

## THE CIVIL SERVICE AND GOVERNMENT

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Kofi Annan, the previous UN Secretary General had put it most pithily, “good governance is the single most important factor in eradicating poverty and promoting development”. A simple definition of governance is, “the process of decision making and the process by which decisions are implemented (or not implemented)”. We could at once see that civil servants are the major determinants of the nature of governance – how effective it is and whether it turns out to be good or bad, both in the making of decisions by the political executive, their implementation, as well as in the conceptualisation and formulation of the laws by the legislature.

Our constitution-makers opted for an apolitical and independent civil service on the British pattern. Article 312, which was passed by the Constituent Assembly after much debate and considerable opposition by the provincial governments, pertained to the creation of All India Services with recruitment through competitive examination covering the entire country and under dual control of the federal and state governments. The objective was to ensure the independence, objectivity and fearless exercise of its role by the civil service.

The neutrality of civil servants was held critical for good governance and that was the principal thrust in the creation of the All India Services and Central Services. The Secretary to government is the principal advisor to the Minister. His failure in the exercise of this role with professionalism and concern for public weal, justice and fair play impacts both the formulation and the implementation of policies. It can be seen to be the major contributor to the widespread saga of policy failures along with the corrupt practices all over the country.

The deterioration in the ethical and intellectual calibre of our political class over the years both in the centre and the states is so widespread and undisputed that no statistics of the criminal records or literacy rates of our legislators need be adduced. Similarly it would be a truism to state that the fall in the ethical standards of the civil service has not been far behind that of the politicians. It is a situation to which the general public has submitted with total resignation. When I joined service in early 60s and was posted as a sub divisional officer, the local population in the sub division, whatever be their reservations on any other count, would have had no doubts at all on two counts about the incoming young direct recruit officer. They would be absolutely confident that he would be scrupulously honest and also that they could bank on his objectivity and impartiality in all dealings. Both these expectations no longer persist.

It is therefore too easy to attribute the all pervading malaise and bad governance in our country to this overhanging spectre of corruption. We may not be far wrong. It is certainly one of the principal causes for the ills that plague us. But the danger in such an unidimensional view is that we tend to ignore the failures of the “honest” or “not dishonest” segment of the civil service which is not an insignificant number, though reduced to a strong minority or at best a thin majority.

The point I want to stress and highlight is that, despite the mass of corrupt politicians and civil servants, this segment could have made a difference. In many cases this segment could have blocked the formulation of wrong policies and certainly ensured fair and just implementation of policies without the distortions that provide room for bias and favouritism. They could have done this had they not abandoned the values of professional and fearless exercise of their advisory role. The advisory role is not a passive role. It demands the secretary to be pro active in his recommendations and enjoins on him a duty to dissent when required. He certainly cannot be a silent spectator, let alone a participant, when established rules or procedures are violated in his Ministry.

This, to my mind, is a greater failure and more insidious in its effect. Corruption, like murder or rape, is after all a straightforward crime and falls within the ambit

of law. It is not remediable by arguments or amenable to logic. The neglect of the proper advisory role enjoined on the civil service, which has contributed to bad governance, on the other hand, is not an aberration but a wilful collaborative act. Its gravity is blurred for the perpetrator by the false belief that he was only dutifully implementing the directions of his political boss. This specious plea, if allowed to pass off unchallenged, can eat into the very vitals of the civil service and contribute to the rotting of the system as a whole. Even now we see a developing tendency in many places to accept this behaviour as not a deviation from the norm but as standard fare.

The 2G Spectrum episode clearly illustrates these failings and how they contribute to effacing the effectiveness of the civil service in ensuring good governance. It illustrates how these failings, which are in the nature of both ‘omissions’ and ‘commissions’, remove from the system the safeguards carefully built in. A good civil service is meant to provide checks and corrections to block the distortions in implementation introduced by vested interests. It illustrates the typical failings which we find replicated wherever similar instances of bad governance occur, whether it relates to land, urban affairs, contracts or mining. These are the failings which vitiate the role of the civil service in “the process of decision making and the process by which decisions are implemented or not implemented.” Therefore an analysis of this case will bring to light the typology of these failings.

The standard alibi of a civil servant for his participation, whether it is overt or tacit, in a wrong decision is that he was merely carrying out the policy of the government as enunciated by the minister. The secretary to the government in the telecom ministry said that he merely followed the policy of the ministry in all matters,, whether it be to have a ‘first come first served’ system instead of auction or to change the cut-off date for receipt of applications or write a letter to the CAG to inform him that the particular case was beyond his jurisdiction. He left the decision regarding adherence to the secretariat rules of procedure to the minister. It has to be brought out very clearly that such a definition of the role of a secretary will be a gross misrepresentation. This erroneous interpretation needs to be corrected

and this mistaken view widely denounced, particularly for the sake of the younger members of the civil service and the new recruits, because of late it is taken as accepted wisdom among the general public and even a large section of the civil service. It is touted by the government itself in defending civil servants hauled up before any court of justice.

The truth of the matter is that a secretary is not a mere conduit for seeking orders of the minister and thereafter passing it down to the field agencies for implementation. That would be a huge travesty of his role and would nullify the labour that has gone into building a merit-based, independent and neutral civil service structure in our country with constitutional guarantees to ensure that the higher civil service with an all-India character can function objectively without fear or favour. The advisory role of a secretary entails important and major responsibilities. It is for him to analyse the pros and cons of any proposed decision and recommend the course considered the best from among the different alternatives, with reasons and arguments to support. The minister can differ only if he is willing to overrule him and take full responsibility for the decision. In a case where the secretary strongly feels that such a decision of the minister is seriously flawed he is duty bound to resubmit the case for reconsideration. Whenever such a decision is vitiated by procedural or legal lacunae, he is again duty bound to take it up to higher authorities such as the cabinet secretary or the chief secretary. These are the safeguards built into our system. It is only the steady decline in the professional performance of their duties and abdication of their responsibilities by the civil service that has made it easier for corruption to thrive. A total collapse is imminent when the expected role is not only breached in observance but deemed to be non-existent.

There can be many nuances to the abdication of its responsibility by the civil service. I recall one instance how the system was tinkered with (perhaps it is already the accepted norm now in many governments) when I took over as Secretary in the Department of Urban Development in the State government. Appeals used to be received by the government from individuals and organisations for the relaxation of building violations. (It is another strange fact that the Government was vested with

absolute powers). The cases used to be first referred to the Urban Planning Body for examination from a technical angle, which invariably recommended rejection of the appeal. I noticed the noting in the file being put up to the minister for orders merely summarised the case and posed two alternatives,

‘(a) we may accept the request of the party and regularise the violation

or

(b) we may accept the view of the Planning Body and reject the appeal’

In either case the Minister would only be accepting one of the recommendations and in neither case would he be required to overrule his secretary. He merely ticked off either (a) or (b) and noted “accepted”.

It caused a small furore when I insisted that the departmental note must analyse the case and bring out the merits in the Planning Body’s case as well as that of the petitioner so that I would make a single recommendation with supporting arguments to the minister and not pose two bland alternatives. The Department was not happy that it was being required to expend unaccustomed intellectual labour. There was also the unwelcome prospect of falling foul of the minister. The minister was naturally very riled and tried all his wiles to revert to the old system which allowed him to “eat the cake and have it too”. But my persistence prevailed, at least so long as I held the post.

The second major failure of the civil service is also illustrated in the 2G Case. The advisory role can be vitiated not only by its abdication, which is an act of omission, but also by its misuse, which is an act of commission. Sometimes the role is inverted and turned topsy turvey when it is used to validate or justify bad or wrong decisions through clever and specious arguments. This effort to lend credibility to motivated decisions is indulged in more often than not, from avidity for power and position and a desire to please the powers that be rather than from greed.

The argument of the CAG in the 2G spectrum case was that the government incurred huge losses because of flawed procedure, wrong pricing and favouritism.

One way to counter it was to deny that there was any loss. This was what the politicians tried.

The bureaucratic attempt to throw a lifeline to the political bosses in such cases was smarter. It is exemplified by the clever red herring that was thrown into the discussion recently. It was a deft touch to put forward an argument that everyone had missed the real point, because maximisation of revenue was not the objective. The real objective was that of spreading the 2G facility and therefore the entire criticism on the count of revenue loss was misplaced. At first blush this strikes any casual reader as a cute and sensible view, but a little thought will reveal the faulty logic. The purpose was only to add a little befuddlement to the discussion. The simple reader may be carried away because, after all, should not any good government place the dissemination of 2G over making money; public welfare above petty pelf? Who is going to consider the point that revenue generation and 2G dispersal are not mutually exclusive?

Maximisation of revenue was not the objective. But surely minimisation could not have been the objective. Was the revenue realised the optimum possible in keeping with the goal of spreading 2G Spectrum across the country? Did the spread of 2G require the kind of losses calculated by the CAG attributed to wrong procedures, wrong prices and wrongful change in cut-off dates to favour applicants? Such analysis would trash this proposition.

A Chief Minister who had come to power for the first time on a wave of massive public support, whose idealism had not yet been dulled by the rough and tumble of public life, told me, when I was a young Collector of a District,

“You people are much more knowledgeable and certainly better educated than I am, though I have a better feel for the needs of the people. Why is it that all the officers to whom I moot my ideas or plans always greet them with nods of approval and never once point out any flaw? Never once do they differ or dissent? How will I correct any mistake if no one expressed any candid view?” He was referring to the Indian Administrative Service officers heading different departments in the secretariat. I did not know enough of the Civil Service at that time to tell him that

he could expect from many of them not only vigorous approval for all his proposals, however whacky they be, but also possibly, validating justifications for seemingly indefensible propositions. The desire to win brownie points for loyalty, in most cases, overrides the sense of obligation to give impartial advice.

Corruption in the civil service, as in the case of the other parts of our society, we may not be able to eradicate without a radical reform in our value system. It can to a large extent be blunted by systemic changes and improvements in our institutions and procedures to reduce and eliminate its scope. Smoothing and reducing public –government interface to few essential areas will eliminate and reduce the opportunity for its exercise. But the necessity to reintroduce and reinforce a culture and habit of exercising their assigned role as advisors and implementers of policies positively by ‘honest’ civil servants is equally urgent. We see all around us the high price that we pay in its absence.

According to a recent report of the Heritage Foundation, one of the think tanks in Washington, the biggest culprit for rampant corruption that chokes growth in the country is the Indian state. Its impact is felt in every sphere, both inferable and palpable. Taking the most visible instance, a report showed that India surpassed China in road deaths in 2008. Corruption, disregard for traffic laws and bureaucratic apathy contributed to India having the world’s deadliest roads. The loss on account of 327 deaths a day is estimated to be about 3% of GDP every year according to government data. Mere statements about the ills of bad governance we dismiss with scant concern, but such eye-catching statistics must jolt us out of our euphoria.

Fortunately there is an awareness of this particular problem within the civil service as shown in the recent Civil Services Survey held in 2010. The Survey states, “The output and efficiency of an organisation among other things, depends on the fact that officers should feel confident of speaking their mind or challenging the way things are done without fear, in the interest of better results. In this regard 65% respondents feel confident of speaking their mind or challenging the way things are done without fear”. 81% across services agreed that political corruption takes place because there are always some civil servants willing to collaborate in it, the Survey states. This is a promising omen indeed, but the stumbling block is

vested interests in the government whose interest is to see that this view within the service does not become prominent and manifest in action.

There must be greater emphasis on the inculcation of these values in civil service training academies than on the teaching of different subjects. For the general public, what is of greater importance in a civil servant than his intellectual brilliance will be his integrity. After all, the vision of the 2nd Administrative Reforms Commission was "pursuit of excellence in governance for the benefit of citizens". We must draw a lesson from Britain where on 11 November 2010, the Civil service provisions of the Constitutional Reforms and Covenants Act 2010 came into force. The legislature placed the civil service values of commitment to integrity, honesty, objectivity, and impartiality on a statutory footing and included the publication of a civil service code.

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