large number of them to come into their fold. The euphoria created by the large scale pumping in of governmental finances in the agrarian sector in the fifties and early sixties, through Community Development projects and schemes of like nature and enactment of various land reform measures by different state also created in the mind of the poor peasantry and perhaps, the agricultural workers a belief that through such

developmental activities their plight would be mitigated. The membership of the All India Kisan Sabha which was still then united sharply fell down from a million in 1954 to little over half a million in 1957. It was inability of the leadership of the Kisan movement to identify the issues peculiar to the multitude of the rural poor and to give them a viable plan of action to fight for it that resulted in the entire movement getting into a dormancy during the period from the middle fifties to middle sixties.

4.3 Even new the organisations are not free from this dilemma. As late as April, 1974 late Hare Krishna Konar as General Secretary of the All India Kisan Sabha (CPI-M) stated: "these vast masses of rural poor must forge for an alliance with middle peasants, supporting others<sup>1</sup> demand and try to win over the rich peasants. The agricultural labourers should also be in the forefront-of the struggle for demand of ordinary peasants and thus develop initiative in building democratic peasant unity".

While saying this, late Mr. Hare Krishna Konar was, of course, not totally oblivious of the serious contradiction involved in the process. He went on stating "The problem of organising agricultural labourers and "building peasant unity is a difficult and. complex problem. This can be solved by mobilising the peasants behind the just demands of agricultural labourers. This is not an easy task, but we can do it if we take up the job seriously. While stating the problem, it appears, he almost wished it away. What is income for an agricultural labourer is the cost for an employing peasant; the contradiction is immediate and sharp. It is true that the interests of both these sections could be advanced by mutual dependence and joint action but the antagonistic interest-relations would still continue. The other Kisan Sabha, at least, formally got over the problem by constituting the Bharatiya Khet Mazdoor Union about three years back. The- same dilemma, however, is apparent in the General Secretary's report of All India Kisan Sabha (GPI) to the 21st National Conference at Bhatinda referred to earlier. Dr. S.A.Ahmed, the General Secretary mentioned (p.69) "In essence what is needed is that the peasant movement should pay its maximum attention to the development of the peasant sector of our agrarian economy. This is imperative if the peasant movement is to grow as a movement of marginal, small and middle land owning peasantry who together with agricultural workers constitute the base of democracy in rural areas.

4.4 Here again we find the same apprehension of alienating the middle peasantry from the movement who constitute the backbone of the rural economy. Politically, socially and economically the middle peasantry together with the rich peasantry constitute the elite of the present rural society. With all their radical posture, neither of the All India Kisan Sabhas is in a position to take a stance which may immediately go against the interests of the

upper/middle peasantry. Thus the attempt to cover different groups with varying interests under the same organisation has given rise to contradictions which has prevented the movement to gather the momentum which the realities of the situation otherwise would justify. The urban elitist leadership of these organisations might also had had an adverse effect on their growth and effective functioning. Time has, perhaps, come for the organisation of the rural poor to shake off the hangover of the thirties and the forties of directing their movement against the formal landlordism. The situation, in the meantime, has changed substantially with the abolition of tax farming landlordism and substitution of the same by a profit oriented and fiercely interest conscious rich/upper middle peasantry who have benefited the most from last two decades' State efforts to boost agriculture and who also combine in themselves the roles of money-lender and trader. This form of exploitation through usury and trade along with the traditional mode of exploitation of rack-renting through share cropping and low wages which require to be fought organisationally. Even though adult suffrage means formally one man one vote, in practice, in the rural areas, due to the development of the patron-client relationship, it may mean, one man with much larger electoral influence -Shan his single vote for the members of the rural elite and consequently one man with hardly any free choice for the many of the pauperised and economically dependent poor people. Considerations of electoral convenience might be indirectly standing in the way of the existing Kisan organisations to take a sharper and clearer line in this regard.

5.1 Among the Central labour laws, only Minimum Wages Act 1948 is directly applicable to the agricultural workers. The Trade Unions Act, 1926, provides for registration of trade unions. There is no mention of any agricultural workers in the Act. But since the Registrars of Trade Unions in different States have registered a few unions of agricultural workers, one can take that by indication the Act is applicable to agricultural workers.

5.2 Only recently one State Government i.e. Kerala has passed a law specifically for the agricultural workers. There are, however, multitudes of laws in various states on security of tenure, sharing of crop by the share croppers, etc. Some of these statutes and their amendments were also the results of movements launched by the poor peasantry at different times. As for example legal protection of share croppers in Bengal was the result of The bhaga movement. Similarly laws relating to restrictions on alienation of tribal lands were enacted after the Santhal rebellion in Bengal and

Deccan riots.

5.3 Historically, primary objective of the District Administration in India is the maintenance of order and tranquility in the countryside. The excellence of an administrative officer is judged by his capacity to maintain order and peace. In fact the *main* burden of the administrative procedures and tradition criminal and civil laws, judicial pronouncements and practices, is for the maintenance of the status quo which means in practice the maintenance and safeguarding of the existing property relationship in the rural area. Any law aiming, however feebly it may "be, at restructuring of the property-relationships or any movement which even by implication attempts at that, has to come up against the stonewall of the hoary tradition of the administration regarding maintenance of order before every thing else.

5.4 The facile explanation of the link with the landed interests of the Indian bureaucracy is not always applicable. Since the laws and the traditions are heavily weighted in favour of the existing social order based on the inviolability of private property and the existing property-relationships, it is only natural for the bureaucracy to develop a bias against any movement or against an isolated law which aims at even slight alteration of the existing social arrangements. Sacredness of private property has been sanctified in the Constitution of India, Whereas the right "to acquire, hold and dispose of property and to practice any profession or to carry on any occupation, trade or business" is a fundamental right under the Constitution of India, there is no corresponding right to work and employment or to ensure living Wages for the workers. The Directive Principles of State Policy do mention about such measures but these are not justifiable in the court of law. At their test they are the pious wishes of the founding fathers which the state may or may not honour. The basic criminal laws, that is to say, the Indian Penal Code and the Code of Criminal Procedure drafted and promulgated in the 19th century embody the principles of

sacrosanct of private property and contract. The Indian Penal Code lists 112 counts of offences against property. If we add the offences against the public tranquility which is violated in the rural area mainly because of occupation of land and sharing of crop, the figure will go up to 134. Leaving out the section relating to definition, exceptions, punishment and right of private defence of body and property, there are 405 operational sections in this code. Thus, more than 33% of the operational sections relate to offences against property. This shows how highly this code respects the principle of inviolability of private property. For the machinery which administers this code, it is only natural and inevitable that it should develop the same reverence and regard for it.

5.5 The Code of Criminal Procedure, the other basic law on the criminal side in India, which was overhauled in 1973 contains a chapter entitled "Maintenance of public order and tranquility". It gives sweeping powers to the administration to prevent any breach of peace and public order and for dispersal of unlawful assemblies by force-. It contains a special sub chapter relating to disputes as to "immovable property".

5.6 If we look at the main demands that the Kisan Sabha organisations or the unions of agricultural workers raise, we would find that by and large a proportion relate to sharing of crop in larger proportion or getting security of tenure over a piece of land or just getting land for subsistence along with- the demand of higher wages. Among the activities to be undertaken, the Bharatiya Khet Mazdoor Union has listed the struggle for wage and land and fight against social oppression as the hard core of their activity. There is a tremendous land hunger amongst the rural poor. Many of them lost possession of land due to usury, chicanery and fraud of the land owners and money lenders in course of last two to three generations. Many share croppers are

operating as share croppers on land which was previously theirs. Similarly a large number of agricultural workers who have been dispossessed of their land through exploitation might now be working on the same land which once upon a time belonged to their fore-fathers. In the Indian rural society one does not get the basic dignity of a man unless one has a piece of land. A landless person is a non-person. He is a faceless biped animal having no social significance. Hence, any concerted movement of the rural poor will ultimately generate into an action for getting some land. And this could only be done by breaking concentration of land held in benami and in clandestine manner by a few. That the land holding is highly skewed in India is borne out by various studies on holding-size pattern. We are not elaborating on the subject. Any movement which aims at getting possession of land or of getting security of tenure immediately attacks the existing property-structure and the production-relations in the agrarian sector. And as soon as this is done, public tranquility and order is threatened and all the relevant provisions of the Indian Penal Code and the Criminal Procedure Code can be invoked by the land owners with ease and promptitude for their safeguard and protection.

5.7 Instances are galore where the land reforms laws which have bestowed some rights on the share croppers including their fixity of tenure were short-circuited through the provisions of Section 144 of the Criminal Procedure Code. If there is a concerted movement, it could be immediately taken up as a threat of breach of peace. An assembly of men agitating for certain demands could be described as rioting. And all the preventive provisions of the Criminal Code and the Indian Penal Code could be brought immediately into effect to suppress such activities. Our case studies of "Bargadars of Sallhan" and Indra Lohar and the Due Process of Law would show how the designing landlords can swiftly and effectively by-pass all the laws in favour of the rural underdogs through various provisions of the criminal laws and stall the implementation of any land reforms legislation. The Trade Unions Act, 1926, gives immunity to the office-bearers and members of the registered trade unions from civil suits and criminal conspiracy in trade disputes. No such protection is available in the agrarian sector where the peasants organisations are not registered as trade unions and have to function in situations which are more hostile and belligerent than what surrounds trade unions in the organised sector,

5.3 What is worse is that the repressive measures which are set in motion do not always come out of a conscious or deliberate policy at the local administrative level. The backlash starts almost as an administrative reflex to any action undertaken by the poor peasantry and the landless agricultural workers,, The village poor? also take it for granted that laws are\*''there only to be utilised by the land owners against them. That the same sections of the Criminal Procedure Code could also be used by them against- the land owners could not be believed by many share croppers and agricultural workers whom we had occasion to meet in various states of India. I quote below an extract from the report of the Working Group on Land Reforms of National Agriculture Commission entitled "Impressions on the prevailing Agrarian R3lati0.cs in the Districts of Madhubani and Muzzaffarpur in Bihar."

"Here we were shown a vast tract of land - according to the local statement approx. 800 acres - wherefrom about 250 bataidars were evicted "by sheer physical force "by the employees of the Darbhanga Raj in 1970. Since then they had been trying to get back possession of the land, but to no effect. 14 original cases were instituted against these share croppers. Altogether 32 persons suffered imprisonment as undertrial prisoners and they were being harassed very frequently by the police and the magistracy. 'Then it was asked why they did not move the magistrate for obtaining an order under Section 144 Cr.P.C. in their favour against the Darbhanga Raj, the bataidars and the accompanying officials looked gapingly at us. That Section 144 Cr.P.C, could also be applied against the land owners and in favour of the bataidars was some thing quite surprising to both the parties." Wherever in the recent years the agricultural workers or the share croppers had taken some direct action for establishing their rights, they have been prosecuted Under various sections of the IPO and the Cr.PC. A number 0::' peasant workers who are personally known to me who have been working in the South 24 Parganas in the State of West Bengal have more than a couple of dozens of criminal cases booked against them. Most of their time is spent in going in and coming out of the jail custody in connection with one or the other of the criminal cases under various counts of the Indian Penal Code. In Hotihari District of Bihar where in a number of villages, the village poor have combined fairly successfully both for obtaining higher wages as well as getting legal share of the crop, over a 1000 cases have been filed against them under the Indian Penal Code. In the face of such heavy odds particularly from the legal and administrative machinery which can be set in motion with utmost ease by the land owners, it is really surprising that organisations of peasantry, however feeble they may be, could develop and exist. The full implication of this major constraint can never be realised by any one unless one has some intimate knowledge of

both the functioning of the Indian administrative policy at district level as well as the harassment and, persecution that the participants of any movement of the rural poor have to face in the event of any direct action,

5.9 In the Indian administrative set up the District Officer holds a unique position. He administers all the regulatory and almost all the welfare and reformative laws. In a sense this unique institution could have been utilised for initiating social changes with a much greater degree of ease and promptitude than what has happened in India, till date. Nowhere in the Indian administrative set up so much authority and control over different governmental agendas is concentrated as in the office of the District Officer. Yet the magistrate in him can, merrily and without any compunction, frustrate the function of his other personality as Collector. The reasons, perhaps, lie in the sanctified tradition of the district administration in India that order has got to "be maintained at all cost, if necessary even at the cost of law. Belief in inherent superiority of the criminal laws is so strong among the officers at the district level and "below? that in case of any apparent conflict *between* the criminal law and the land reforms law the former is always given unquestioned precedence over the latter.

5.10 These shortcomings however important are not decisive. Recent experience in certain parts of the country will confirm the view that given the necessary measures of political will for social changes, even the existing administrative machinery can "be used as an effective instrument for the purpose. Of special interest in this context is the observation of the Task Force on Agrarian Relations of the Indian Planning Commission. "In the context of the socio-economic conditions prevailing in the rural areas of the country, no tangible pro gross can "be expected in the field of land reform in the absence of the requisite political will. The sad truth is that this crucial factor has been wanting. The lack of political will is amply demonstrated by the large gaps between policy and legislation and between law and its implementation. In no sphere of public activity in our country since Independence has the hiatus between precept and practice, between policy-pronouncements and actual execution, been as great as in the domain of land reform. With resolute and unambiguous political all the other short comings and.

difficulties could have overcome; in the absence of such will even minor obstacles become formidable road blocks in the path of Indian land reform. Considering the character of the political power structure obtaining in the country it was only natural that the required political will was not forthcoming.

6.1 The average annual income of an agricultural labour household in India for the periods 1950-51, 56-57 and 63-64 was Rs.447.00, Rs.437.47 and Rs.660.19 respectively. The average size of agricultural labour household for the period February, 1963 and January, 1964 was 4.47. According to the report of the Second Agricultural Labour Enquiry, 63-64 of the agricultural households were indebted. The average debt per indebted household was Rs.141/-. Such macro level average figures while conveying statistically the poverty level of the Indian agricultural workers do not, perhaps, make an impression on the reader how the poor people really eke out their existence. They also iron out, as any average figure would do, the peculiarities of regional variations in poverty level. I had occasion to do some work on this line in the State of West Bengal and based on my experience there, I would try to describe the dependency of rural poor on their employer-cum-landowner-cum-money lender-cum-patron for sheer survival.

6.2 The all India figures are fairly old. In West Bengal through surveys conducted in 1972-73, we got fairly upto date figures about the condition of agricultural workers. What is true of that State would be very largely true of the Eastern States of India which have more or less the same pattern of agriculture, same type of land tenure system and by and large the same type of ethnic composition of the rural poor. Surveys were conducted in 1972 and 1973\* in 6 districts in that State. The results show that the per capita daily earnings of agricultural workers in these six districts work out to 26 paise through manual labour. Assuming for the sake of argument, that workers in these areas do supplement their income, through Government relief, clandestine activities like illicit felling of trees from the Government forests, "begging in the nearby cities, working in non-agricultural jobs, etc." by another 24 paise per day- their income even under most liberal calculation cannot go beyond 50 paise per head per day. In fact the "Report on the Economic Conditions of Agricultural Workers in the District of Bankura" by the Government of West Bengal, after discussing the per capita income of an agricultural worker states the fact that he exists is a miracle."

6.3 For his survival 1/2 share cropper or an agricultural worker, particularly in the

Eastern India, has to depend heavily on the consumption loan given by his employer-cum-land owner. The usual practice is to take a bag of paddy during the lean season when the prices are highest and to return a quantum of paddy for the same money value when the prices are the lowest. For a maund of paddy that he takes for consumption when the price of paddy is, say 5 rupees 60/- per maund, he will return 3 maunds of paddy at the harvest time when the price will come down to, say Rs.20/- per maund. In the process he pays an interest rate of anything between 200% and above in actual life. The situation of perpetual indebtedness was described by Dr. Amit Bhaduri as follows: "The reader may consider the following example to visualise the state of perpetual indebtedness: Suppose the produce of land operated by a bargadar is 100 maunds and his minimum consumption required is 28 maunds. If he gets 40% of the produce, then his legal share is 40 maunds. But because of the outstanding past debt of 12 maunds, he has to pay back 12 maunds as principal after harvest plus say another 12 maunds as interest charge at 100% rate of interest. Thus after paying back (12+12)=24 maunds as adjustment from past debts, out of his legal share of 40 maunds, he is left with only (40-24)=16 maunds. Since his minimal consumption need is 28 maunds, he must borrow again (28-16)=12 maunds, thereby perpetuating a constant cycle of indebtedness, even when he is paying back full principal and interest every year. However, many share croppers are not even so fortunate and get more and more into debt which they can never pay back -one bad harvest, some extra borrowing due to family emergencies like illness or social obligations like wedding expenses, religious rites and the bargadar is in the grip of hopelessly accumulating debt which he can never pay back."

6.4 Regarding the indebtedness of agricultural workers and the method of usury as a source of exploitation, the West Bengal Report mentioned earlier gives the following vivid description:

"Their masters advance them paddy during the lean season under the deri system\* That is to say, they have to le turn a beg and a half of paddy for each bag of paddy that they take on loan. They return the paddy from what they receive as wages during the harvest. As a result, during the harvest hardly any surplus comes back to the contract labour. His indebtedness in paddy together with the interest .thereon of one year is carried forward to the nest year and he is left with no choice but to renew his contract with the same landlord unless, of course, the landlord gets someone e3.se at a cheaper rate. In that event lie has to repay the debt in cash by working as casual labour elsewhere or the debt burden continues to grow. Some times ho discharges Ms debt obligation by working without any wages during the off season. His grew^up children are often employed by the land owners as cow boys without remuneration. Women-folk of the family are also employed as domestic servants and that too without any Wages, By .imputing some money value to the free services given by the entire family, some time, some kind hearted land-owners remit, in part or in full, the accrued interest\* The principal, however, continues to be a burden till it is repaid either in cash or in kind. The same report states in another place "inspite of the services of the entire family, only the interest-is remitted but the principal continues and the family also continues to be in bondage to the creditor till the principal is repaid. "

6.5 This shows how shocking is the depth of poverty of the rural poor particularly in the Eastern India for his survival, he has to take consumption loan which in the situation in which he operates, he is unable to return. Even if he returns, he has to take again the same amount or a little more to keep his body and so ill together. Through this repetitive process he loses his tiny hits of agricultural land. This is followed by the loss of his bits and pieces of *Ellve?* ornaments and brass utensils. And ultimately he loses the right over his homestead and stays there as a destitute on the sufferance of his employer-money lender in his erstwhile

home. His possessions are reduced to a few smoky black earthen pots and tattered rags on his body. He is reduced to the state of a virtual bended labour. Getting a few frugal morsels of food for himself and his family a day is an act of high adventure with attending risks of humiliation and insult and back-breaking work. In the process he loses his capacity to fight and, "worse still, his will to live better.

6.6 We had mentioned earlier (para 6.2) that the average per capita daily income of a member of the household of an agricultural worker in six mono-cropped districts of West Bengal is 50 paise per day, A dietician friend of mine calculated, that at 50 paise per capita income per day, an agricultural worker<sup>1</sup>'s total intake cannot exceed 480 calories per day with whatever combination of food we can think of- at the average price level of April-May 1974 around Calcutta. I shall not go into the controversy of calorie-gap and all that."- But I am told that in the animal world, even animals of the size of field rats have an average per capita daily consumption of 150 grammes of core a ls and 50 grammes of vegetables with caloric value of approximately 565. Thus a large number of sampled agricultural workers in West Bengal had a daily calorie intake of less than that of a field rat. The Working Group on Land Reforms of the National Commission on Agriculture which visited Muzzaffarpur in Bihar mentioned in their report "with 3½ katcha seers of inferior grains as daily wages, with long spells of unemployment, with large number of mouths per family to feed, field rats would continue to be the staple source of protein for the Musahars (rat-eaters) of Musahari, for quite some time to corns. With the calorie intake of less than that of a field rat, and field rats as the only source of their protein intake, a vast multitude of rural poor<sub>3</sub> at least in Eastern India, have only a biological existence. For them to overcome the constraint of getting a few morsels of food every day and to strive for something else is "beyond the physical and mental capacity of the most. When hard-pressed and oppressed beyond tolerance-limit they did revolt and took to insurrectionary movements, as

happened during the Santhal rebellion, or rebellion against indigo planters and in the recent years during the Tebhaga movement. But to involve them in a sustained organisational "work which would require a considerable time and exposure to external hazards becomes very difficult\* Most of the rural poor are not free economic agents unlike their counterparts in organised industry in the 'urban sector. They cannot offer their labour to the highest buyer in an open competitive market because they have no market to operate upon. Secondly, due to the abundance of labour, the employers and land owners can always play one group against another, thereby depressing the level of wages and extorting a higher percentage of produce from the share croppers than what the law and even the local convention prescribes. This economic dependence of this sector of the rural poor acts as a great constraint on **the** development of any organisation. Situation demands a much greater level of sacrifice than what most of them can really bear.

7. ~~The last constraint~~ is the social backwardness of the rural poor. Traditionally, the Bataidars (share croppers) and the landless agricultural workers belong to depressed communities, either the scheduled castes or the scheduled tribes. Most of the tribal people-in the eastern region of India were dispossessed of their land through the machinations of the Banias and non-cultivating land owners through usury coupled with fraud. Similarly, the scheduled castes among the Hindus have also been traditionally working as agricultural labourers as most of the upper caste people would not participate in manual labour involved in cultivation *on* traditional reasons. So if we make a hierarchy in the rural sector on the basis of possession of land and interests therein, by and large we will find that the land owners would be the upper caste Hindus, whereas the share croppers and the agricultural workers will be the lower caste Hindus and tribal people. Because of a long tradition of social oppression and repression, it becomes rather difficult for these lower caste Hindus and tribal people majority of whom are share croppers and the landless agricultural workers to organise and protest against the socially and economically dominant and superior, upper caste employers and land owners. I would not dilate much on it as there are standard works on the subject, It may be mentioned here that the class character does not change with the caste. Some of the scheduled

castes land owners were found to be as oppressive, if not more as the average run of upper caste land owners, But, by and large, the pattern of social hierarchy conform to land holding hierarchy. According to Dr. Andre<sup>1</sup> B<sup>3</sup> teille "Evan if we leave ai aside the Muslims and. confine ourselves to West Bengal today, we notice certain interesting associations as for instance, between bargadar and khetmajur on the one hand and Harijan and Adibasi on the other. The highly structured Hindu Society with its long history religious and traditional sanctions acts as a great impediment to the growth of interest-class organisations among the socially and economically oppressed groups. But such caste groups and particularly the tribal groups exhibit certain degree of cohesiveness and militancy in their collective behaviours which are absent among the Upper castes. Because of the presence of these factors, such groups have some potentialities of developing into interest groups if properly led and guided.

8. If the history of last four decades shows that the organisations of the rural poor have not produced the desired results, it, perhaps, indicates that the time has come for searching out some alternative strategies for action. In spite of regional variations, peasant societies everywhere have more or less the same basic difficulties. After all, the history of human race of the last half a century has not been totally barren. Nations which are groping for a direction or a lead may take a lesson or two from the success stories of mankind, elsewhere.

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## Look what lawyers object to

*On July 30, the Madras High Court notified a 25-point code of conduct for lawyers, sparking off protests and demonstrations from the advocates. The full text of the judicial notification;*

Amendments to rules framed-under Section 34 (1) of Advocates Act(Roc No 3000/B/2004/F1)

No. SRO C-4(a)/ 2004 "" In exercise of the powers conferred by the Section 34 (1) of the Advocates Act, the High Court, Madras, makes the following amendments to the existing Rules:

The amendments shall come into force with effect from 30-7-2004.

1.Existing Rule 1 of the Rules shall be renumbered as 1A and the following Rule shall be inserted in Rule 1:

1. These rules may be called as "The Rules regulating the practice of Advocates before Courts in the State of Tamil Nadu.
2. After the existing Rule 14, and before Rule 15, the following Rules shall be inserted as 14A, 14B, 14C, 14D.and 14E.

### ADVOCATES'CODE OF CONDUCT

Rule 14A:

- (i) An Advocate shall, during the presentation of his case and while otherwise acting before a Court, conduct himself with dignity and self respect.
- (ii) An Advocate shall maintain towards the Court respectful attitude bearing in mind that the dignity of , the Judicial Office is essential for survival of Rule of Law

Rule14B;

- (i) No Advocate shall himself obstruct or cause to be obstructed the Court proceedings.
- (ii) No Advocate shall use indecent/ indecorous language while present in the Court or in the Court premises or presenting the case.
- (iii) No Advocate shall himself or by any other means create disturbance affecting the functioning of the Court proceedings.
- (iv) No Advocate shall hold demonstration, procession, etc in the. Court premises causing disturbance to the Court proceedings.
- (v) No Advocate shall act with in? civility, rudeness or disrespectful con-; duct towards the Presiding Judge.
- (vi) No Advocate shall directly or indirectly malign a Presiding Judge or a Court.
- (vii) No Advocate shall directly or indirectly, either individually or joining with others, storm the Court rooms and disturb the functioning of the Court proceedings.
- (viii) No Advocate shall make disparaging and discourteous remarks against the Presiding Officer of a Court.
- (ix) No Advocate shall speak ill of the Judges or make disparaging remarks

about the proceedings of a Court.

(x) No Advocate shall use insulting language and resort to offensive conduct towards Presiding Judge or Court personally for judicial acts.

(xi) No Advocate shall use, either in writing or spoken language, reflecting unjustly on the character or integrity of Presiding Judge either inside or outside the Court

(xii) No Advocate shall impute feeling of social antipathy towards a Presiding Judge or Court and charge the Judge allowing such feelings to influence him in passing orders.

(xiii) No Advocate shall make statements in open Court or otherwise impugning fairness and impartiality.

(xiv) No Advocate shall proclaim that he owes no allegiance to Courts and has no faith in Courts.

(xv) No Advocate shall make or cause to make attacks or reckless and unfounded charges of impropriety or inattention to Presiding Judge.

(xvi) No Advocate shall himself present or cause to be presented petition statements, representations, pleadings and such matters making scurrilous or scandalous allegations.

(xvii) No Advocate shall make charges of bribery against a Presiding Judge which he knew to be false or which he knows that he has no reasonable prospect to sustain the charges.

(xviii) No Advocate shall in any manner attempt to avoid or gain or cause to avoid or gain by making scurrilous or scandalous or defamatory allegations.

(xix) No Advocate shall publish or circulate or issue or cause publication of any material or any bills etc containing false, scurrilous or scandalous matters as regards Courts.

(xx) No Advocate shall obstruct the entry into Court' premises or Court halls of any other Member of the Bar or litigant public who enter the Court or the Court halls in the discharge of their professional duty of appearing in Court and assisting the Court in the administration of justice or who come forward to seek justice.

(xxi) No Advocate shall use intemperate language or indecent language against other Members of the Bar while presenting his case or while conducting the proceedings and shall not cause any fabrication of Court proceedings resulting in the obstruction of Court proceedings.

(xxii) No Advocate shall, either by himself or in association with other Advocates, indulge in strike or boycott of the Courts.

(xxiii) No Advocate shall, either by himself or in association with other Advocates, undertake fast inside the Court or within the precincts of the Court.

(xxiv) No Advocate, who had been committed for the contempt of Court, shall be permitted to practice in any Court during the currency of the punishment.

(xxv) No Advocate, against whom an order of stoppage of appearance in the Court has been passed by the High Court, shall be entitled to enter into the precincts of any Court.

**NO Advocate shall hold demonstration, procession etc in the Court premises causing disturbance to the Court proceedings**

**Rule 14C:**

The High Court shall have the power to stop appearance of an Advocate committing breach of Rule 14B or any one or more clause, upto a period of one year:

(a) Provided that before exercising the power, the High Court shall afford reasonable opportunity to the concerned Advocate to show cause as to why such action should not be taken against him;

(b) Provided further that the High Court may review or modify such order either on application or suo motu and pass such orders as the High Court deems fit.

**Explanation:** Any of the misconducts enumerated in Rule 14B shall, even if committed against a Single Bench, a Division Bench or a Larger Bench, be construed as misconduct against the entire High Court.

**Rule 14D:**

Any violation of Rule 14B committed before any Court subordinate to the High Court shall be reported to the High Court for appropriate action and the High Court may deal with it under Rule 14 C, besides taking such other action as the facts may warrant under any other provision of law.

**Explanation:** For the purposes of construing the words "High Court" occurring in Rules 14C and 14D, the "High Court" shall mean the Administrative Committee and whatever decision taken by the Administrative Committee shall be deemed to be the decision of the High Court. Such Administrative Committee, as an interim measure, shall be entitled to immediately restrict the entry of such Advocate, against whom an enquiry for misconduct enumerated in the above Rules has been initiated, pending final decision of the Administrative Committee. Such a decision shall not exceed a period of two months from the date of interim order and within that two months, the final decision shall be taken by the Administrative Committee.

**Rule 14E:**

No Advocate appearing as a litigant-in-person shall argue wearing his robes and bands.  
High Court, Madras Dated: **30th July 2004**

## Judges adopt 15-point code of ethics

In order to strengthen the independence of the judiciary, chief justices of all 'high courts have adopted a resolution that the judiciary will be bound by its own code of ethics to be known as the "restatement of values of judicial life".

The recently concluded chief justices' annual conference chaired by Chief Justice AS Anand resolved that it would be mandatory for every judge to declare all his assets, including those of his spouse and dependents.

The resolution, experts feel, may preempt the Union government's move to evolve a code of ethics for the judiciary through the proposed national judicial commission.

The Prime Minister had on November 26 told a gathering of judges, jurists and lawyers that "we shall soon set up a national judicial commission which will recommend judicial appointments in the superior courts and draw up a code of ethics for the judiciary."

Justice Anand has said that "in a democracy where the sovereignty vests in the people, every holder of public office must be accountable to the people".

The justices have also accepted to adopt an "in-house procedure" under which a committee would take suitable action against those judges who do not follow the code of ethics.

The 15 point code stipulates that any act of a judge of the Supreme Court or a high court, whether in official or personal capacity, which erodes the judiciary's credibility has to be avoided.

- A judge should not contest election to any office of a club, society or other association.
- He should not hold such elective office except in a society or association connected with the law.
- Close association of a judge with individual members of the bar, particularly those who practise in the same court, must be eschewed.
- A judge should not permit any member of his immediate family, such as spouse, son, daughter, son-in-law or daughter-in-law or any other close relative, if he or she is a member of the bar, to appear before him or even be associated in any manner with a case to be dealt by him.
- A member of a judge's family, if he or she is a member of the bar, should not be permitted to use the residence in which the judge actually resides.
- A judge should practise a degree of aloofness consistent with the dignity of his office.
- A judge should not hear and decide a matter in which a member of his family, a close relative or a friend is concerned.
- A judge must not enter into public debate or express his views in public on political matters or on matters that are pending or are likely to arise for judicial determination.
- A judge is expected to let his judgments speak for themselves. He will not give interviews to the media.

- A judge will not accept gifts or hospitality except from his family close relatives and friends.
- A judge will not hear and decide a matter in which a company in which he holds shares is concerned unless he has disclosed his interest and no objection to his hearing the matter is raised.
- A judge must not speculate in shares, stocks or the like.
- A judge should not engage directly or indirectly in trade or business, either by himself or in association with any other person. (Publication of a legal treatise or any activity in the nature of a hobby will not be construed as trade or business.)
- A judge should not ask for, accept contributions or otherwise actively associate himself with the raising of any fund.
  - Every judge must all times be conscious that he is under the public gaze and there should be no act or omission by him which is unbecoming of his office.

Justice Anand blamed the Centre and the state governments *of* not acting on the recommendations for filling up nearly 1,000 vacancies in the lower courts and about 154 vacancies in the high courts.

## **ON CORRUPTION - BROADCAST OVER THE BBC**

“It is undeniable that corruption has spread to every part of the Government apparatus. The record in office of one political party is no better than of any other”.

“The honest man cannot enjoy the rights the law gives him the dishonest cannot be punished”.

“The corruption at the political level which leads to a disregard of the rule of law naturally completely demoralizes the administration. Why should the civil servants bother about rules and regulations, if a simple telephone call to a minister can upset his decision”.

One could be forgiven for thinking those are extracts from one of my despatches or the despatches of one of my colleagues from the western press based in Delhi. We are the ones who are accused of denigrating India, and running down its image. We are the vanguard of the armies of so-called cultural imperialism. But those remarks are in fact extracts from a speech made by a very distinguished Indian, currently the Governor of the sensitive State of Jammu and Kashmir Mr. B. K. Nehru.

Mr. B. K. Nehru is a cousin of the Prime Minister Mrs. Gandhi but in his long analysis of India's woes he did not spare her. He suggested that the chief executive, that is of course Mrs. Gandhi, should have a fixed tenure of office limited to one term. Mrs. Gandhi first came to power sixteen years ago and has been in power, with one break of two and a half years, ever since.

Mr. B. K. Nehru is not the only Indian to have lamented the state of public morality here. The President, who is meant to be above controversy and politics, told the nation recently that the current decline in moral values in public life represented the very antithesis of the spirit of sacrifice that animated India during the struggle for freedom. He warned that people would start losing faith in the country's democratic system if there was not a renewal of the missionary spirit of the independence movement. President Sanjiva Reddy did not actually use the word corruption in his Republic Day speech but no one was in any doubts that it was corruption he was referring to.

When I reported B. K. Nehru's remarks he gently chided me for sensationalizing them. Perhaps I did fail to set them in their context, so let's have another go.

You can't measure corruption. For instance how do you measure the corruption of a petty politician here who takes a bribe for using his influence, against the influence peddlers of Western Democracies? Western companies and arm-sellers who are, despite all their protestations, prepared to pay high sums of money to Indian agents. They know perfectly well where the money is going. Who is corrupt? The corrupter or the corrupted. No country's hands are clean. But for some reason or other Indians seem to believe their hands are dirtier than most, although B. K. Nehru certainly didn't go that far. Indian corruption has also attracted a good deal of attention from foreigners. Much of that is just plain silly.

A three year old dispatch from a British diplomat recently found its way to the Indian press. The anonymous author claimed that India was in effect irremediably corrupt because of Hinduism. He made the startling claim that truth to a Hindu is usually that which most suits his convenience at any given moment. There are many scholars who ever that the relationship between Hindu religious observances and moral conduct is not at all clear. But to stretch that point to a stage where you make India super corrupt because the majority of the population is Hindu is idiotic. Are India's neighbours Muslim Pakistan or Muslim Bangladesh any less corrupt? I would challenge any one to prove it? The British went on to fall headlong into another trap. He said. "the old style British Rule a kind of benevolent autocracy in which the individual was assured of law and order, stability, and impartial fair treatment was better suited to the Indian character". Not content with that he took the trouble to dig himself into the trap by going on to say "However it required just and impartial foreigners to carry out that benevolent autocracy". It is patently absurd to claim there was no corruption during the British Raj. I knew personally of one senior British civil servant who made all that he could out of the controls imposed in Bengal during the last days of the Raj. It is racism to suggest that Indians are not fit to rule themselves.

There are many obvious causes of corruption in India. They are the same causes which produce corruption in every other developing country which has come under the influence of British Fabians and the London School of Economics. I would hastily add I am not advocating Reaganomics, or the benefit of military rule. B. K. Nehru pointed out two very obvious reasons for corruption, public servants salaries which he so aptly described as "made ludicrous by taxation and inflation", and political interference in the bureaucracy. But the remarkable thing about India is that these subjects are all discussed openly. That's more than can be said for most other developing countries and some developed ones too. In fact I believe they are over discussed. It's Indians and the Indian press which gives the world the impression that this country is irremediably corrupt.

Not only are the reasons for corruption discussed. Action does sometimes follow. Since B. K. Nehru delivered his speech civil servants have been given a handsome pay raise. Unfortunately that's only half the battle. Most of that rise will still be swallowed up by taxation. But Mrs. Gandhi does not realise that soaking salary earners is not the same thing as soaking the rich and we may well be going on to see major reforms of India's taxation system too.

Since B. K. Nehru's speech there has also been a major row over political interference in the workings of the bureaucrats.

One of the legacies of the British Raj was the Indian Civil Service or ICS. An elitist service, if ever there was one, to which B. K. Nehru himself belonged. After Independence the ICS was transformed into the IAS or the Indian Administrative Service. The IAS like the ICS provides a cadre of senior civil servants who usually spend their younger years running remote districts and then graduate to the top jobs in the Secretariats in Delhi or in the State Capitals. The hill resorts of the Himalayan foothills were another of the legacies of the British Raj. So it is only appropriate that

the Indian Administrative Service should have chosen a hill resort to its administrative training Academy. Senior white and brown sahibs of the ICS used to escape from the heat to the cool cedars of the summer capital of Simla. So why shouldn't the new sahibs of the IAS at least start their careers in the cool of Mussoorie?

Before Independence, Mussoorie was the summer retreat of the Maharajas. An older inhabitant told me of seeing an occasion when the Maharaja of Patiala, a massive Sikh was chased by the proprietor of a hotel whose bill he had forgotten to pay. The Maharaja was too drunk and too disdainful to the wretched man. He simply threw his purse at him, and was helped into his rickshaw by liveried rickshaw men. The same inhabitant of Mussoorie also saw the Maharaja of Katishar chasing his unfortunate gatekeeper over the mountains of Mussoorie brandishing a horse. The poor gatekeeper had been a little tardy in reacting to the maharaja's imperious command to open the gates of his castle . The castle now houses some of the probationers of the IAS studying at the training academy.. Until recently the Administrative Academy provided a peaceful retreat for the members of the Service who ran it. Battered and bruised by battles with politicians they retired there for a few years, the more active to enjoy the Academy's sporting facilities and the more sedentary its library. They entertained the probationers with their own pet theories on how to administer India. An official used to give tree lectures on that dreaded subject "Avoiding Political Interference". But last year the tranquility of that hill top Academy was rudely shattered by a high-spirited young probationer. While on a trek he got drunk, drew a revolver, and threatened to molest one of his female colleague. An enquiry was ordered, on the basis of which the principal decided to sack the rowdy probationer. But back in Delhi the young probationer managed to drum up powerful political support. Eventually the Home Ministry wrote to the principal recommending a "reformatory" approach to the high-spirited and politically well connected young man. The principal told his superiors that retaining the probationer would have "disastrous effects on the discipline and morale of the IAS and the Academy ". His word did not prevail so he took the extreme step of retiring from the service in protest and telling the Press why. Then the Indian democratic machinery started to move, and it is important to notice that it was the democratic machinery. At first the Home Minister stuck to his guns. But eventually he sent his Deputy into Parliament to report that he had decided the probationer should be sacked. Unfortunately the Principal, described by his colleagues at Mussoorie as one of India's most distinguished administrators has not been recalled from his premature retirement. It looks as though he will end his career growing roses. But a great victory for the Administration has been won. Of course that it is not the end of the battle. A senior IAS officer explained that the IAS lacked the homogeneity of the ICS who were all sons of the landed gentry. Homogeneity gave the ICS the esprit de corps to stand up to its political masters. That may be so but it says a lot for modern India that one of this years' IAS probationers is the son of a fisherman and another daughter of landless labourer. They won two of the one hundred and twenty coveted IAS places in competition with a hundred thousand rivals.

Even in Bihar, always reckoned to be the worst run state in India, there are rumbling in the ranks of the IAS. One officer recently refused promotion in protest against what he described as "the concentration of real authority in the hands of inefficient and corrupt political functionaries". Another, a Harijan or untouchable publicly challenged the Brahmin.

Chief Minister to prove the charges of corruption and inefficiency which had been made against him or resign. But again in Bihar the lack of homogeneity in the IAS has prevented a spirited corporate response. Officials have reacted to these events in every different ways. According to some of the IAS officer's the state cadre has divided on caste lines. But many believe that the strife in the IAS will force Mrs. Gandhi to take action against the chief Minister, showing that even in Bihar there are limits beyond which a politician cannot go.

In Bihar the press and the opposition again played a vital role. They played a role in bringing down the powerful but corrupt Chief Minister of Maharashtra . The courts also played a role in those last two incidents.

We must not leave out the Government either, Mrs Gandhi could easily have ridden out the parliamentary storm over the IAS probationer. She didn't . She told the Home Minister to change his mind. Of course this does not mean that Indian's democratic checks and balances are perfectly synchronised. Far from it. A senior IAS officer recently said "In the old days Ministers decided policy and bureaucrats carried out the day to the routine. Now the Ministers leave the policy to the bureaucrats because they are too busy with the routine. "It's in administering policy not making it that the money is collected in a land of shortages like India. But could it be that things are not quite as bad as most foreigners and may prominent Indians claim? I believe so.

Part of the trouble is that Indians and foreigners alike expect too much of this country. Because India is a democracy, because at the top Indian society is amongst the most sophisticated in the world, because in almost any university of the world Indians are found outgiving the native competition, we forget that India is still a very poor country. It may be true as some have said that India is rich in resources but poor at exploiting them but the problems of India are not the problems of Britain. Yet these are the standards by which we all, Indians and foreigners alike tend to judge this country. When it comes to corruption for instance we forget the old maxim, taught to me surprisingly by an American diplomat "some populace afford not be corrupt". I can. But can an Indian Member of Parliament whose salary is about 30 pounds a month? To trundle out a phrase used by this year's Reith lecturer on its head there is a lot of facile pessimism about India, both here and abroad. I am not sure that we have to worry about Indian corruption. I have a feeling Indian democracy may be able to look after it.