

THE CIVIL SERVICE IN TRANSITION

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“Free Enterprise was born with man and shall survive as long as man survives”.

-A. D. Shroff

1899-1965

Founder-President

Forum of Free Enterprise

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By

B. K. Nehru*

It is not possible to run any kind of government whether a dictatorship or a monarchy or a democracy without a large number of servants of the State to ensure that the orders of the Ruler are carried out. Prior to the emergence of democracy, which in itself is a relatively new form of governance, the Ruler appointed his servants from among his courtiers, relatives, and favourites. They were responsible to him and held their office at his pleasure.

A modern Civil Service, with its well-defined regulations, defining what qualifications its members should have, how they should be chosen, the duties they have to perform and their own rights regarding their salaries, their security in service and the like, is linked with democracy and the Rule of Law which is one of its prime functional features.

The first step towards the establishment of a Civil Service seems, however, to have been taken by the Bourbons. This idea was further improved by Napoleon who formalised the system of Prefects (corresponding

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to our Deputy Commissioner or Collector) and created the three "grands corps" which further extended the functions of the civil services and gave them a high position in society. It is perhaps this ancestry that has made the Civil Service in France, the best organised, the best trained and the most respected of such organizations. It is not by accidents that two of the five Presidents of the Fifth French Republic have been career civil servants.

The history of the Indian Civil Service starts with the East India Company. It was as early as 1800 AD that Lord Wellesley realising that the administrators of the Empire required high education, expertise, and character established the College of Fort William where every employee of the company was to be sent for a three-year course of education of the standards of the universities of Oxford and Cambridge. Among other subjects taught were ethics and international law, and in addition, Indian history and oriental languages. The Directors, however, while accepting the proposal decided that the college should be in England. This is how that, for a whole half-century and more, all members of the Civil Service were educated and given special training at the East India College at Haileybury. The method of recruitment was by competitive examination but the method of entry was by nomination of the Directors. In 1853, the competition became an open one - a full seventeen years before the Home Civil Service could do the same.

The examination for the ICS took place in London and the curriculum, according to which the merit of the candidates was determined was such that Indians had

little chance of competing successfully unless they were rich and had studied at a school in England. The constant demand of the Indian National Congress since its birth in 1885 was to increase the number of Indians in the ICS. Consequently first the curriculum was widened and then in 1922, a parallel examination began to be held in India. The end-result was that at the time of the transfer of power, half the members of the ICS were Indians.

In the long period in which the ICS had developed, the methods of recruitment and training, the duties, the division of responsibilities, and the salaries had all been very well worked out and standardised. What the methods of recruitment and training were half a century ago would best be illustrated by my own story. Having graduated from Allahabad University, I was sent to England to study Economics, Political Science and the Law with the objective of joining the ICS. Three quarters of the Indian students in England had the same objective, less than a quarter achieved it.

The competitive examination was a joint one for the Diplomatic, the Home, the Indian, and the Colonial Services. The age limit was between 21 and 24 thus giving everyone three chances. The total of the marks for the examination were 1,900. Of this 500 were compulsory for testing out your knowledge of, and ability to write, English and your general knowledge, which included sciences of various kinds. 300 marks were reserved for the Viva Voce and for the remaining 1100, you could choose any subject on earth from Astronomy to Zoology. This meant, in effect, the equivalent of two university degrees.

The *Viva Voce* was designed to test personality, moral values, and awareness of what was happening in the world, reactions to problems and situations and the like. The obvious question for me to be asked was that, considering that half of my family was in jail, how was it that I wanted to serve the British Government. My answer was that I wanted to see for myself whether my being in the ICS would help my people. If I found that it would not, I would resign. This earned me 277 marks because what was expected of an ICS officer was truth, courage, honesty and integrity and not cringing sycophancy.

After having been chosen, you had to undergo one or two years' probation in England according to whether you had taken the London or the Indian examination. This period was spent at Oxford, Cambridge, or the School of Oriental Studies in London. It consisted principally of studying Indian Law and procedures, mostly criminal and the Law of Evidence, getting an idea of the revenue system, reading Indian history and learning the language of the province to which you had been assigned. Thereafter, there was one Final examination which included, among other things, your ability to ride a horse!

The real training started on one's arrival in India. The new recruit was put in the charge of a Deputy Commissioner or Collector. These trainers were specially selected for their interest in, and capacity for teaching the new comer not only what his duties were, but to instill into him the proud traditions of the service he had joined. He was also taught what his behaviour should be, how he should acquaint himself with the culture,

customs, desires and difficulties of the people in the villages, how to make and keep the revenue records, and how to try both criminal and revenue cases.

It was the custom that the trainer invited his new Assistant Commissioner to stay with him. (This was not free of charge, the standard rate for the paying guest, when I arrived in 1934, was Rs. 150 per month, all inclusive.) The constant company of the teacher with the pupil made it a *guru-chela* relationship. It is a thousand pities that the custom disappeared soon after Independence; no two Indians ate the same food! My guru took me with him on his tours, his inspections, his courts, his *shikar* (which was seldom), to play tennis at the club, and to whichever function he was invited. Apart from this, it was instilled into me, that as a member of the ICS, my integrity, financial, moral and ethical, was to be beyond suspicion. Every action of mine should therefore be fair, just, helpful and kind. There was to be no fear or favour in my actions or decisions and no listening to *sifarishes* of which I would get plenty. I had to be firm but always polite and courteous. I had to remember that I was not a ruler of the people, but their servant, working for their benefit. I also had to realise that no matter how insignificant I might regard myself to be, in this small rural district, I was a very important person. Whatever I did was expected to be the right and correct thing to do. I had, therefore, to be specially careful.

Thereafter followed the routine training - treasury training for three months in the hills for the summer, six months of "settlement training" when I started as a

labourer pulling the “jarib” or iron chain with which the fields were measured and was gradually promoted to the rank of *tehsildar*. During this period, I was prohibited from returning to headquarters and was to go from village to village to know the people by living among them. I was given training for six months as a class-I Magistrate followed by six months of “judicial training” as a subordinate judge, second class. Thereafter I was ready to be given independent charge as Sub-divisional Officer.

The IAS probationer of today gets a far wider and variegated training than I, like my pre-independence colleagues, ever did. They are far better equipped to handle the far more complicated issues of today. But I have some doubt whether there is today the kind of character-building that I got in the first few months of my service, when I was taught what justified my very existence - that I was there to serve the people. This had to do with humanity and devotion, give them justice within the law, do everything I could to help them improve their condition and all this without committing even a single act of doubtful integrity.

Times have changed and with them has changed totally, the position of the all-India services, How completely and drastically this has happened can best be illustrated by my describing four incidents. One was during British times; the second, during the regime of Jawaharlal Nehru, when the Rule of Law was still strictly enforced; and the other two are relatively recent.

Sometime in the 1930s, the Finance Member — as

cabinet ministers were then called — ordered a new carpet for his office. The price of the carpet was more than the regulations permitted. The excess was detected by audit and the Accountant General, Ganga Ram Kaula, ordered that it should be recovered from the member's salary. The Finance Member was up in arms and wrote an angry letter to the Auditor General saying, "Ganga Ram Kaula is unfit to be an Accountant General". But that was all. Not only was Ganga Ram Kaula eventually promoted to be the first Indian Auditor General but also honoured with a knighthood,

The second case, to which I was a witness was that the Finance Minister T. T. Krishnamachari asked the Chairman of the Central Board of Revenue, Arun Roy, to show him the income tax returns of a particular individual. Arun Roy said that he was sorry he could not do so because they were secret documents. T. T. K. was one of the most powerful ministers India has had, with a highly explosive temper and a vengeful nature. He asked, "Haven't you seen them yourself?" Arun's answer was he had. The next question was, "You are my subordinate, aren't you?" The answer: "Yes, sir, I am." Question: "How is it then that I can't see what you have seen?" The answer was that the Chairman of the Board of Revenue was a member of the Income Tax Department, but the minister was not. The minister was furious, but could do absolutely nothing. Arun Roy was promoted to be Economic Secretary in the Finance Ministry and later to be the Auditor General of India.

Now take two relatively recent cases. A young IAS officer went to the minister concerned with the request that the orders for his transfer should be delayed by a

few months. The minister asked him what his category was. The officer did not understand what "category" meant. The minister explained that service officers were divided into three categories -- A, B, and C. Category A obeyed orders without ifs and buts. Category B raised objections when they thought the orders were against the law, but eventually agreed to carry them out. Category C consisted of those who stuck to their objections and refused to do what the minister wanted. Category A officers alone were of any use. Now and again, category B was also acceptable, but he had no use for category C at all. "Now, tell me to which category do you belong?" The poor officer, who apparently belonged to category C, said goodbye and walked out.

The second case is that of a cabinet minister bringing with him luxury items worth several lakhs from a visit abroad. The Assistant Commissioner at the airport asked for the duty to be paid. The minister's clerk said that these goods belong to the minister. They should be let in duty free. The officer could not accept that interpretation of the law. The duty was paid but within a week he was transferred from Delhi to Chennai.

I shall try to describe how, when, and why this revolutionary change took place. There are many reasons for this change. Historically, the first is that the Indian National Congress was highly prejudiced against the ICS and the Indian Police Service. Given the history of the struggle for freedom, this was not surprising. Most freedom fighters did not understand that the service at whose hands they suffered was performing its duty to implement the law. The law was not made by the

members of the services. It was made by the Viceroy and the Secretary of State for India in London. Nobody could have stated the difference between making the law and enforcing it better than the judge, C.V. Broomfield of the ICS who sentenced Mahatma Gandhi to six years' imprisonment in 1923. The last sentence of his judgement was, "If the course of events in India makes it possible for the Government to reduce the period and release you, no one will be better pleased than I."

Occasionally they did understand the difference but the masses did not. When my mother was arrested in 1942, the police officer who came to arrest her, begged "Mataji," as she was universally called, to pardon him for what he was doing. Mataji told him that he was doing nothing to be pardoned for. His duty was to arrest her because she had broken the law; Her duty was to break the law. Both of them were doing nothing more than carrying out their "dharma."

Most of the leaders who became ministers after Independence, had very little experience of administration and sometimes none at all. The only such experience that Prime Minister Nehru had had was one year's tenure as Chairman of the Allahabad Municipality. They did not understand that the good laws that were about to pass would not automatically enforce themselves. Good governance required a competent, efficient, and disciplined machine, known as the Civil Service, to do so.

The only leader who understood the importance and the essentiality of the All India Services was Sardar

Vallabhbhai Patel. In a letter to the Prime Minister on April 27, 1948, he said, "I need hardly emphasize that an efficient, disciplined, and contented service, assured of its prospects as a result of diligent and honest work is a *sine qua non* of sound administration under a democratic regime even more than under an authoritarian rule. The service must be above party and we should ensure that political considerations, either in its recruitment or in its discipline and control, are reduced to the minimum, if not eliminated altogether." He also saw the importance of organizing the Civil Service on an All-India basis with the Central Government having a considerable say in the recruitment, training, and career of its members, as a counter-balance to the emergence of the centrifugal forces that have repeatedly torn apart the political unity of our country. These proposals were strongly opposed by the Chief Ministers of the states who wanted no interference with their authority and wished then, as they do now, to have pliable officials who could be manipulated more easily than members of the All India Services. In his speech to the Constituent Assembly in October 1949, the Sardar said, "The Indian Union will go. You will not have a united India if you do not have a good All India Service which has independence to speak out its advice — if you do not adopt this course, then do not follow the present system, substitute something else." Sardar Patel did ultimately succeed in forcing his proposals down the throat of an unwilling Constituent Assembly. All the articles designed to ensure the independence and the security of the services and to prevent any political interference with them, find themselves in the Constitution because of Sardar Patel.

The Prime Minister, as he gained experience of how in

actual fact the ICS worked, was fairly soon converted fully to the the Sardar's point of view. During his long tenure of office, no politician dared to interfere with the functioning of the services or bully them into breaking the law. For the First quarter-of-century of our independence, the All India Civil Services continued to function as before.

There had, however, been one change. One of the complaints against the ICS was that it drew "fat salaries," and we were pledged to reduce them. The salaries of the ICS were fixed at very high levels in order to prevent the ICS becoming corrupt in an environment of corruption, both among the Indian rulers and the servants of the Company. These salaries started at Rs. 450 per month for the new entrant and went up to Rs. 4,000 for a Secretary to the Government of India and a judge of the High Court. They had never been revised during the previous ninety years of rise in prices, so that instead of remaining fat, they became lean. Nevertheless, to fulfill the pledge, they were reduced to Rs. 350 for the entrant and Rs. 3500 for the seniormost posts. Coupled with this, there was steady inflation while rates of income tax were gradually raised to absurdly high levels.

Simultaneously with this, we adopted the policy of nationalising, not only "the commanding heights of the economy," as Jawaharlal Nehru wanted, but also of anything that any minister, Central or State, desired. The industry that was left in private hands was so strictly controlled that virtually nothing could be done without government sanction. The license-quota-permit-raj started and when a senior minister of the Union

Government started selling these across the table, corruption started to become a way of life. Be it said to the ninety years old' tradition of the ICS, that it did not, for a very long time, in spite of their salaries having become meagre, become parties to this dishonesty. Corruption descended to the Civil Services from the top and did not do so till it had thoroughly soaked the political world.

Why has the politician been opposed to the independence of the Civil Services from the very beginning and why has he become as corrupt as he is now? The answer to both questions lies in the Indian Constitution. That Constitution is based on ideas which are still not acceptable to the vast majority of the Indian people although they might be acceptable to the tiny minority which has received a westernised education. Those ideas are democracy, equality, secularism, human rights and, above all, the Rule of Law. All these ideas are of foreign origin and they are contrary to our traditions.

Our tradition of government has, for thousands of years, been that of "Raja and Praja." They were in full practice in 1947 in the Princely states and accepted by the people. The powers of the king are absolute, the wishes and desires of the king are the law which the "praja" cannot question and has to obey. One of his prerogatives, never questioned, is to levy whatever taxes he likes and to take whatever proportion of the revenues of the state for his personal use. Nor was it unusual for the king and his courtiers to accept, and indeed demand, presents or gifts for getting favours in return. There is nothing strange about this because the whole world which, till not so long ago, was ruled by Kings and

Emperors had the same traditions as ours. The control over the absoluteness of the King started in England with the Magna Carta in 1215 AD, when the King was forced to hand-over a few of his powers to a handful of his nobles. The movement for the transfer of power from the King to the people took, in England, well over seven-hundred years. These years included civil wars, revolutions, and regicide. We in India, on the other hand, suddenly jumped from the absolute power of the Viceroy to all power being transferred to all the people. If King John had given all his powers to the people in 1215 AD, it is doubtful that England would have ever emerged from chaos.

While we go on priding ourselves at being the largest democracy in the world, the fact is that the only part of democracy that we have really understood and adopted is that every citizen of India has the right to vote. But that in a democracy, the laws passed by the representatives of the people have to be obeyed by every citizen, has not yet been accepted. The concept of the common man is that by casting his vote, he is electing a Ruler, and as the Ruler is all powerful, he can do whatever he wishes, including transferring a part of the public revenue to his own pocket. It is his orders that have to be obeyed and not those of the bureaucrat. The laws that are passed in Parliament and in the State Assemblies are not meant to be enforced on the elected representative of the people, his family and his supporters. It is for this reason that most laws are passed without a quorum being present in the House.

In this context, where does the civil servant fit in ? His function is to implement the law. This is regarded by the

politician as a check on his power and that check is unacceptable to him. There is, consequently, a continuous war between civil servants who try and live up to the democratic concept of the Rule of Law. For the minister, it is only category "A" officers who are worthwhile. But ideal civil servants are expected to belong to category "C".

The weapon used to bend civil servants to the minister's will is frequent transfers which ruin a man's life and that threat has changed much of the transferees from category C to A. Once having said goodbye to one's conscience, it would be foolish not to also become a partner in the loot that is so easily available. There is unfortunately no denying the fact that an increasing number of civil servants are now corrupt.

Sardar Patel wanted a civil service without political interference, but he forgot to place any limit on the Chief Minister's power to transfer officers. In developed democracies, there are such limitations. In Britain, senior officers cannot be transferred without the orders of the Prime Minister, who will not, by convention, act except on the advice of the Secretary of the Civil Services Department. In India, it is the custom, both in the states, and has now crept into the centre, to transfer dozens of civil servants whenever a government is changed.

The other factor which has changed the position of the civil service is the spread of corruption at all levels throughout the country. Not too long after Independence the whole country seems to have changed its religion. The worship of God was replaced by the

worship of Mammon. The economic policies we adopted, the strict control over private industry and the totally absurd rates of direct taxation placed enormous powers in governmental hands and gave both, the politician and the bureaucrat, an opportunity to make money.

As the cost of elections goes on increasing and the size of monetary pool goes on getting smaller as a result of liberalisation, the source of money becomes increasingly objectionable. The very large size of our constituencies make it imperative to raise money for fighting elections. According to recent calculation, the money required by a candidate for the election to the Lok Sabha is Rs. 1.3 crore. That money has to be procured somehow, and those who make it available, now consist largely of members of the underworld, shady characters and criminals of all kinds. Inevitably, the nexus between the politician, the criminal, the corrupt businessman, and the corrupt civil servant gets stronger year after year. Our democracy remains “of the people” but it is neither “by the people” nor “for the people.”

Till about twenty years ago, one could say with confidence that there was hardly any member of the IAS who was dishonest or corrupt. These days, I gather that over half of the IAS have joined the politicians in corrupt practices. (They may, if they wish, seek satisfaction in the fact that among the politicians, the percentage on a conservative basis, is well over 80 percent.) It is a matter of credit to the strength of the IAS tradition that they resisted the temptation for so long. This break in the tradition has been helped by the fact that it is only about 50 percent of the IAS who are appointed on the basis of merit through competitive

examinations. The other half come through reservation of all kinds and promotions from the State Services. Furthermore, the competitive examination can now be taken by members of some classes till they are well over 30 by which time there is little likelihood that they will be affected by the tradition of the service they join.

The result of all this is two-fold. One is that our system of governance is no longer democratic. The people still elect their MPs and MLAs, but the elected Rulers, who are now getting increasingly accepted as being above the law, are more interested in themselves than the welfare of the people. We abolished 500 or so Maharajas in India but have instead created almost ten times that number of Kings!

Things have come to such a pass that only the other day in the State of Haryana, an MLA along with his supporters, which included muscle men and his security guards, entered the office of a Deputy Commissioner and demanded that he should do something or the other. The DC said that he could not oblige because the Election Commission had temporarily forbidden it. Thereupon, after some abuses, the poor DC was manhandled. In any democratic country, the whole lot of people who were involved would have been immediately arrested on the orders of the Deputy Commissioner, tried for contempt of court, and sentenced to a term of imprisonment. The only thing the poor DC could do was to run to the Chief Minister who did order a case to be registered against the MLA. This was the last that was heard of the matter. How, in circumstances such as these, can the Deputy Commissioner enforce the law?

The position of the Indian Police Service is even worse because they are not regarded as the implementors and enforcers of the law, but members of the private army of the Chief Minister. It is not only he alone whose orders have to be obeyed without question, but the desires and wishes of his wife, children, and grandchildren, have also to be attended to. The crimes committed by the members of the "Royal family" are numerous. Apart from taking bribes or fees for favours done, a practice very common indeed, they range from kidnapping for ransom, to rape and murder. If the crime is so open that some action has to be taken under public pressure, the evidence is so tampered with, that not even a *prima facie* case can be made out and taken to court.

Furthermore, the prime duty of the police now seems to be not to protect the common man from crime but to protect the VIP and see to it that he is not discomfited in any way. The definition of VIP has also become very liberal, most MPs and MLAs seem to be included *ex officio* in that category. It is often said that of the 60,000 policemen in the Delhi Police, no less than 40,000 are employed on VIP duties. Given all these circumstances, is there any wonder if a larger proportion of the Indian Police Service than of the IAS have joined the criminals?

The discontent that leads to rebellion, anarchy, and chaos, has many reasons. But the chief reason is our failure to provide to our people that liberty, justice and equality which our Constitution was designed to give them. There is no shortage of good laws we have passed, but we have destroyed the means by which these laws can be implemented.

In order to restart the machine to implement the laws, many fundamental changes have to be made, and can be made without any difficulty if there is the political will to change the existing situation. But that will does not exist. There have been three important reports by commissions appointed by previous governments which have made recommendations that would help in restoring the Rule of Law. The first was the Administrative Reforms Commission, presided over by no less a person than Mr. Morarji Desai. Yet another commission, presided over by Mr. Justice Sarkaria, suggested many valuable reforms which could help greatly in improving our system of governance. The third was the Dharma Vira Commission which would have enabled the police to perform their real functions. These reports have been gathering dust over the years without any action being taken.

Then there have been lying, with the Government of India, for years, proposals for the Supreme Court to amend the basic legislation enacted in the 1860s which, antiquated and out of date as it now is, prevents the administration of justice. There are proposals from the Election Commission to prevent criminals from becoming our representatives. There are proposals from the Law Commission, to change all kinds of laws. Several governments have, over the years, introduced a Lok Pal Bill, but have had to withdraw it.

Our last government, presided over by none other than the present Prime Minister, announced bravely that they would appoint a commission to suggest amendments in the Constitution. A former President of India, the highly respected R. Venkataraman, was appointed

Chairman. And then nothing happened. Why did nothing happen ? Because MPs of their own coalition told those who started the move that they would not stand by such ideas. After all, they had the democratic system of governance with all powers vested in the elected representatives of the people. Why did their government want to destroy democracy? The explanation for their apathy is simple. The corrupt and criminal caucus in our legislatures is so strong that it can block any change which reduces even slightly the unlimited power that they today enjoy.

I have two great fears about the future. One is that it might happen one day when a criminal with some popular support might turn around to say these black-gowned salaried lackeys have no authority to pass judgement over the elected representatives of the people. In a democracy, the people are sovereign. If they have said, by electing him, that he is not guilty, these paid employees have no right to question their decision. If this ever happens, the chaos will be complete.

The other fear I have is that this theory of absolute power which has succeeded in destroying the Civil Service is now beginning to interfere with the autonomy of the Armed Forces. The last time this political interference was started by Mr. Krishna Menon, the country had to pay a very heavy price. Not only did our Army which had never lost a war, have to bear a shameful defeat, but the consequences were even greater. We had to retreat from the policy of non-alignment which we had preached to the world for so long. Not only did

we have to beg for foreign help but had, at least temporarily, to do what they desired.

For the next 35 years, no minister dared to interfere with the appointments, postings and promotions of the personnel of the defence forces. Some ministers did try but were warned off by the Generals. For the last two years, there have been disturbing rumours of interference and the much more disquieting news is that the Chiefs of Staff have been weak enough to allow this to happen. If the rumours are true, the elected representatives of the people might get a few more votes, but the defence forces will lose the capacity to defend us and the sovereignty of our country.

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-Eugene Black

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