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IC Centre for Governance
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Please address all correspondence to IC Centre for Governance
at Niryat Bhawan, Rao Tula Ram Marg, New Delhi-110057
e-mail:iccfg@yahoo.co.in

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EDITORIAL

A dream you dream alone is only a dream. A dream you dream together is reality.

John Lennon

It is popularly acknowledged that the 2014 Parliamentary elections in our country were fought on a single theme. Strange as it seems, almost all the contesting political parties agreed that Narendra Modi was the only issue worth deliberating. On the one hand, Narendra Modi was demonized by political opponents and 'Secular' intellectuals and on the other he became a new idiom of change for millions of desperate countrymen. A national debate was kick started by some self styled intellectuals why he should not become the Prime Minister of India. But that only made him stronger and he became a metaphor for embodying what it means to be an Indian. He sold the dream of an India characterized by passionate nationalism and good governance. 'One nation, prime nation' was his war cry.

Modi's dream has won

It is always of some importance as to who dreams first. However, if the same dream has to become the dream of millions, it has to be translated into a 'created future' entering which each one of them expects to find his/her fulfillment. It depends on the quality of the dream. A shared dream is less likely to end in failure.

Modi's vision has been aptly articulated on PMO website as a promise 'to build a nation that is strong, prosperous and inclusive and where each and every Indian can realize his/her hopes and aspirations'. The three ingredients 'strong', 'prosperous' and 'inclusive' are very aptly chosen. Strong structurally, politically, economically and militarily; prosperous in wealth and resources; and being socially and politically inclusive. And every citizen would have equal opportunities to realize his/her desired goal.

The question is whether this ‘created future’ can be realized in a medium term time frame? I think it can be realized provided Prime Minister Modi is able to put governance in order.

There are innumerable prescriptions being given to the government by sectoral experts, political thinkers and economists beside ubiquitous columnists in daily newspapers. While most of them contain wish lists, some do make sense. A commonly understood roadmap includes alleviating poverty, ensuring justice to all, enhancing human development indices, bringing well-spread and uniform development for everyone, creating many new jobs, making doing business in India easier, creating conducive investment climate, restructuring the public sector and developing world class infrastructure etc. And yes, the very first task is to beat corruption in government.

It is abundantly clear that in a federal set up, the national government cannot manage the entire system of governance microscopically. Taking policy decisions goes a limited way. The real crux of governance lies in the execution of the policies. And execution of policies involves all those who work for the government at the national, state and local levels.

It is our belief that in order that Narendra Modi’s dream becomes the dream of the entire State Establishment, it is imperative that every functionary of the institutions of the State resolves to work ethically to serve the people. I believe that even if the necessary reforms are implemented, they are likely to have limited effect on the quality of governance without a complementary change in the mindset of the government functionaries. What is urgently required is a people oriented outlook in policy making and implementation of policies and programmes.

In the last twenty years, governance and anti-corruption efforts have been recognized as central to development. Efforts have been made for reforming public sector institutions, enhancing transparency, creating checks and balances, and strengthening accountability mechanisms. In the last ten years or so, it has been increasingly recognized that combating corruption requires ethical standard setting and the establishment of effective integrity systems. Ethics in public administration is also being increasingly adopted by United Nations.

Ethics is often mistakenly seen as avoiding a series of ‘don’ts’. The more appropriate view is that ethics is first and foremost positive. It is about authenticity. It is about asking hard questions about our values, giving honest and public answers, and living by them.

Institutional ethics tries to find cogent answers to the manner in which colleagues in an organisation should conduct themselves with others working within the organisation. It looks into the values of the organisation, giving public and honest answers and living by them.

I have been associated with a Centre for Governance, which has over the last decade specialized in ethical learning. It has been organizing programmes on Ethics in Governance by invoking the ‘inner governance’ of participants. It does not indulge in teaching or preaching ethics but tries to encourage the participants to find ethical solutions to problems of governance themselves and to resolve ethical dilemmas in decision making. These programmes have been highly commended by the participants and the Central Government alike. Considering the usefulness of these programmes, the Government requested the Centre to spread the methodology to all the State Administrative Training Institutions in the country.

The Centre has recently initiated building a Community of Ethics in governance. The constituents of the Community of Ethics would be the ‘human capital’ of governance reform.

It is suggested that Ethics should be accorded the highest priority in the National Training Policy and all available effective technologies should be utilized in the process of developing the model of ethical governance.

It would also be advisable to create a National Centre of Ethical Governance to conduct research into the new discipline and recommend ways to introduce ethics in the institution of the government. It should be in the nature of a think tank with distinguished fellows, who have ‘lived’ ethics, from different walks of life.

Prabhat Kumar



Suresh Prabhu

India's Two Big Challenges: Water and Energy

Someone who has lived in India for many years and someone who has been in the cabinet of the Government of India for quite a few times and in parliament for four terms, I always keep asking questions to myself, because we have so many problems in India, which could be the biggest problem. And when Prime Minister Vajpayee asked me to be the Minister for Energy and after being the Minister for Industry. I thought that this was the biggest challenge till I was moved to another portfolio, water. Then I asked which was the bigger one - water or energy. Certainly, both are big challenges for India.

And when you talk about challenge for India, it is not just challenge in the geographical boundaries of India and remain a national problem but snowballs into a global problem, particularly in areas like energy where we have interconnected markets, and where we import what you need. It affects the global prices, global supply chain and many other issues. In the area of water, one could perhaps argue and say water is not as interconnected as energy, so, why should it be a global problem. Water is a global problem in a different context because the whole world, barring some areas like Latin America and Canada which have plenty of water and very few people where, it may not be a problem. I look at water as a global problem and while we actually do not import or export water today, I am sure that will happen soon. We import food, lot of agricultural products. So actually, we are importing virtual water or when we export sugar, what are we actually exporting? We are not exporting some processed commodity made out of sugarcane but we are actually exporting water because its underlying use of how

Oration of Suresh Prabhu lecture in Australia on April 8, 2014

that particular product was made also matters. Virtual water, in any case, gets transported.

So if we have a water problem in India which will not allow it to meet its own domestic demand, it will import large quantities of food. What would it mean if India has to feed 1.3 billion people? Fortunately, India today is an exporter of food and it is not a problem. It could become a global problem if we start importing food in a massive quantity. Imagine the impact it would have on the food prices in the world. India may afford to buy but imagine the impact of that on food prices in Africa where already people who are deprived of food could then become even more vulnerable. These two challenges of India in the field of energy and in the field of water are really in a way not the only problems of India, but which could become real global problems if not addressed properly in the Indian context.

Water is a problem in itself. We have only 4 per cent of the global fresh water of the world and 17 per cent of the global population. Energy again is a big problem. It is an indispensable part of human life and one cannot imagine life without energy. Water is perhaps more important because human life, biological life, biodiversity, everything depends on it. In India as also globally, we use 80-85 per cent of water as used for agriculture for which we use a lot of surface water; and when it is exhausted we use lot of underground water. We used hand pumps earlier. Even the strongest person cannot use the hand pump because the water level has gone down and we need energy, to pump it up. For the water to be used, we use underground water for which we need energy. There is a nexus between energy and water. Because we use 85 per cent of the water for agriculture which produces food bringing a nexus between energy, water and food.

Now let us look at energy. We have one of the lowest per capita consumptions of energy. Which is likely to increase by five and a half times by 2050, with its impact on the nexus between energy, water and food. How we use energy and what type of energy we use is will be extremely important and the energy that we use eventually

going to have a huge impact on the climate. It is not just that we have to use five and a half times more but how we use that energy is going to decide how much global and national emissions India will have. Because we are using bulk of it today using fossil fuels, 450 per cent increase in CO₂ will happen because of the use of fossil fuels!

The second challenge that we have in energy today is the energy security issue. Most of the gas has to be imported because we have very little domestic gas and we import bulk of it from one source. (Qatar). We import coal about 200 million tonnes of coal mainly from three or four countries - Australia Indonesia and South Africa who are major exporters. Import itself is an energy security issue but importing it only from few geographies is a bigger issue. It is like running a manufacturing company and purchasing goods for running the supply chain, only from one supplier. That makes it very vulnerable. India's energy security issue is very important as we import most of the gas, oil and coal now from very limited number of sources. That is an issue which is one of the big challenges in India.

Access is another major problem. 44 per cent of the households do not have electricity. 85 per cent of the rural households use energy which is not very clean for cooking purposes. That is another health-related issue; using wood to cook food, you are inhaling a type of gas which is indirect pollution that causes many problems.

45 per cent of today's energy comes from coal and that again coming from the fossil fuel family causes a large number of greenhouse gas emissions; only 8 per cent is from natural gas. We have therefore to look at the energy security issue from different dimensions. One is economic challenge when we import so much, and when exports are not equivalent the currency will depreciate and cause the current account deficit. Because we are importing so much oil, gas and coal from other countries and the countries realize that there is a market for this, so they hike the price. Of course, for oil, there is OPEC which is a cartel and when you import at a price which is prevailing internationally which is high, you give

subsidies and subsidies again put a strain on the fiscal situation. It is an economic issue, current account issue, fiscal issue as well as a political issue. When we are importing so much and have to deal with our exporters in a way not necessarily what the foreign policy will require us to do. There is a conflict which can become an issue.

And geopolitically, again, it is a big challenge. When we are importing so much and we do not have strategic reserves of that, any disruption could cause big problems. There are so many unknowns which we never plan. We believe that energy supply is always going to be there but that may not be the case. It could get disrupted for any reason beyond our imagination. Therefore, energy security for India is a very crucial thing and geopolitically also, it poses a problem.

In this background what should and can be done? I have just indicated the background of the energy problem. We can keep on adding problems. The new government will have to address this in a big way. That agenda must include some of the points that I am going to mention. If we are importing and are just trying to deal with the supply side alone, it is not going to be enough either for energy or for water. We need demand-side solutions; if we do not manage demand and if we do not bring efficiency in the management of resources, it is never going to be a solution to a problem in itself. Energy efficiency and demand side management are big issues. When I was the Minister for Energy, I had introduced a law called the Energy Efficiency Law which is already a law of the land for the last twelve years. One of the important components that was created was a Bureau of Energy Efficiency which has already come out with norms for standardization and labeling for many of the energy guzzling equipments. New norms are coming for buildings because buildings are going to be the major users of energy, particularly with rising urbanization in India.

We have already come out with a scheme called Perform, Achieve and Trade (PAT). It is not cap and trade like what we talked about in the new market of carbon. It is a very innovative idea

which is already functioning. Therefore, energy efficiency has to be one of the key components of the strategy to deal with the energy challenge in India. Pricing is an important ingredient and there will be need for subsidies if we want universal access; for those who cannot afford it, we will have to give subsidy. There was another law which was a very landmark law. We rewrote the legal framework for the entire energy sector of India which was called the Electricity Act 2003 in which there is a provision that if you want to give subsidy, you should give subsidy upfront from the government's books. We should not expect the utility to pay the subsidy.

We have not yet created the type of markets that energy needs will bring in more from the supply side. Unfortunately, while the law has been passed it has not been implemented. If we implement the law in spirit and by letter, we will see that it will create a market and also create an open access which will allow the people having a plant anywhere in the country to supply to other geographies provided we have the physical connectivity.

The other programme that was launched as a minister was to create a National Grid. In fact, very few countries in the world have national grids. Even the US does not have a completely interconnected national grid which we have created. We have five different regional load dispatch centres and to each of the load dispatch centres, we are trying to create grid connectivity, so that if you have power generation in the east, we could transfer it to north when it is needed or from any other part of the country. It is important because coal, which is 45 per cent of our energy basket today, is actually located in east. That is nature's decision and we cannot change it and if coal is there and the demand is somewhere else, the only way you can take it is not by transporting the coal but by transporting the electricity made from coal and to do that, we need interconnections. To make the interconnections available and if, we have open access which means that any consumer in any part of the country can say that he could buy from the supplier that he can choose. This is the law we had made after repealing the age old laws of 1948 which had virtually nationalized the energy

markets. This is something which is already there but we have not implemented it.

Another big opportunity for India in energy is converting waste to energy. When we talk about 1.3 billion people, it looks like a liability in many ways. I am a Chartered Accountant by training and I always look at assets and liabilities. And I know one thing as a chartered accountant that your balance sheet will never tally if you don't have assets and liabilities matching with each other on both the sides. If you have 1.3 billion people posing demand on energy, 1.3 billion produce lot of waste and that waste if converted into energy or if it could be used in a way that produces economically viable product, this could be a great opportunity. Going back to 1991 when I was the Minister for Environment, We worked on a law called Municipal Solid Waste Disposal Law and that law was very comprehensive but unfortunately again as I said, it has not been implemented but it is a great opportunity for India if you can convert waste to energy. Of course, let me qualify my statement by saying Indian wastage is far different than waste in other countries because we hardly waste anything and we can say that waste is not waste because most of it is already taken out. India is the only country where the recycling of waste takes place at a level of may be 7 per cent, which is far greater than any other country. Who are the people who do it? These are the poorest of the people who do it. There was a very interesting article in *The Economist* which talks about how the recycling takes place and how these garbage pickers actually help in the cause. The challenge here is if you convert this into a great opportunity in which the corporate sector comes in, they use high technology, and they have the capital and can convert waste to energy, use this huge army of the people who are already working in this area. The waste in India does not have as much biological waste as is normally there. This is a different type of waste and we should not incinerate it as that will create environmental problems. If we can convert that into gasification and try to convert that into energy, it could be a great opportunity.

Another issue related to energy is exploration. We import gas,

we import oil and only 52 per cent of our sedimentation has been explored and 48 per cent is yet to be explored. Just imagine the opportunity. If we can use proper exploration techniques and allow companies to come in, reward them adequately and it should be a transparent process because it is always fraught with controversy. We never deal with that. Have a proper process of doing that, explore it and produce it. Then probably India would meet the demand in a different way.

That brings us to the more important issue of regulation. If we want this to be explored, if we want the energy markets to be developed, if we want the private sector to come in which is inevitable, then the only way we can make it is to have a strong regulation. The regulation is not the law. We have a law now which has created 28 regulators in state, one central regulator and one super regulator to look at the superintendence and control and overall guidance for the regulatory system. Regulation has now to be strengthened and they must have technical capability. Regulator cannot be created by law. Law can create a regulator but regulation will be effective only when it has the technical ability to deal with it. For example, if I am going to be a regulator in deciding how much gas is explored, I must have the capability to do this. Regulation is important and strengthening regulation is going to be an important issue. And, of course, if we can create infrastructure to transport some of the existing available coal, 300 tonnes per annum, 50 per cent more than the present coal can be transported tomorrow if we have the rail connectivity.

We really need to acquire, in any case, assets because even if we do all this, the demand is so high that we may have to import for a long time and therefore, acquiring assets is important. There are some directions. One of the Indian companies has acquired coal mines in Australia. There are quite a few doing that in Indonesia and also in South Africa. People are now even going to Latin America and North America to do that but we have to do that and the government will have to support in an effective way.

There are two other things for increasing energy, one is

renewables and the other is distributed generation. In fact, it is a great opportunity for India: 650000 villages and each of the 650 districts of India have some renewable resources available. If you go to the coast; we have 7800 kms of coastline and we have the opportunity for wind. If you go into the plains, there is huge opportunity for solar energy. Solar radiation in India is very high, 300 days of sunshine in almost 90 per cent of the districts of India which probably no other country with a comparable population has; the only other country with a comparable population is China which does not get so much of sunshine all the time; they get long winters also. There is a great opportunity to make solar energy. And if you make solar, wind and maybe oceanic energy over a period of time, use of biomass and all of these can be harnessed and distributed locally and that is what distributed generation is all about.

We have a great opportunity in renewables. We already have a target of 20 GW of solar and 100 GW of wind by 2022 and this is not something difficult. We already have 20 GW of wind which is probably the fourth or the fifth largest wind installation in the world. In fact, that also has given made some unintended benefits. India is now home to some of the large wind turbine companies. There is a great opportunity in this. The Electricity Act 2003 I had mentioned earlier that 15 per cent of all the energy consumed must be from renewables. That is called Renewable Purchase Obligation. Again, that is something which this government failed to implement to reap its full benefits. Just imagine that we already have an installed capacity, may be, in another few years time, over 500000 MW in another 20-25 years and 15 per cent of that has to come from renewables and that is something by law. So regulation will help to generate renewable energy and there is already a potential available. There is a distributed generation capacity that can be made. So this could be an extremely interesting opportunity for India. 58 per cent of area of India has already been identified as hot spot for the solar energy. There is a huge opportunity that is available and we can work on this in a big way.

On technology, we should really try to use more of CCS, Carbon

Capture and Storage. For sequestration of carbon which could really be of great opportunity but it has not happened the way it should happen. On solar PV and CSP and on oceanic energy, it could be a great opportunity. Japan, because they closed down many of the nuclear plants, had to find alternate sources of energy. They are working on hydels in a big way. We are also looking forward to the research findings and maybe, India should itself invest at least 2-3 per cent of its GDP on energy-related R&D.

Let me come to the issue of water. As I was saying, agriculture uses the maximum water. We are already paying 240 billion per annum as power subsidies for agriculture use which is 25 per cent of fiscal deficit. Just imagine the double whammy that we are drawing more water from underground which is depleting the ground water and to do that, we are actually paying a heavy price not just ecologically; it is already happening but also fiscal and this is a big problem in case of water. We have 60 per cent irrigated area which is using ground water which is very worrying. 12 states are using diesel as major source for irrigation for drawing ground water because they don't have connectivity. And 80 per cent of the water goes into agriculture. This is going to be a major issue of water in India.

Urban water is another problem. 38 per cent of the urban population does not get treated water. 55 per cent of water is waste water and does not get properly into the storage and that is a health hazard. Many of the issues mentioned, if addressed properly, could actually be helpful in improving not just the energy and water problem which in itself will happen anyway but the negative problem of how much it could snowball into challenges. Just imagine the huge benefit it could give us. If we work on all these, the Human Development Index of India will improve considerably by only looking at two problems of energy and water. Access will improve, health standards will improve and the infant mortality rate, maternal mortality rate would go down; the public health cost could be brought down immensely. And this could bring in huge unintended benefits. The gender issues will get addressed. Most of the water is not available and so the males somehow have got the divine right

to order their wives or daughters to get the water. They don't get it and the children have to drop out from the schools or the woman who otherwise would have worked cannot work and therefore, do not earn enough money to be self-empowered. Therefore, this addresses the gender issues also.

If we can address the water and energy issues huge benefits will come in many other sectors going beyond these two sectoral issues will be far more than what one can imagine. These are major issues and again water has another dimension. Most of the water comes from China, Tibet and therefore, it has an international dimension.

We have a huge challenge in water and energy which is not just sectoral problem. It is something that goes beyond the imagination of many issues that we deal with. The defence budget probably may not be that much if we have a proper solution and a wealthier relationship arising out of water. Water could be a source of bringing in cordiality, better relationship and also improving geopolitical relationship. So water and energy are undoubtedly major issues.

Anand P Gupta

Improving the Efficiency and Effectiveness of Public Expenditure

Introduction

According to the Government of India's High Level Expert Committee on Efficient Management of Public Expenditure (Government of India 2011), improving public expenditure management boils down to putting in place institutional arrangements that influence outcomes at three levels: aggregate fiscal discipline, allocation of resources in accordance with strategic priorities; and efficient and effective use of resources by the implementing agencies. The focus of this article is on institutional arrangements for improving the efficiency and effectiveness of public expenditures.

The issue of improving the efficiency and effectiveness of public expenditures is an extremely important issue, but it is unfortunate that this issue has not received the attention that it deserves. Indeed, the issue of improving the efficiency and effectiveness of public expenditures is a neglected area in many countries. Although this article focuses on the situation in India, one hopes that the thoughts on how to improve the efficiency and effectiveness of public expenditures in India that are presented in this article, will be of some relevance in other countries as well.

The plan of the article is as follows. Section 2 provides a good idea of how much money public entities in India spend. Sections 3 and 4 review, respectively, the initiatives of Outcome Budget and Results Framework Document that the Government of India has launched to improve the efficiency and effectiveness of public expenditures. Section 5 presents some evidence to illustrate how

inefficient and ineffective public expenditures in India currently are. Finally, Section 6 presents some thoughts on how to improve the efficiency and effectiveness of public expenditures in India.

Public expenditures in India

Public expenditures in India add up to a lot. To begin with, the Central, State and Union Territory Governments alone currently spend Rs. 28.23 lakh crore (27.8% of GDP) a year (Government of India 2013a, p. 16).¹ Data on expenditures of local governments financed out of their internal and extra-budgetary resources are not available. Secondly, the Central public enterprises' internal and extra-budgetary resources for financing their Plan outlay currently add up to Rs. 2.58 lakh crore (2.3% of GDP) a year (Government of India 2014, p. 30).² Data on State public enterprises' internal and extra-budgetary resources for financing their Plan outlay are not available. Thirdly, expenditures through the Central tax laws, or Central tax expenditures,³ currently add up to Rs. 5.74 lakh crore (5.6% of GDP) a year (Government of India 2013b, p. 39).⁴ Data on expenditures through the State tax laws, or State tax expenditures, are not available. Finally, one must also take into account the losses of public entities (e.g., losses of State electricity distribution entities) which are financed through borrowings from banks or through commercial credits, not through any budgetary support. Complete details on these losses are not available, but according to an October 5, 2012 Office Memorandum of the Government of India (Government of India 2012), accumulated losses of the State power distribution companies are estimated to be about Rs. 1.9 lakh crore. There is reason to believe that this figure captures the situation at the end of March 2012 and that the losses of the State power distribution companies increased by about Rs. 56,000 crore during 2012-13. According to Crisil, these losses have been funded mainly by borrowing from banks and financial institutions.⁵

Outcome Budget⁶

Recognising the urgency to measure its performance by the delivery of the intended outcomes of its various programmes, rather

than by the amount of money spent on them, the Government of India launched, on February 28, 2005, an apparently excellent initiative to change the culture of its officials from one of measuring their performance in terms of the amount of money spent against the budgeted allocations, to one of measuring their performance in terms of the delivery of the outcomes the people in India are concerned with. The statement of the Finance Minister in his budget speech that day was that: together with the Planning Commission, we shall put in place a mechanism to measure the development outcomes of all major programmes. We shall also ensure that programmes and schemes are not allowed to continue indefinitely from one Plan period to the next without an independent and in-depth evaluation. Civil society should also engage Government in a healthy debate on the efficiency of the delivery mechanism. (Government of India 2005, p. 22)

The Government of India's first Outcome Budget (OB), for 2005-06, was presented on August 25, 2005. Since then, eight more OBs for 2006-07, 2007-08, 2008-09, 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14 have been presented.⁷ In addition, the Government of India's Department of Expenditure has regularly issued guidelines for the preparation of the OBs, with the latest guidelines (for the preparation of the OB for 2013-14) issued on January 4, 2013.

These guidelines constitute a major step in developing and articulating the conceptual framework for preparing the OB. The guidelines recognise that "The real value of the Outcome Budget lies in its utility as a policy tool to establish effective linkage with allocation and disbursement of public funds on the basis of measurable performance" (Ministry of Finance, Department of Expenditure 2006, p. 6). Given this, OB is potentially an extremely important means to improve governance.

The Theory of Change Underlying the Outcome Budget

No explicit theory of change has been put forward by the Government of India for adopting the OB. But one can articulate

the theory of change underlying the OB on the basis of the information provided and various statements that have been made. The theory consists of four assumptions.

First, the Government of India assumed that issuing guidelines via its Ministry of Finance's Department of Expenditure will be enough to create the requisite incentives for its various ministries/departments to prepare the OB along the intended lines.

Second, the Government of India assumed that its ministries/departments had the requisite knowledge and skills to define the intended outcomes of their various interventions and to articulate the production functions for these outcomes. And in case the ministries/departments did not have the requisite knowledge and skills, they would seek the assistance of outsiders for these tasks. The guidelines clearly provided for this.

Third, the Government of India assumed that its ministries/departments had the requisite incentives and skills to generate credible data required to prepare OB on their own, to validate the data available from other sources, and to seek, if necessary, the assistance of outsiders for generation/validation of the required data.

Finally, the Government of India assumed that its ministries/departments will somehow be able to deliver the intended outcomes despite the serious problems that they may face with ensuring the flow of right amount of money at the right time to the right level, and with preventing misuse/diversion of money to unrelated activities.

A careful look at these assumptions reveals that the Government of India assumed that those responsible for preparing and implementing the OB will behave the way it expected them to behave. Things don't happen that way. The Government didn't do the requisite homework and didn't put in place the requisite structure of incentives to influence the behaviour of the concerned people along the expected lines, with the result that the OB has failed. Indeed, OB has proved to be a much more different and challenging

ballgame than what the Government thought. It requires a change of mindset that has a lot to do with accountability as it is currently practiced in India's public entities. Sadly, the requisite change in mindset has not taken place.⁸

There is a clear recognition of the OB's failure in delivering the desired results. P. Chidambaram, the Finance Minister who launched the OB, is reported to have said: the Government of India has substantially expanded outlays in sectors like irrigation, education and health, but kept on following the existing 'tried and failed' system, as a result of which the outcome of these enhanced outlays is not visible at the ground level. (The Times of India, December 3, 2007.)

And Montek Singh Ahluwalia, Deputy Chairman of the Planning Commission, Government of India, is reported to have said: The exercise of outcome budget of manipulating existing data did not get the desired results. It's easy to evaluate whether investment made in a steel plant has delivered. But measurement of outcomes in health and education are difficult and complex. (The Economic Times 2009.)

Results Framework Document⁹

In 2009, the Government of India launched the Performance Monitoring and Evaluation System (PMES). It is designed to overcome the limitations which the current systems for accountability for results in Government suffer from.¹⁰ The PMES involves the preparation of a Results Framework Document (RFD) by each of the ministries/departments covered under the RFD system. The RFD system now covers the Government of India's 80 ministries and departments, out of a total of 84, and around 800 Responsibility Centres. The State Governments have also shown interest in adopting the RFD system and as of now 17 State Governments are at various stages of implementing the RFD systems in their states.

The RFD seeks to address three questions: What are the given ministry/department's main objectives for a given financial year?

What actions are proposed to achieve these objectives? How to determine the progress made in implementing these actions? The RFD for a given ministry/department looks at that ministry/department's achievements, compares them with the targets and determines a composite score, taking into account the specific weight assigned to each objective of that ministry/department. The composite score is converted into a rating of excellent, very good, good, fair and poor, with a composite score of 100% - 96% rated as excellent, 95% - 86% as very good, 85% - 76% as good, 75% - 66% as fair, and 65% and below as poor.

A widely-held perception is that there is a big disconnect between what the Government of India claims about the RFD and what the ground reality is. The Economic Times (2011) has published a story on RFDs. The story quotes a senior government official who pointed out how absurd the whole process was. "How could the government rate itself at 90 percent when the whole country is saying that this government doesn't work?", he asked (The Economic Times 2011, p. 1).

Has the perception about the RFD changed in recent years? The discussions at the December 11-12, 2013 Global Roundtable on Government Performance Management that was organised by the Institute of Public Enterprise in collaboration with the Performance Management Division, Cabinet Secretariat, Government of India, clearly suggested that the things hadn't changed much -- there is still a big disconnect between what the Government of India claims about the RFD and what the ground reality is.

Evidence on how inefficient and ineffective public expenditures in India are

There is a consensus that, given the way public money is used, we are not getting the value for this money. This is happening because a large proportion of the public money is looted. Indeed, a message seems to have gone around that public money is nobody's money and therefore it is meant to be looted. There are many examples one can give to illustrate that a large proportion of the public money is

allocated on the basis of politically-motivated considerations, looted and inefficiently utilised, and, as a consequence of all this, we are not getting the value for this money. Let us look at five examples. They relate to: Public Distribution System, National Rural Health Mission in Uttar Pradesh, Accelerated Power Distribution and Reforms Programme (APDRP)/Restructured APDRP, Yamuna River, and Money for Building Toilets.

Public Distribution System

According to the recently-launched Independent Evaluation Office of the Government of India, “The government spends Rs 3.65 to deliver Re 1 of food while 57% of subsidized foodgrains do not reach the intended beneficiaries. These startling findings ... point to massive corruption and pilferages in the existing public distribution system. The agency’s initial findings reveal that close to 36% of foodgrains are siphoned off in the supply chain raising a serious question mark over effective implementation of UPA government’s “game-changer” food security scheme which heavily depends on existing PDS network.” (The Times of India 2014.)

Assuming that the intended beneficiaries are poor and that those who benefit from the massive corruption and pilferages in the public distribution system are non-poor, the system is clearly regressive. And this is the situation nine years after the launch of OB and five years after the launch of the RFD system!

Why is all this happening? According to Ajay Chhibber, Director General of the Independent Evaluation Office, “bureaucracy is a big problem with lack of coordination between ministries.... the incentive structure of social sector schemes, including PDS, needs to be looked at as it is ill-thought-out.... in the existing PDS, it has been seen that as the ration shop owners fail to make enough money by selling grains to beneficiaries they are tempted to sell outside.” (The Times of India 2014.)

National Rural Health Mission in Uttar Pradesh

The most brazen example of how public money is looted

relates to the implementation of the National Rural Health Mission (NHRM) in Uttar Pradesh.¹¹ Those who “managed” this looting are reported to have developed a template, indicating how much of the money allocated under each of the 54 NHRM heads was to be looted – the proportion of the allocation to be looted ranged between 5% and 100%, with the allocations under nine heads earmarked for 100% looting! (The Times of India 2011).

Accelerated Power Distribution and Reforms Programme (APDRP)/Restructured APDRP

An initiative, called the Accelerated Power Development Programme, was launched by the Government of India in February 2000. After two years it was re-christened the Accelerated Power Development and Reforms Programme (APDRP). The APDRP aimed to reduce the theft of power; to improve the reliability and quality of power; to bridge the difference between the value of power billed and the value realised; and to improve the financial performance of the power sector.

On July 31, 2008, the APDRP was restructured. The Restructured APDRP's focus is on actual, demonstrable reduction in state power utilities' aggregate technical and commercial losses, with the target of bringing them down to 15 per cent. The Government of India is trying to achieve this target through three interventions: first, a loan up to 100 per cent of the cost of projects for the establishment of baseline data and information technology (IT) applications for energy accounting/auditing and IT-based consumer service centres, with the entire loan for these projects converted into grants on fulfilment of the conversion conditionalities; second, a loan up to 25 per cent (90% for special category states) of the cost of distribution strengthening projects, with up to 50 per cent (90% for special category states) of the entire loan for these projects converted into grants on fulfilment of the conversion conditionalities; and third, training to utility employees, as also a financial incentive to them from the Government of India, limited to 2 per cent of the Government of India grant for distribution-strengthening projects,

with the utility in question expected to match these funds, in case its aggregate technical and commercial loss is brought below 15 per cent.

Has the Accelerated Power Distribution and Reforms Programme (APDRP)/Restructured APDRP been effective in delivering what it was expected to deliver? According to the Scheme of Financial Restructuring of State Power Distribution Companies that the Government of India has recently (October 5, 2012) announced, “high distribution losses” is one of the key reasons for the poor financial health of these companies. This is what the Scheme says: “...after a decade of the one-time settlement of outstanding dues, the distribution utilities find themselves again in a situation which has the potential of affecting not only the power sector but the financial sector as well.... Non-revision of tariffs, non-payment of subsidies, high cost of power purchase and high distribution losses are some of the key reasons for the poor financial health of the Discoms.” (Government of India 2012, pp. 5-6.) Clearly, the APDRP/Restructured APDRP has failed in delivering what it was expected to deliver.¹²

Yamuna River

Vinod Rai, the then Comptroller and Auditor General of India, is reported to have said: “If one wants an example of brazenness in spending public funds to achieve zero result, then one need not look further than the Yamuna river. More than 18 years ago, the Supreme Court took over monitoring of steps taken by governments to make the river water potable. After three governments - Delhi, Uttar Pradesh and Haryana - spent more than Rs 5,000 crore in the last two decades, the Central Pollution Control Board (CPCB) gave its verdict: Yamuna is a drain with not a single drop of fresh water as long as it flows in its 22 km stretch in Delhi.” (The Times of India 2012.)

Money for Building Toilets

Jairam Ramesh, Minister of Rural Development, Government

of India, is reported to have told the Rajya Sabha that “There is huge difference in figures reported by states and the report by the census on reduction in open defecation. Money has been taken but toilets have not been built. There is a lot of heraphery, if I can use that term,” (The Times of India 2012.) And according to M. Ramachandran, a former Secretary, Urban Development, Government of India, “We have a situation where the official claims are that 8.7 crore toilets have been constructed, whereas census 2011 reveals that only 5.16 crore households actually have toilets. What happened to the missing 3.5 crore toilets?” (Ramachandran 2014) Ramachandran doesn’t answer the question that he has posed, but the answer is clear: looting of public money allocated for building toilets.

This is not the end of the story. How many of the toilets that have been actually built, are used as toilets? A critical assumption underlying the theory of change for the policy of building toilets is that people will use toilets as toilets and thereby help in achieving the intended outcome of ending open defecation. Is this a valid assumption? I attended a 3ie (International Initiative for Impact Evaluation) seminar sometime ago and one point that emerged was that many people who were provided with toilets under a government-funded programme in Orissa, used them as storage spaces!

Where do we go from here?

Public expenditure is a major source of corruption. A good part of the public money is simply looted. And those who have their eyes on this looting manage to influence how the public money is allocated for the various schemes, and what the composition of the allocation for a scheme is – how much money is allocated, for example, for wages and salaries and how much for procurement of goods? And once the money has been allocated, they see to it that a good part of the money allocated for a scheme is looted. There is a strong reason to believe that the proportion of public money that is looted varies directly with the relative share of procurement in the

total allocation for a scheme. That is, the higher the relative share of procurement in total allocation, the higher is the proportion that is likely to be looted. A message seems to have gone around that public money is nobody's money and therefore it is meant to be looted. This must change. Distortions in the allocation of public money, its looting and its gross misutilisation are deep-rooted structural issues. It's not going to be easy to address these issues, but the job is doable. It will necessitate action on several fronts.

To begin with, the Government of India must merge the RFD into OB. It makes no sense for a ministry/department to prepare an OB as also a RFD. The Ministry of Power, for example, regularly prepares an OB and a RFD. One can look at its latest, 227-page OB for 2013-14 (Government of India 2013c) and at its latest, 23-page RFD for 2013-14 (Government of India 2013d). But one must also look at the mess the country's power sector is in! Indeed, the situation is so bad that the Ministry recently (October 5, 2012) had to say this: "The deteriorating health of Discoms is affecting their ability to procure incremental power, commissioning of new generation capacity and the debt servicing of power producers. This may derail the capacity addition programme and could lead to a situation of stranded capacity on the one hand and dissatisfied consumers on the other." (Government of India 2012, p. 5.) Today, eighteen months after the Ministry said this, the country is already faced with that situation -- "the situation of stranded capacity on the one hand and dissatisfied consumers on the other."

Secondly, the Government of India will have to change its culture of measuring performance in terms of the amount of money spent against the budgeted allocations, to one of measuring performance in terms of the delivery of the outcomes that people in India are concerned with. The OB was supposed to change this culture but it has failed. Changing the culture along the above lines has far-reaching implications. The new culture may turn out to be a much more different and challenging ballgame than what many in the Government of India may think. Indeed, it will require a change of mindset that has a lot to do with accountability as it is currently

practiced in the Government of India. The wide-ranging changes that the move to the delivery of intended outcomes involves will need to be supported by a concerted effort to win the Government employees over to the new arrangement and to make sure they fully understand the new ballgame and their responsibilities within it. This suggests that the Government of India must launch a major training programme for its officials to equip them with the knowledge, skills and attitudes required for preparing meaningful OBs, and put in place appropriate incentives to motivate them to achieve the intended outcomes.

According to Maharaj Krishen Kaw, a highly respected IAS (retired) official and a former Secretary, Department of Education, Ministry of Human Resource Development, Government of India, “Today, corruption has become the number one issue in governance. Thus ethical aspects are likely to dominate all discussions on how the civil services function. We must declare zero tolerance for corrupt practices. Recruitment procedures need to be modified so as to ensure that young people with the right mindset join the services. There should be frequent exposure to training programmes which embed an ethical streak in the psyche of all officers. There should be quinquennial reviews of performance and integrity, and if adverse reports are recorded there should be ruthless weeding out of corrupt officers. The present system in which promotions are almost automatic needs to be reviewed. Only the best should reach the top.... The recent cases of Ashok Khemka and Durga Shakti Nagpal provide pointers to the direction in which we have to move....the civil services should have a vision that colours all their actions, an all-encompassing vision that imbues their attitudes to life, country and people, and converts them into leaders with the passions of service, transparency and selflessness.” (Kaw 2014, pp. 2-4).

Thirdly, the Government of India must prioritise the outcomes the people in India are concerned with and launch the new system by focussing on, say, the top five outcomes. Let the Government involve all the stakeholders while developing the mechanism for

identifying and prioritising the outcomes the people in India are concerned with. The Government will need to carefully look at its various ongoing schemes and identify those which may deliver the prioritised outcomes. In case the Government feels that none of the ongoing schemes will deliver the prioritised outcomes, let it design the appropriate schemes. The system may be scaled-up to cover the remaining outcomes as the Government gains experience.

Fourthly, rather than asking all ministries/departments to prepare OBs, as is the practice now, it would be much better to ask only the ministries/departments responsible for delivering the prioritised outcomes to prepare them. The Ministry of Finance's Department of Expenditure will have to go much beyond simply issuing the guidelines for preparing OBs. You cannot just issue the guidelines and assume that those responsible for preparing and implementing the OBs will behave the way you expect them to behave. Things don't happen that way. The Department, with inputs from the relevant sources, should prepare a sample OB and put in place the requisite structure of incentives to influence the behaviour of the concerned people so that they not only prepare sensible OBs, but also implement them the way they should be implemented.

Finally, the Government will need to describe the theories of change for the schemes that it decides to implement for delivering the prioritised outcomes, articulating the links between these schemes and their intended outcomes, as also the assumptions underlying these theories.¹³ Once this is done, the person responsible for monitoring a given scheme will need to (a) check whether money is available according to the requirements of that scheme, (b) check whether money has been spent as it was supposed to be spent, (c) identify the missing/weak links in the causal chain of the scheme in question -- these missing/weak links may differ from one scheme to another, and from one place to another,¹⁴ and (d) report her/his findings to the scheme manager without any waste of time.

The scheme manager will be expected to take appropriate and timely action(s). In case the scheme is not producing the intended outcomes because, say, the scheme beneficiaries are not behaving

the way they were expected to, the scheme manager will investigate the reasons for this and take the requisite corrective action(s). Take, for example, a scheme that focuses on building toilets with a view to achieve the intended outcome of ending open defecation. In case the intended beneficiaries of this scheme do not use the toilets as toilets and instead use them as storage spaces, the scheme manager will investigate the reasons for this and develop appropriate mechanisms for changing their behaviour.

To conclude, the idea is to make the OB work. Making the OB work is a governance issue and as Prabhat Kumar, a highly respected IAS (retired) official and a former Cabinet Secretary to the Government of India, says “ethics is the key to effective governance.” (Kumar 2014.) Also needed is the obsession with the delivery of the outcomes the people in India are concerned with. We have examples of people who believe in ethics and who have the obsession with outcomes. Of course, Ashok Khemka and Durga Shakti Nagpal are well-known examples. K N Kumar¹⁵ is another example. But in order for the OB to work the way it should, we need many such people. Sadly, we don’t have them. Indeed, we have a huge deficit of ethics in governance and a huge deficit of obsession with outcomes and reducing these deficits are far tougher challenges than reducing the public sector deficit¹⁶ and the current account deficit.

With many members of the civil society anguished at the massive loot of public money, with the growing media pressure to set things right, with the demand for ethics in governance growing¹⁷ and with the demand for the delivery of outcomes growing, one can see a movement for making the OB work. But is this movement sustainable? Is it strong enough?

Endnotes

1. 2012-13 is the latest year for which data on the combined expenditure of the Central, State and Union Territory Governments are currently available, with the figure of Rs. 28.23 lakh crore being the budget estimate.
2. This is the revised estimate for 2013-14.
3. This is what the Government of India says: “The tax policy gives rise to tax preferences and such preferences can also be viewed as an indirect subsidy to preferred tax payers. Such implicit subsidy payments are also referred to as ‘tax expenditures’. It is often argued that such implicit payments should appear as expenditure items in the Budget. The reason being that tax policy should not only be efficient but also transparent. This means that programme planning requires that policy objectives be addressed explicitly and transparent budgeting calls for inclusion of such outlays (tax expenditures) under the respective programme headings. Tax expenditures per se are spending programs embedded in the tax statute.” (Government of India 2013b, p. 23.)
4. 2012-13 is the latest year for which the data on Central tax expenditures are currently available, with the figure of Rs. 5.74 lakh crore being the Government of India’s estimate for that year.
5. See The Economic Times (2012).
6. This section draws on Gupta (2010).
7. Whereas the OB for 2005-06 was presented in one document which provided the OBs of all the Ministries/Departments at one place, the Government of India changed the practice the next year, as a result of which beginning 2006-07 the Ministries/Departments have been presenting their OBs separately, with the details available at the websites of the respective Ministries/Departments.
8. For evidence on this, see “Outcome Budget of the Government of India’s Accelerated Power Development and Reforms Programme: A Case Study” in Gupta (2010).
9. This section draws on Government of India and Institute of Public Enterprise (2013), Background Reading 1.
10. For examples of these limitations, see Government of India and Institute of Public Enterprise (2013), p. 11.

11. The NHRM in U.P. story also illustrates that India's politicians' self-interests do not match with those of the NHRM's intended beneficiaries.
12. This is what M Veerappa Moily, the then Minister of Power, Government of India, is reported to have said on August 10, 2012: "Around 27,000 mw of electricity... goes waste every day in India as the power sector records AT&C losses at 27.15% of the power generated.... If private distributors can reduce AT&C losses to 7% in some cases, why cannot the government do it?" (The Times of India 2012.)
13. These assumptions include those relating to Centre-State coordination and inter-ministerial coordination at the central government level for achieving the intended outcomes of the schemes in question.
14. Some of the links between the schemes and their intended outcomes may be weak or may even be missing because of the lack/absence of the Centre-State coordination or inter-ministerial coordination at the central government level, or both.
15. K N Kumar, IAS, is Principal Secretary to the Government of Meghalaya, Fisheries Department, Shillong.
16. He was so inspired by the ideas of Initiatives of Change when he participated in a training programme at Panchgani in 2012 that he strongly felt the need for this kind of experience for the gramsevakas, as they represent the government to the rural citizens of the state.
17. Public sector deficit, which includes the deficit of all public entities, is a much better concept than fiscal deficit. For a discussion on why this is so, see Gupta (1993).
18. One evidence of this is the demand for training programmes organised by the IC Centre for Governance, New Delhi. It all started with a programme for Ethics in Public Governance for IAS officers. Some participants found the experience so exhilarating and exciting, they requested the Centre to take the message to their officers and employees. This happened on a large scale in the Karnataka Electricity Board, the Brihtar Mumbai Municipal Corporation and the NDMC and others. Looking at the overwhelming response, the Centre feels inspired to initiate a Movement for Ethical Governance in the country.

References

1. Government of India, 2005. *Budget 2005–2006: Speech of P. Chidambaram, Minister of Finance*.
2. New Delhi: Government of India. <http://indiabudget.nic.in/ub2005-06/bs/speecha.htm> (Accessed March 20, 2014).
3. Government of India, 2011. *Report of the High Level Expert Committee on Efficient Management of Public*
4. *Expenditure*. New Delhi: Government of India, Planning Commission. http://planningcommission.gov.in/reports/genrep/rep_hle.pdf (Accessed March 20, 2014).
5. Government of India, 2012. *Office Memorandum: Scheme for Financial Restructuring of State Distribution Companies*. October 5. New Delhi: Government of India, Ministry of Power. http://powermin.nic.in/whats_new/pdf/Financial_restructuring_of_State_Distribution_Companies_discoms_Oct2012.pdf (Accessed March 22, 2014).
6. Government of India, 2013a. *Indian Public Finance Statistics 2012-13*. New Delhi: Government of India, Ministry of Finance, Department of Economic Affairs, Economic Division. <http://www.finmin.nic.in/reports/IPFStat201213.pdf> (Accessed March 21, 2014).
7. Government of India, 2013b. *Revenue Foregone under the Central Tax System: Financial Years 2011-12 and 2012-13*. New Delhi: Government of India, Ministry of Finance. <http://indiabudget.nic.in/budget2013-2014/ub2013-14/statrevfor/annex12.pdf> (Accessed March 21, 2014).
8. Government of India, 2013c. *Outcome Budget of Ministry of Power 2013–2014*. New Delhi: Government of India. http://powermin.nic.in/funds_for_power_sector/pdf/OUTCOME_BUDGET_2013-14.pdf (Accessed April 9, 2014).
9. Government of India, 2013d. *RFD (Results-Framework Document) for Ministry of Power (2013-2014)*. New Delhi: Government of India. <http://www.performance.gov.in/sites/default/files/document/rfd/rfd-2013-14/Syndicate3/Power.pdf> (Accessed April 9, 2014).
10. Government of India, 2014. *Expenditure Budget 2014-15, Volume I*. New Delhi: Government of India, Ministry of Finance. <http://indiabudget.nic.in/ub2014-15/eb/po.pdf> (Accessed March 21, 2014).
11. Government of India and Institute of Public Enterprise, 2013. *Background*

Reading Day 1, Global Roundtable on Government Performance Management.
December 11-12. New Delhi.

12. Gupta, Anand P., 1993. Reforming Deficit Measurement: The Indian Case. *Economic and Political Weekly*, Volume XXVIII, Nos. 8 and 9, February 20-27, 345-353.
13. Gupta, Anand P., 2010. Evaluation of Governance: A Study of the Government of India's Outcome Budget.
14. *Journal of Development Effectiveness*, 2 (4), 566–573. <http://www.tandfonline.com/doi/pdf/10.1080/19439342.2010.532928>
15. Kaw, Maharaj Krishen, 2014. *Changing Role of Civil Services*. Remarks at a seminar on “Changing Role of Civil Services” jointly organized by IC Centre for Governance and India International Centre. March 7. New Delhi.
16. Kumar, Prabhat, 2014. *Email to Amit Mukherjee and others*. April 3.
17. Ministry of Finance, Department of Expenditure, 2006. *Guidelines for preparation of outcome budget*
18. 2007–08. Office Memorandum. New Delhi: Ministry of Finance.
19. Ramachandran, M., 2014. “Toilets for all”, *Business Standard*, January 25. http://www.business-standard.com/article/opinion/m-ramachandran-toilets-for-all-114012500727_1.html
20. The Economic Times, 2009. “Outcome budget serves no purpose, says Montek”, *The Economic Times* (New Delhi Edition), October 13. http://articles.economictimes.indiatimes.com/2009-10-13/news/28414324_1_outcome-budget-monetary-policy-stimulus-package (Accessed April 18, 2014).
21. The Economic Times, 2011. “A Performance Rating of 90%?” *The Economic Times* (New Delhi Edition), March 13. <http://economictimes.indiatimes.com/articleshow/7689407.cms?frm=mailto:friend?intenttarget=no> (Accessed March 22, 2014).
22. The Economic Times, 2012. “Power distribution companies’ losses cross Rs 2 lakh crore, says Crisil”, *The Economic Times* (New Delhi Edition), May 7. http://articles.economictimes.indiatimes.com/2012-05-07/news/31610764_1_power-tariffs-hike-in-electricity-tariff-discoms (Accessed March 22, 2014).
23. The Times of India, 2011. “UP babus loot Rs3,700cr rural health funds”,

- The Times of India* (New Delhi Edition), July 20. <http://timesofindia.indiatimes.com/india/UP-babus-loot-Rs3700cr-rural-health-funds/articleshow/9290175.cms> (Accessed March 30, 2014).
24. The Times of India, 2012. “27% of power goes waste: Moily”, *The Times of India* (New Delhi Edition), August 11. <http://timesofindia.indiatimes.com/india/27-of-power-goes-waste-Moily/articleshow/15441795.cms> (Accessed April 16, 2014).
 25. The Times of India, 2012. “Centre sniffs scam in states’ toilet funds”, *The Times of India* (New Delhi Edition), August 16. <http://timesofindia.indiatimes.com/india/Centre-sniffs-scam-in-states-toilet-funds/articleshow/15510051.cms> (Accessed April 17, 2014).
 26. The Times of India, 2012. “Brazenness of decisions inherent to political governance in India”, *The Times of India* (New Delhi Edition), November 12. <http://timesofindia.indiatimes.com/india/Brazenness-of-decisions-inherent-to-political-governance-in-India/articleshow/17188030.cms> (Accessed April 16, 2014).
 27. The Times of India, 2014. “Govt spends Rs 3.65 to deliver Re 1-worth food; 57% of subsidized food doesn’t reach beneficiaries”, *The Times of India* (New Delhi Edition), February 27. <http://timesofindia.indiatimes.com/india/Govt-spends-Rs-3-65-to-deliver-Rs-1-worth-food-57-of-subsidized-food-doesnt-reach-beneficiaries/articleshow/31063717.cms> (Accessed March 29, 2014).
 28. Constituent Assembly Debates on Indian Civil Service in the Constitution Hall, Volume (X), 10th October, 1949.
 29. “Ethics in Governance” (January, 2007): Fourth Report, Second Administrative Reforms Commission, Government of India.
 30. Governance, Volume-I, Chapter 10, pp 295, Twelfth Five Year Plan of India (2012-17).

Vappala Balachandran

The Making of Internal Security Provisions in our Constitution - a tragedy

Two situations compared:

On September 4, 1957 Arkansas governor Orval Faubus ordered deployment of his state National Guards to physically block nine black students from attending integrated schools in Little Rock even after the US Supreme Court had ordered “desegregation”. He was defiantly supporting his constituency of White “Segregationists”. The sight of uniformed troops blocking a small group of black students polarized the nation, creating tense atmosphere. President Dwight Eisenhower intervened and appealed to Faubus to obey the Supreme Court orders and deescalate the situation. But it had no effect. In order to avoid further race tensions and mob rule, the President ordered the 101st Airborne Division of US Army to move into Little Rock on September 24 to enforce desegregation. He also “federalized” the 10,000 strong Arkansas National Guards taking them out of the control of Faubus. This prompt and firm action calmed the race relations in America temporarily, which however experienced severe race riots in 110 cities after Dr.Martin Luther King was killed in April 1968.

On November 26 1992 Central Para-military forces numbering 20,000 were ordered by the Union Home Ministry to be moved into Uttar Pradesh for deployment in Ayodhya where a tense situation was developing caused by the Bharatiya Janata Party’s (BJP) call for the assembly of “Kar Sevaks” to build a Ram temple at the same location as that of the 16th Century Babri Masjid. Dr.M.D.Godbole, then Union Home Secretary, described it as the largest mobilization of such forces for internal security duties to a state since Independence.

This was necessary since such assembly of defiant BJP workers and their confrontation with the police in 1990 during the Samajwadi party government rule had resulted in communal riots all over India resulting in 723 deaths and injuries to 1,758 persons. By 1992 the BJP had formed the government in Uttar Pradesh who protested against the positioning of Central forces. They did not utilize the Central forces when nearly 2 lakh “Kar Sevaks” demolished the Masjid on 6 December 1992. This incident provoked country wide communal riots, killing 2,026 persons and injuring 6,957 apart from large scale arson and looting. It is commonly understood that the Babri Masjid demolition and the 2002 Gujarat riots after the Godhra train burning were directly responsible for increasing Jehadi terrorism in India, the casualties of which forms a major portion of the total terrorism related deaths in our country estimated to be 63,296 since 1994.

The above two contrasting situations would help in analyzing why direct Central government initiative to enforce “internal security” is possible even in a country noted as the ideal model of a federal set up and how it is not rendered possible in India which is only a “Union of States”. America is a “federal, democratic republic, an indivisible union of 50 sovereign states” with each state having its own constitution while India which is only a “Union of States” and not a “Federation of States”.

Of late most State chief ministers are opposing any central initiative on internal security, claiming that it is not allowed under a “federal structure” as laid down in our Constitution. The latest is the Tamil Nadu Chief Minister’s decision(May 1, 2014) rejecting the Centre’s offer to involve the National Investigating Agency(NIA) in the investigation of the double bomb explosion case on Bangalore- Guwahati Express train which killed one girl and injured 14. NIA is legalized by our Parliament for investigating such inter-state crime especially terrorism. “The Hindu” recalled that in 2012 CM Tamil Nadu had called for the winding up of the NIA as it was “clearly a case of the Centre usurping the powers of the states”. On the same day US State Department criticized India’s

counter terror infrastructure in their annual “2013 Country Reports on Terrorism”: “India’s efforts to counter terrorism are seriously hampered by impediments to coordination and information sharing between agencies. In addition, law enforcement organizations display a limited command and control capacity... The Indian government had proposed to create a National Counterterrorism Centre, but state-level officials have opposed this initiative and it has not been implemented.”

The purpose of this article is to examine how this serious lacuna in managing our internal security arose.

The making of internal security provisions in our Constitution:

Perhaps Pandit Jawaharlal Nehru, who spoke on December 13, 1946 at the Constituent Assembly might have thought that the august body would follow the experience of some other countries in framing their constitutions. He recalled the efforts in United States of America, France and Soviet Union: “I think also of the various Constituent Assemblies that have gone before and of what took place at the making of the great American nation when the fathers of that nation met and fashioned out a constitution which has stood the test of so many years, more than a century and a half, and of the great nation which has resulted, which has been built up on the basis of that Constitution.”

But it did not happen that way at least on internal security which is the vital glue to bind our nation. Our constitution makers did not borrow provisions from these constitutions on the distribution of powers between the Centre and States in regard to internal security. Instead they copied the ingredients of the Government of India Act 1935, which was enacted during colonial days which had placed police including railway & village police as well as public order with the states in “List II-Provincial List” under the “Seventh Schedule-Legislative Lists”. In our Constitution also the Seventh Schedule under Article 246 placed “Public order” and “Police (Including railway and village police) in List II-State List. Noted constitutional

authority Subhash Kashyap says: “Finally, nearly 75% of the Constitution can be said to be a reproduction of the Government of India Act, 1935 with suitable adaptations and modifications. The basic structure of the polity and provisions regulating Union-State relations, declaration of Emergency, etc were largely based on the 1935 Act”. But he did not say why a colonial provision was copied in toto in regard to public order and police with no role for the Centre.

As a result India is perhaps the only democratic country in the world where the Central Government does not have direct or concurrent responsibility in maintaining internal security despite Article 355 saying that it should be the “duty” of the Government of India to protect states against “external aggression” or “Internal disturbance”. How will that be achieved? What will the public, who are the worst victims of terrorism and communal riots, do when States refuse such Central help on partisan considerations? How will the public lives be protected if the State government machinery is totally inefficient to prevent killings? How will the N.I.A prevent such incidents and save public lives if they are not allowed to operate in a state even after receiving advance intelligence on the likelihood of such an event? The states would say that the Centre should rest content by giving only advance intelligence and also by dispatching additional forces, leaving the public order operations to the States. As I had mentioned earlier, the UP government did not prevent the Babri Masjid demolition even after getting Central alerts and forces. Their failure resulted in severe communal riots in other states. The most conspicuous example of this bizarre situation is the terrorist attack on 26/11 where the Pakistani terrorists invaded us through the sea while the Central Government failed to take any pre-emptive measure as needed under Article 355 except by issuing intelligence alerts.

Problems created by Government of India Act, 1935:

The 1935 Act had divided subjects into “Federal”, “provincial” and “Concurrent”. Our constitution makers ignored that the 1935

Act was passed under different circumstances. The late V.P. Menon, who was Reforms Commissioner for the Viceroy says in "The Transfer of Power in India" that the Colonial administration wanted to appease minorities who did not want a strong Centre after the failed 1931 Second round table Conference.

Menon also says that the 1935 Act was passed when the Congress had become weaker after the Second Round Table Conference and when there were sure signs of the Whitehall trying to divide and weaken the independence movement. The First Round Table Conference (17 Nov 1930) was boycotted by the Congress. During this conference the princely states wanted shared sovereignty while the Muslim League opposed a strong centre. Gandhiji was the Congress's sole representative for the Second Round Table Conference from September 7, 1931. This was after the Gandhi-Irwin Pact of 5 March 1931. By then the British Coalition Government had become predominantly Conservative and Lord Willingdon, perceived as anti-Congress, had replaced Lord Irwin as the Viceroy. During this Conference, minorities (Muslims, Depressed Classes, Indian Christians, Anglo-Indians etc) abandoned the Congress and produced a separate statement. After the Third Round Table Conference (Nov 1932), which was of no significance, the Whitehall published a White Paper based on these 3 conferences. The October 1934 Bombay Congress Session rejected this white paper but not the "Communal Award". Soon thereafter a section of Congress led by Pandit Madan Mohan Malaviya broke away & started "Congress Nationalist Party" (CNP) rejecting Communal Award.

The Government of India Act 1935 was passed on 4 Aug 1935 among this confusion creating a "Federation" of British-Indian Provinces and Indian States. In regard to the British provinces the accession would be automatic while in the case of princes, their instrument of accession had to be accepted by a Royal Proclamation. However individual accessions would not be accepted. The British devised a convoluted formula in accepting such accessions. "But no such proclamation would be issued by HM until the rulers of States, representing not less than half the aggregate population of

the states, and entitled to not less than half the seats allotted to the States in the Federal Upper Chamber, had signified their desire to accede to the Federation, and both Houses of Parliament had presented an address to HM praying that such a proclamation be issued.” During the War another blow was given to the Congress in 1942. British Government, in their declaration of 1942, gave the right to the provinces to accede or not accede to the Union and to form a separate Union or Unions. “This was really the death blow to Indian unity....During the War years when Congress ministers resigned from the provinces and withdrew their support from the War effort, Lord Linlithgow inevitably leaned upon Muslims. The league grew rapidly in the sunshine of favour....It was at this stage that the British Government, in their declaration of 1942, gave the right to the provinces to accede or not accede to the Union and to form a separate Union or Unions. This was a radical departure from the policy hitherto adopted. In the discussions leading up to the passage of the GOI Act 1935, it had never been contemplated that the accession of the British-Indian provinces to the Federation should be optional. ...” V.P.Menon continues: “On the other hand, by surrendering its position of vantage and resigning its ministries in eight provinces out of eleven, the Congress left the field entirely to the Muslim League and to the Government. If it had not resigned, it could have insisted on and got an immediate change at the Centre, especially after Japan joined the War”

It is in this background that our Constituent Assembly met on 9 December 1946 with the Viceroy looming over them. Prior to this a number of papers were exchanged between the Congress, the League and the British Government on the proposed constitution during and after the Cabinet Mission’s Simla Conference which began on 5 May 1946. On 8 May the Secretary of state sent a paper to the Congress and Muslim League showing distribution of subjects between the Centre and States which were akin to the 1935 Act (Foreign affairs, defence, communications, fundamental rights & finances only with Central govt. and all other powers with the States)

The Congress's reply almost agreed to this except a suggestion to include "other subjects as, on closer scrutiny, may be found to be intimately allied to them" On 24 May the Congress working Committee reiterated Congress objective for a "strong though limited Central authority and full autonomy for the provinces". A biographer of Sardar Patel remarked: "The Congress was a divided house in comparison with the League under Jinnah's sole spokesmanship. Azad, as President, had, on his own, assured the Mission of Congress acceptance of the plan". He favoured a federal government "with fully autonomous Provinces with residuary powers vested in the units themselves" The results of this envisaged dispersal of authority to manage internal security were already manifest in the second week of October 1946 when large scale riots took place in Noakhali and Tipperah districts of East Bengal. V.P.Menon says: "Two of the Muslim League's nominees to the interim Government were openly indulging in belligerent speeches. One even went as far as to declare that the events in East Bengal were but part of the all India battle for Pakistan"

Retired Canadian civil servant and Oxford Professor David Steinberg was more forthright on the real British motive in his essay "The government of India Act 1935": "That by giving Indian politicians a great deal of power at the provincial level, while denying them, responsibility at the Centre, it was hoped that Congress, the only national party, would disintegrate into a series of provincial fiefdoms" This distribution of subjects in 1935 did not matter to the British administration. Steinberg says: "In the event of political breakdown, the governor, under the supervision of the Viceroy, could take over total control of the provincial government. This, in fact, allowed the governors a more untrammled control than any British official had enjoyed in the history of the Raj" Also, the Viceroy could easily send troops to the affected areas as remarked by the 1902 Police Commission or even order hot pursuit into the princely states as Governor General Bentinck did in 1829 to help Sleeman pursuing Thugs. Our Constitution makers borrowed some elements from the 1935 Act which weakened the Central

Government while making our governors powerless in the event of grave internal security problems. This is the cause of all our present problems in which State satraps are openly defying Central Government.

The late V.P.Menon mentions another example of the outgoing British administration's attempt to weaken India's internal security as it was nearing Independence. The British dominated Political Department wanted to hand over the Crown Representative's Police Force (CRPF) to various States although this force with one battalion strength was maintained from the revenues of the Government of India. When Menon took over as Secretary of States Ministry on 5 July 1947 he stopped the planned disintegration of this force. He says: "This was the only effective force which the States Ministry had at its disposal. It was very well trained and but for the discipline, efficiency and devotion to duty of its officers and men, we would not have been able to maintain order, particularly in the small states and in the border areas, during the crucial period following the transfer of power".

My study of the constituent Assembly debates do not give me any clue why this serious mistake or lack of foresight on the Centre-States relations occurred among our founding fathers while drafting our constitution. Events prior to 1947, behaviour of some constituents in our polity during our independence struggle and the conduct of the departing British government who were not keen in maintaining the integrity of our vast country should have made them very cautious before accepting a formula on inter-State relations adopted by the Colonial administration. The above situation is in direct contrast with the foresight of some of our founding fathers in setting up a centralized non partisan system of elections which has stood the test of time. What would have happened to us, a country with considerable internal migration, if we had adopted a system like in United States which entirely depends upon different State laws for voter registration and for considering voter eligibility? What would have happened to us if the ballot papers differed from State to state or in some cases even from county to county like in United States?

Or for that matter if voting methods (Ballot paper with manual marking, optical scan system where paper is used, lever machines, punch card machines or touch screen systems) had differed from state to State? Or if we had blindly followed our own “Objectives Resolution” of 13 December 1946 which stated that the states and territories “shall possess and retain the status of autonomous Units, together with residuary powers and exercise all powers and functions of government and administration”?

The credit for this goes to the foresight of Dr.B.R.Ambedkar who changed the Drafting Committee’s original recommendations to have a “separate election commission for each province under the guidance of the governor and the local government”. In his speech on 15 June 1949 he indicated that he was forced to make this change since there were some efforts to disfranchise migrants into some states. He refuted that it amounted to encroaching the States’ jurisdiction. In this he was ably supported by the late K.M.Munshi who said: “I would warn the Members who are still harping on the same subject to remember one supreme fact in Indian history that the glorious days of India were only the days, whether under the Mauryas or the Moghuls, when there was a strong central authority in the country, and the most tragic days were those when the central authority was dismembered by the provinces trying to resist it”.

It is a tragedy that the persons who drafted the internal security provisions in our constitution by copying the 1935 Act were not as sagacious as those who courageously insisted on the amended provisions regarding the Elections which have turned out to be a shining example of our democracy’s independent and impartial method of choosing elected representatives.

References

1. (<http://www.nytimes.com/learning/general/onthisdaybig/0925> html article)
2. (“Unfinished Innings” by Dr. Madhav Godbole- Orient Longman- 1996- Chapter 11 “The Ayodhya Debacle)

3. South Asia Terrorism Portal
4. “Our American government” US Government Printing Office-1993
Page 1
5. “Our Constitution” Subhash C Kashyap-National Book trust -1999
Page 42
6. Ibid Page 45
7. The Hindu May 2, 2014
8. The Hindu of May 4, 2014 carried interview of unidentified Chennai crime branch officials how difficult it was to detect an inter-State crime. “Another man caught on cam in Bangalore”. Chennai Crime Branch had to send teams to Guwahati and Patna which would not have been necessary had NIA which has all-India presence taken over investigation.
9. <http://www.state.gov/j/ct/rls/crt/2013/224824.htm>
10. Constituent Assembly of India, Volume I Friday, the 13th December 1946
11. “Our Constitution” Subhash C Kashyap-National Book trust -1999-
Pages 4-5
12. V.P.Menon: “The Transfer of Power in India”- Orient Longman, 1957
chapter 2
13. Ibid Page 52
14. Ibid Page 437
15. Ibid page 438
16. Ibid p. 257
17. Ibid pages 260-61
18. Ibid P. 269. My comments: How can “Strong” and “Limited” authority go together?
19. B.Krishna: “India’s Bismarck-Sardar Vallabhai Patel” Quoting R.J.Moore: “Escape from Empire, The Attlee Government and the Indian Problem”– Indus Source Books, Mumbai. 2010-Page 82
20. V.P.Menon: “The Transfer of Power in India”- Orient Longman, 1957
Pages 318-319

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- a tragedy
21. David Steinberg: "The Government of India Act 1935" September 1, 2005 Part 5 "Federal Part of the Act" Section (b) "Objectives of the British Government"
 22. Ibid: Part 4 "Provincial Part of the Act"
 23. Mike Dash: "Thug-The True story of India's murderous Cult", Granta Books, London 2005 page 149
 24. "The Story of the Integration of the Indian States", Orient Longmans, 1961, P. 77
 25. I have described this in my column in Sunday Guardian (New Delhi, Chandigarh & Mumbai) April 27, 2014: "<http://www.sunday-guardian.com/analysis/centralised-non-partisan-system-makes-polls-smooth>

P S Bawa

The Ethical Dimension of the Constitution

Like the Constitution of United States, the Indian Constitution too invokes 'We the People'. This not only provides core values that are necessary for formation of a good society, but also provides a lamp post for well-being of the individual as well as country as a whole, an invocation not of a religion, god, providence, but only the values that are moral in nature and, therefore, celestial as such.

There are two ways of reading any text. One, what the text denotes in language. Two, what the reader understands through the text. In other words, one aspect is the explicit meaning conveyed in words in the text; the other is the implicit one that the reader discovers. This involves deciphering of the meaning beyond what the words express. This is the process of construction. Vocabulary is different from the meaning inherent in the context. Barthes has elaborated in his *Writing Zero Degree* that there is no limit or circumspection on the significance of words discovered by the reader¹.

Considering that the Constitution does not invoke God as such but acknowledging that there is more to text than is revealed on the surface, an attempt is made to penetrate into ethical aspects of the Constitution that do exist already but do not appear to be so in the open unless an in-depth interpretation of some of the articles and stipulations is made. The interpretation is, therefore, contextual and highlights the uncared for aspect of the document that is taken for granted. It is taken as a ritual when its literal use is made. It is taken on its face value, and sometimes ignored by those who are expected to uphold its dignity and treat it solemnly. It is a text that is revered as a celebration in the form of a holiday, not only for government offices, but by all, labor inclusive, when Indian republic on the basis

of the Constitution was constituted. The day is used as a vacation, entertainment, a day for rest, and never for introspection. Those who are to 'work' it out deliver speeches that have no relevance to the text. They take it as independence and echo the freedom struggle without realizing that the content, purpose, and reach of the Constitution is different. Independence was a goal and an end, the Constitution is a means to secure the fruits of independence so that independence makes it possible to secure the goals. Independence is a point of relaxation on reaching the destination; the Constitution is an activity, and a perpetual one. The words are often used in as a 'mechanical speech' without getting into contents and significance.

In fact, the Constitution is the completion of independence and its culmination as such. Mere independence has no meaning unless it imposes restrictions upon itself. All countries are independent, by and large, but its people are not free. Independence is 'from' the shackles of the other; freedom is 'of' many things. Mere independence from the British rule was not enough. More was desired. It was the freedom 'of' and 'for' a better life and a progressive society.

The burden of the argument is that contents, except those dealing with procedural aspect, have ethical overtones that are scattered in the preamble, the fundamental rights, directive principles of state policy, fundamental duties, and the oath of office. The intention behind the expressions is to be sought for. My quest is to discover what is hidden in '*what-goes-without-saying*'², exploring the significance of the text in terms of ethics. Constitution is a collection of Articles in a prosaic form, what all texts normally are. But it is for us to discern its usage through a creative process by endowing the Constitution with significance, from '*Constitution-in-form*' to '*Constitution-in-action*'. The Constitution is a signifier (a vehicle, an object), but what is signified is important. The 'latent' meaning' or the 'second-order meaning is to be understood, as suggested by Barthes (135).

Preamble: Mission/Vision

Constitution is an exercise in actualizing a dream that is wholesome, unambiguous, and contains all that is expected of a

progressive society. The preamble is part of the Constitution and finds resonance in decisions of the apex court and all else is an elaboration of the vision contained therein. It is not merely a collection of good words, but has an authenticity of a desire to achieve goals that are set therein. All expressions in the preamble are ethically loaded. These are foundations of a good society where justice prevails, people are equal and not placed in a hierarchical social order, and where there is freedom, and people live in brotherhood, where the dignity of the individual is assured, and they are free from invasion and anarchy thus maintaining the unity and integrity of the country. Though the expression ‘fraternity’ is not defined, yet it is expressed in negation of religious intolerance, against social injustice, and a derision of political oppression on the basis of discrimination of any form. The preamble is now part of the ‘basic structure’ of the Constitution³ and cannot be amended. It is a document with a social construct, ethical dimension, and political reality.

The noble intentions in the preamble are verified and articulated by crystallization of all these ideas of freedom, equality, and fraternity in Chapter III on fundamental rights. In other words, the expressions are not exhortations in thin air. These are to be achieved. The means are spelled out in rights that are an elaboration of the preamble. All expressions have an ethical connotation.

2. Justice: Supremacy of law

Justice is The prime need of an individual. In a civilized society, it is not permitted to be governed by the self through a system designed for personal ends. Any pursuit of justice without rules of game shall usher in a state of anarchy and injustice. It is an ethical value. If it is elusive, it creates restlessness in society. Its achievement appeases the troubled mind, a sort of a compensation for the loss suffered. The state stands behind the back of the dispossessed or the harmed. It is, therefore, an ideal to be achieved, an ethical norm that can keep society in balance. Being the duty of the state, its acquisition is the goal of a good society. It is an ethical value that has to be pursued, both as a norm and as a right.

Justice is the primordial need since times immemorial as people sought divine justice till rules of the game were evolved and framed. Retribution either by divine intervention or by directly settling scores in terms of revenge was sought. The rationale of law has been to resolve problems by decent means and consenting to a code of conduct that provides for permissions/prohibitions. That which is not permitted is prohibited and any act or omission thereof is punishable under law.

Injustice disturbs the spectators. That is why there is often a cry for justice. ‘We want justice’ is sought as a carnival. Justice is an act of healing that induces forgetting. Injustice accentuates the memory. It is a suffering that seeks redemption.

Law brings order out of chaos. The Constitution is a supreme law, as all laws flow out of it. It is a touchstone to determine the purity of law, to see whether law conforms to the basic principles and objectives. It is a measure to test the correctness of an idea, initiative or an activity of governance. It is thus an ethical loadstar to guide direction of action. That is how the Criminal Tribes Act that assumed criminality by birth lapsed after it could not meet the test of Articles 13, 14, 21, and 19. Labeling by birth is no longer permitted. Therefore, only those laws were acceptable that were in tune with the mission statement and the fundamental rights. All laws must conform to the constitutional intent.

The Constitution has captured the mandate of justice through simple expressions and principles.

- (a) All laws must accept the discipline of fundamental rights. Any law that violates any stipulation of rights is considered void. The Constitution is the supreme law. In the context of the US Constitution, Laurence H. Tribe mentions, “It is *fundamental* in the sense that it trumps all other sources of legal power and obligation and establishes the foundation on which those other sources must build. It is *ours* in the sense that, although we played no role in its original enactment, and though we may hold no office bearing an official responsibility for resolving disputes over constitutional construction, “We the People” have

an open, standing invitation to become involved in debating and settling its interpretation. Hence, “we all have a permanent stake in what it means”⁴ (*Italics in original*)

- (b) Every one is equal before law. The oft-quoted dictum ‘Howsoever high one may be, the law is above him’ confirms this. Equality before law is the ethical pillar that does not discriminate between categories of people on any basis whatsoever and neutralizes extraneous pressures which people in power are capable of exerting.
- (c) Every one must have an equal protection of law. That law shall not be partial in favor of one with resources, connections, or power asserts another fundamental of equal entitlement to protection provided by forces of order, i.e., the criminal justice system.
- (d) In the context of Article 13, the Constitution is the supreme law, the pivot of all activity, a touchstone to decide all impurities, and a measure to test correctness of an idea or initiative to activity of governance. It is thus an ethical loadstar to guide action.
- (e) Laws can be legislated to do away with inequalities and inequities that were generated by the social order because of its hierarchical, paternal, and feudal character. Article 15 (3).

Therefore, the Constitution is an instrument that has served to deal with issue of inequalities. It safeguards the interests of the weak, the dispossessed, and the vulnerable.

The Constitution has also created a Supreme Court that protects the rights of people. The ethical dimension of the Constitution thus lies in its structure to bring about justice. Justice is not only a value to be secured but something to be achieved practically. Law and justice are basic values. So is the expression ‘law and order’ meaning that order has to be secured by legal means and not in an arbitrary manner.

The principle of ‘due process’ ensures that justice is not whimsical, arbitrary, dependent upon emotional appeal or exhortation, but goes through a sieve of checks for the sake of

purification. It is justice not on the basis of likes and dislikes, but in accordance with rules of evidence that are reasonable and scientific. Hence the expression 'procedure established by law' has been construed to mean law and procedures that are 'just, fair, and reasonable' is honored⁵. This had neutralized the infamous decision in *ADM Jabalpur v. Shivkant Shukla*, AIR 1976 SC 1768.

Equality: Against discrimination

The history is replete with instances of slavery and discrimination based upon color, language, religion, prejudice, sex, class, caste, belonging to a region, etc. There have been two classes of the high and the low, the rich and the poor, the accepted and non-accepted. The Constitution has sought to do away with all types of discriminations that resulted in denials. For instance, some people could not draw water from a well, or go to places of worship, or pray to gods, or pass through a street reserved for the upper class people, or celebrate marriage as others, sit on the horse, etc. They were confined to certain professions that were derogatory, unhygienic, and inhuman.

The struggle for equality had been waged by many since times immemorial. There were moral exhortations of holy men, saints, and reformers. These voices were not heard in the cacophony of powers of the time. There was little impact of the teaching except that these were guides for good conduct. However, the Constitution, seeking inspiration from this tradition, has with one positive stroke done away with all avenues of discrimination and inequities. What the religions had preached for long and social reformers tried to influence people untiringly was achieved by a mandate that seeks equality by prohibiting discriminations on grounds of religion, race, caste, sex, or place of birth (Art 15). Equal opportunities are mandated (Art 16) as well as malignant practice of untouchability that had created a hierarchy of the sacred and the profane among human beings was abolished (Art 17). Caste hierarchies prevent mutual understanding, create animosities, and obstruct merger of communities on social level. This is not be any longer. The

communities reeling under the pressure of social ostracism for no fault of theirs were given a status of equality. It is a challenge to the texts that had sanctified caste system that marginalized some communities and threw them out of social reckoning.

The removal of discrimination is a unifying principle of social relationship by demolishing the walls and silos of separateness. The principle of unity in diversity implies a common denominator of humanity that accepts external manifestations of difference. These measures are significant as people on the periphery are brought within the pale of acceptance, to the centre stage, an important step from exclusion to inclusion, a restoration of dignity that had been snatched away due to no fault of theirs. Thus breaking barriers of artificial discrimination is flight from superstition to enlightenment.

Ethical statement of intent

The intention of the Constitution is clear from the preamble that is not simply an expression in words but is further clarified in the fundamental rights for all. But there are other things, besides the rights, that ought to be aimed at. Directive Principles of State Policy is a compendium of goals that guide action of all components of governance. It is a checklist of guidance and contains some of the desirable concerns that the governance must be interested in. These are aspects of a commitment to achieve a socialist pattern for a welfare state in the interest of the common good. All aspects of emphasis in Art 38 (2) like minimization of inequalities in income, elimination of inequalities in status, facilities, and opportunities are ethical constructs.

Part IV of the Constitution thus deals with well-being of people and indicates ends and means to achieve the desirables. Provision of legal aid ‘to ensure that opportunity for securing justice are not denied to any citizen by reason of economic or other disabilities’ (Art 39A), provision for just and human conditions of work and maternity relief (Art 42), securing living wage for workers (Art 43), raising the level of nutrition and striving for improvement in public health (Art 47), etc., are loaded with ethical intentions.

There is an element of human kindness and abhorrence for prohibiting traffic in human beings and forced labor (Art 23). It has the flavor of compassion. There is conscious acceptance of the fact that children should not be employed for work in a factory, mine, or hazardous employment (Art 24), the moot idea being to protect them from exploitation and enable them to enjoy the benefits of free education (Art 21A) and a normal childhood.

Taming power

It is common knowledge that power has often been misused. There are a few attributes of power. It accumulates if not questioned; it is tyrannical if not contained; it corrupts; and it becomes oppressive. If there are no checks and balances, the end product is miserable. This was evident in pre-Second World War situation when it was blatantly used by Hitler by veiling it within the cover of democracy as all his laws that created mayhem were legislated. The nations of the world were conscious of the misuse of power that was designed to be controlled by the Universal Declaration of Human Rights, 1948.

With a view to reining in power, the Constitution has not only laid a principle of separation of power (Art 50), but has endeavored to achieve this objective by ensuring independence of the judiciary. Besides, the document has restrained police from being overbearing in its relations with people, especially those under detention. It prohibits confession by force, in other words, the use of third degree methods to extract confession. Art 20 (3) states: 'No person accused of any offence shall be compelled to be witness against himself'. Though this stipulation is contained in the common law, i.e., the Indian Penal Code, the Cr. PC, and the Indian Evidence Act, yet its inclusion in the Constitution as a fundamental right is significant as it is justiciable, unlike other directions in the law that are often not resorted to for fear of being trampled over by the police. Secondly, there are strict directions to be followed when a person is arrested so that the hardship can be avoided and person gets the legal assistance that he deserves (Art 22). Thirdly, the general rule that 'No person

shall be deprived of his life or liberty except according to procedure established by law' (Art 21) is the knight of the human rights and confirms the rule of law. The Constitution is, therefore, a shield for defense against tyranny of the state, authority of its executives, even the courts, as the system of appeal exists. There is also a limit on the power of parliament to amend the constitution (Art 348) so that, like Hitler, all cannot be sanctified as a mandate of people, with leaders having ambitions of power. The basic structure of the Constitution is immutable⁶. The dispersal of power has also been sought by the Constitution. In tune with Art 40, delegation of power is sought in democratic institutions of panchayats and municipalities. (Part IX & IX-A and Eleventh & Twelfth Schedules)

Unity in diversity

Though the state is not religious, yet it has provided space for various religions to co-exist, unlike theocracies that have a hierarchy of various denominations. The state has distanced itself from religion but ensures respect and equality for all, even assuring protection to the minorities. It thus ensures the flourishing of all faiths. Similarly, there is freedom for use of languages in official work. Many languages are given the status of acceptance (Eighth Schedule). Besides, one of the fundamental rights is that any section of citizens residing in any part of the country 'having a distinct language, script or culture of its own shall have the right to conserve the same' (Art 29). There is no tension between the state, religions, and people as religion is left untouched by the state. On the other hand, it is protected by the state through law. The Constitution is thus a major site for the accommodation of diverse religions. It ensures the blooming of various denominations as well as minorities of any shade. The State accords respect to all, being equally distant from them. This ensures diversity, dignity, and mutual consideration.

The bond that unites all is the unity and integrity of the country, one of the mission statements in the preamble to the Constitution. In a country with a multiplicity of religions and attachments of conscience to a pantheon of beliefs, it is necessary to have a unifying

force. This can be found only in the Constitution. It is the binding force that has tried to weave the nation into one by doing away with conflict. Pluralism is about how to live with differences and not to smoothen these out for the sake of standardization.

Emphasis on duties

Citizens with rights have duties too. It is not enough to be content with rights only and feel safe in a cocoon. A citizen lives in a real society. Social order is an imperative for a good society. Hence the citizen's involvement in it has to be practical. Citizens cannot claim remoteness from obligations. It is in this context that the fundamental duties are important. These enable the state to capture the opportunity of propagating healthy attitudes of obedience to law, respect for human beings and gender, etc. Considering that rights alone are not enough, citizens too have a role to play. 'Rights and responsibilities are to be treated as two sides of the same coin'⁷. One without the other is incomplete. 'Every being is an integral part of the cosmic whole... There are other moral obligations which one has by virtue of the personal/social roles that one enters into throughout one's life'⁸. They must reciprocate the conferment of rights so that there is a balance between the two. Art 51A is a compendium of values expected of an individual. These are unexceptional. It informs of the need to regulate behavior by exhorting the person to respect the national ethos, heritage, noble ideals that inspired the freedom struggle, promotion of harmony, care for environment, etc.

An important duty is 'to develop scientific temper, humanism and spirit of enquiry and reform'. If taken seriously, its performance shall spare all of the sectarian and abdominal obscurantist notions of the sacred and the profane. This can lead the nation to greater heights if these values are consciously inculcated among the students at an early stage.

The third aspect of the duties is 'to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavor and achievement'. If

this aspect of the duty had been taken a serious note of by all, the delivery of services by public functionaries shall improve, the infrastructure would have improved a great deal by avoiding delays and taking care of the quality of construction and other works. This would lead to merit, virtue, and honest performance of one's tasks, in whatever field one is engaged. The Allahabad High Court has invoked this Article in a case when it experienced 'open mouthed astonishment' at the behavior of executive in hastening the acquisition of land on flimsy ground of 'urgency' under the Land Acquisition Act despite the Court granting relief to the petitioner by saying "The present Article 51A is in a positive form with a view to strive towards excellence. The least duties enjoin people not to conduct themselves in a blame-worthy manner. Excellence means surpassing merit, virtue, honest performance, dignity, and eminence. It is for the judge to ascertain the existence of a duty and its performance. Constitutional law givers have provided that citizens of this great country shall perform their duties in an excellent way that performing it half-heartedly. Now the performance of duty comes within the sphere of constitutional law which a court has to decide"⁹. The noble intentions in the preamble are verified and articulated by crystallization of all these ideas of freedom, equality, and fraternity in Chapter III on fundamental rights. In other words, the expressions are not exhortations in thin air. These are to be achieved. The means are spelled out in rights that are an elaboration of the preamble. All expressions have an ethical connotation.

However, the tragedy is that none of these stipulations, guidance, directions, or obligations is ever stressed upon at any level, more so at the level of adult consciousness. May be these are repeated as a part of the curriculum, but never taken seriously. These are shared values that can enrich the life of all. In fact here is a direct correlation between these values and the quality of life, harmony in the nation, and good governance. These are commitments for a common destiny.

The duties relate to legacy formation and an investment in future generations. The fundamental duties are, therefore, a domain of

applied ethics, expressed in a minimalist manner. “We must move away from the freedom of indifference to the *freedom of involvement*”¹⁰ (Italics for emphasis). The duties are like a dharma for a balanced and a ethical life. These are logical and are couched in a universal language. ‘Failing to do the right thing in a given situation is on par with willfully doing the wrong thing. Therefore, complicity amounts to responsibility’¹¹

Religion as metaphor: Secular religion

Constitution is what binds the nation. Robert Bellah said, ‘The separation of the church and state has not denied the political realm a religious dimension’¹². ‘There are certain elements of religious orientation that the great majority of Americans share... The public religion dimension is expressed through a set of beliefs, symbols, and rituals that I am calling the American civil religion’ (p.4)... ‘with respect to sacred things institutionalized in a collectivity’ (p.8) There is no formal creed, but ‘this serves to mobilize support for that attainment of national goals’.

It is in this context that that Constitution of India can be treated as a secular religion. Like all religions, it has a text that I consider as sacred. It is a scripture of the secular religion. There are authors who have contributed to it, Dr. Ambedkar being the most prominent one whose birthday is celebrated with dignity, metaphorically in the precincts of the parliament. The Republic Day is a ritual celebration of the expression where ‘We the People’ predominate. It is a congregation of people who feel blessed by the document. It is different from the Independence Day that was the culmination of a goal achieved. As Bellah confirms, ‘There is no formal creed with civil religion’¹³. Similarly, there are solemn rituals and symbols. The sacred events are conducted when the event is celebrated with pomp of a parade, illuminations, and concludes with a retreat as the next day is the martyrs’ day when Mahatma Gandhi was assassinated. . The unity and integrity of the nation evokes the image of sacrifice that is manifest in the Gandhi Samadhi, India Gate, the Martyrs’ Day, and the anti-terrorism day.

There is no tension between the state and religion on the one hand and people of different religions on the other, because the religion is left untouched. ‘Civil religion serves to mobilize support for the attainment of national goals’¹⁴. There is no place for bigotry of the rulers and the arbitrary use of power. The god of civil religion is a god of law, order, freedom, justice, fraternity, dignity, etc. All religions provide a vision, a way to live a good life; so does the Constitution. Subsumed in the preamble, fundamental rights, directive principles of state policy, and the fundamental duties are values and virtues that address problems of individuals and concerns with social order. The Constitution has thus a deeper coherence and contextual imbrications. Ethics of the Constitution must, therefore, inspire, guide policy, discipline society, and create aspirations. Constitution has been a source of laws that have empowered people, brought them relief, and provided them dignity.

In a country where moral education is not imparted as a caution for not disturbing the secular creed and implied distance from religion, ethics must fill up the gap. In fact, all children must adhere to some common norms. These are respect and dignity, uniformity in behavior, spirit of accommodation, etc. Secularism does not mean absence of moral inputs and a framework for ethical education. It does not mean negation of religion or a distance thereof, a cessation of a sensation of religion that every Indian has at the core of mind during happiness and despair. Gandhi had mentioned that ‘Those who say that religion has nothing to do with education do not know what religion means’. Distancing from religion has provoked a certain hatred for the ‘other’, stereotyping of unreasonable prejudices, and hardening of stands. It is ignorance of the genesis of religion that has fueled the fires of communalism, created narrow-mindedness that believes that one’s religion is the best, whereas all are on equal footing. So rather than enlarging the canvas, secularism has narrowed the boundaries of thinking. However, the Supreme Court finds no fault in training the children in spiritual values¹⁵.

And there is baptism in the form of an oath that reminds the legislators, the Constitutional authorities, and the executive

of commitment to a holy cause, to remain faithful and sincere in following the mandates of the Constitution. Oath is not only a ritual. It is sacrosanct. It establishes the covenant between the taker and the people. It is thus imperative that oath is not taken for granted without understanding, appreciating, and following the contents. (See Third Schedule) The words used in the oath like 'faithfully', 'conscientiously discharge my duties' and 'I will do right to all manner of people in accordance with the Constitution and the law, without any fear or favor, affection or ill will' have an ethical flavor. This precludes the exercise of patronage, favoritism, nepotism, and partiality. All these are ethical commandments. Similarly, the oath of secrecy deals with the conflict of interest issues so that the inside information is not exploited by the unscrupulous members.

An effort has been made to discover the meaning of the document, the reason being that there is no anchor that binds the nation. The Constitution has an ethical matrix. Though on the surface the Constitution appears to a legalistic document, yet when scrapped one gets the ethical dimension prominently, layer under layer. One has to go beyond the boundaries of the sentences and their mundane meanings to explore the romance of ethics. 'Sentence is only a small cog in a normally much larger machine'¹⁶. Therefore, the sentences in the articles have to be taken in the context of whole, conceived and interpreted as such. This is an exercise of making explicit the implicit, the latter being more important but only discovered with the help of the former. It does not mean that the expressions are opaque. These are clear on the face of it. But a deeper meaning is hidden underneath that ought to be explored for better results. The sentences are stipulations carved on a rock, but their meaning would depend upon the one who reads and internalizes.

Conclusion

Discourse on the Constitution has to be intensified so that all citizens, especially the police and the executive, including the judiciary take it seriously. Similarly, a conscious effort has to be

made to bring about uniformity among all citizens who must adhere to its stipulations, directions, mandate, and present a uniformity of behavior to the extent possible. At the moment there are divergences in behavior that require to be rectified. If the values of the Constitution are imbibed, civil sense shall prevail automatically, conflicts shall be reduced, and progress happen. The Constitution is a basic code of conduct, especially contained in the fundamental duties. It is a covenant to be observed by all. It is basic code of conduct, especially in the fundamental duties.

The preamble is to be internalized, not as an abstraction, but as a seed that germinates rights, procedures, duties, and emerges as an astrolabe, standard, and measure of all administrative actions. The executive has to deliver on the promise of the preamble. Therefore, governance is imbued with the values of the sacred. If India is to be reckoned as a modern state, it is not enough to go by the ‘mistaken modernity’ (term used by Dipankar Gupta in his book by the same title; Harper Collins, New Delhi, 2000) that hinges on the commodity acquisition or conspicuous consumption by aping the affluent. It has to adhere to a commitment to universal norms and values that apply to all. It is here that the narrative of the Constitution can help forge a real modernity for which India must strive.

The noises of the Constitution are as conspicuous as its silences. The Constitution is loud and loquacious when it directs the abolition of untouchability and titles, and various prohibitions. It is equally silent to the core when it hides within its womb the unity of individuals. For instance, ‘fraternity’ is not defined anywhere. One can cull it out of concerns in the preamble, rights, duties, and directive principles of state policy. If all are my kin, I must work hard and struggle for them. These are then ‘our struggles’. Our achievements are due to the Constitution. The inadequacies can be attributed to inefficiency of implementation and not genuine concerns of the Constitution.

Constitution is thus the most powerful discourse to shape the destiny of India. Its meaning is ‘embedded in the text already, waiting to be discovered’¹⁷. Interpretation of the Constitution is a

creative activity that ascribes values to postulates. The Constitution as a discourse ‘is a set of sanctioned statements which have some institutionalized force, which means that they have a profound influence on the way that individuals act and think...Discourses are those groupings of statements which have similar force – that is they are grouped together because of some institutional pressure, because of a similarity of provenance or context, or because they act in similar way’¹⁸.

The Constitution not only ‘says’ but also ‘does’. It is the harbinger of change. The court as a craftsman chisels its interpretation harmoniously in a positive manner thus conferring rights upon people that would have been ignored. It must become part of the general discourse and vocabulary as it addresses us all the time. It is relevant to the executive, the legislature, and the judiciary who must get inspired by its mandates. Politics shall become more ethical if doctrines in the Constitution are adhered to. It would demean the Constitution if inequalities are permitted to continue.

The Constitution has conferred meaning to the polity and ethics of the country. “The Constitution organizes our most important conversations and furnishes the primary language and framework in terms of which we debate our nation’s history”, say Tribe in the context of the US Constitution¹⁹. He continues to say, “The Constitution provides the primary thread of continuity that integrates us as a people engaged in this trans-historical project and offers a framework within which we converse our commitments to the principle by which we feel bound – principles which themselves evolve with our changing selves”²⁰. Similarly, “The power of the Constitution’s language – both its pure text and the constitutional vocabularies loosely grounded in the text – extends further than facilitating the organization and success of political causes. It shapes our national identity, our national conversation, and even our self-understanding”²¹. This is equally true of the Indian Constitution.

References:

1. Barthes, Ronald; *Death of the Author* in *Writing Degree Zero*; Hill & Wang; New York; 2000
2. Barthes, Roland; *Mythologies*; Vintage; London; 1993; p. 11
3. *Keshwananda Bbharti v. State of Kerala*, AIR 1973 SC 1461; *Indira Gandhi v. Raj narain*, AIR 1975 SC 2299; *Minerva Mills v. Union of India*, AIR 1980 SC 1789.
4. Tribe Laurence H.; *America's Constitutional Narrative*; Daedalus, The Journal of the American Academy of Arts; 141 (1) Winter 2012; page 21
5. *Maneka Gandhi v Bihar*, AIR 1978 SC 597
6. *Keshwananda Bbharti v. State of Kerala*; AIR 1973 SC 1461)
7. Shashi Motilal; Quoted in Introduction from *A Universal Declaration of Human Responsibilities; Applied Ethics and Human Rights*; Anthem Press India; Delhi; 2011; page xxiii
8. Ibid. xxxix
9. *Ram Prashad vs. State of Uttar Pradesh*; AIR 1988
10. Note 7, xxii
11. Ibid., xxiii
12. Robert N. Bellah; *Civil Religion in America*; Daedalus, Winter 1967; Journal of the American Academy of Arts and Sciences; Boston, USA, p. 3
13. Ibid; p.15
14. Ibid; p. 13
15. *Aruna Roy v Union of India*; 2002 AIR 3176
16. Hoey, Michael; quoted by Mills Sara; *Discourse*; Routledge, London; 1997; p. 135
17. Mills Sara; *Discourse*; Routledge, London; 1997; p. 68
18. Mills Sara; *ibid*; p. 62
19. Tribe, cited at 3a above; page 22
20. Ibid., p. 24
21. Ibid., p. 31.

Prabhat Kumar

Envisioning the civil services of India

Entering the precincts of the premier training institution for higher civil services, one's attention is drawn to the Vision of the Academy engraved on a stone slab placed prominently in its front lawns. The vision reads as: "we seek to promote good governance, by providing quality training towards building a professional and responsive civil service in a caring, ethical and transparent framework". Curiously, the vision of the National Academy of Administration incorporates the desired boundaries of the civil service. However, in the last six and a half decades since independence, no one has bothered to develop a vision for the civil service.

For the last nine years, the IC Centre for Governance has been promoting the idea of ethical governance where all transactions of government agencies with the citizens are conducted according to high ethical standards as the ultimate goal of public governance. The Centre has brought together eminent persons from different disciplines and who have always pursued ethical decision making in their career. Workshops on ethical leadership are organized from time to time on topical issues of governance. Senior civil servants participate in events organized by the Centre in various parts of the country.

Among the many mistakes committed by the civil servants in India has been their failure to see the importance of a vision to affirm their collective perspective of the future. Ensnared in the comforts of their service privileges, most of them remain oblivious of their *raison d'être*. The need to think about their legitimate place in the democratic system has rarely been felt by them. It was for this

reason that the IC Centre for Governance set about contemplating a vision statement of the civil services.

As defined by Chamber's Twentieth Century Dictionary, a vision means quite simply '*a pleasing imaginative plan for, or anticipation of, future events*'. In that sense, it could be a fantasy, an apparition, a revelation, a vivid concept or mental picture. The Concise Oxford Dictionary defines it as '*a thing or an idea perceived vividly in the imagination, a statesmanlike foresight*'.

In most situations and organizations, a vision is developed to force change from an unsatisfactory position to a more desirable one. It describes the future shape of things that is expected to fulfill the aspirations of the organization.

In order to make a vision into a feasible future event, it has to fit into the present. It has to be justifiable from the present situation and not an unattainable fantasy. Otherwise it is condemned right from the beginning to be a meaningless paper exercise. Therefore, the vision should represent a 'created future' consistent with the present, a future that is otherwise not going to happen. The constituents of the vision should be able to stand in the 'created future', look back at the present from there and test the feasibility of occurrence of the 'created future'.

The vision statement needs to be clear and free from any ambiguities. It should be an inspiring dream that is shared by all the constituents of the community to which the vision applies. It should be a common dream and not imposed from above. It should be emotionally logical and logically emotional. All the constituents should be motivated to accept it and to make it happen within a foreseeable time frame. It should be ambitious but not over ambitious.

The vision should be able to motivate all members of the civil service to adhere to the realization of the 'created future'. It should be learnt by heart and reiterated constantly. Any deviation from it should attract attention and consequent correction. Peer pressure should be adequate to ensure compliance with the spirit of the vision.

It is to be noted that the vision should be clearly spelt out without leaving any room for ambiguity. Every word of the vision statement should have a distinct meaning. A vision statement for an organization focuses on the potential inherent in the organization's future, or what they intend to be.

The statement should not have any overhang of the policies of the state. It should be remembered that the civil services are themselves creatures of state policy. They owe their origin and sustenance on account of decisions taken by the government. They do not determine policies.

Writing a good vision statement isn't difficult. Think about what your organization does and what, in an ideal world, you would like it to do and how you would like to appear to the outside world. Consider the services and attributes that your constituents provide, then imagine how it would be if you provided the very best version of them possible. List those visions, and incorporate them into a brief statement that gives a good overview of the kind of image you want to represent. Understanding your goals and being able to state them clearly is the first step toward making them happen.

Purpose, Business and Value are the three most important components of a vision statement. Therefore, they should receive the greatest attention while expressing the vision. For example, the vision statement of Toyota Company reads as "Toyota will lead the way to the future of mobility enriching lives around the world with the safest and most responsible ways of moving people." (Purpose 'Enriching life', Business 'mobility', Value 'responsibility')

Similarly, the vision of Apple is "Committed to bring in the best personal computing experience to students, educators, creative professionals, and consumers around the world through innovative hardware, software, and internet offerings." (Purpose: Computing experience, Business: Hardware, software, network offerings, Value: Commitment and innovation)

A vision statement for an organization focuses on the potential inherent in its future, or what it intends to be. Vision statements are

a challenge for many people because they aren't sure what form the statement is supposed to take.

Civil services, by their definition, are part of the Executive under the Constitution. The civil servants are, therefore, enjoined to perform two important tasks; to tender advice to the political executive and to implement the decisions of the political executive in the best possible manner. The Constitutional provisions regarding the civil services are contained in Articles 309-312.

Firstly, we should ponder on what we mean by the Civil Service. It must be kept in mind that the civil services in India are not a homogeneous lot. There are hundreds of organized civil service cadres in the country. There are the higher class one civil services of the Union and the All India Services whose members have been appointed by Government of India on the basis of competitive examination conducted by the Union Public Service Commission. They man the highest positions in the various departments of the Central government as well as in the states.

The All India Services (IAS, IPS and IFS) are governed by the provisions of the All India Services Act. At present, there is no statute for the other services. They constitute a miniscule percentage of the total number of civil servants though they have prominence disproportionate to their numbers.

Then there are other subordinate services whose members are selected by the Subordinate Service Commission of Government of India. These officers handle the work of the various departments of the Central government under the supervision of the above mentioned higher civil services.

In addition to the Central government employees, each state government appoints persons to manage its own departments. The field officials of the states are entrusted with the work at the district and sub district levels.

The members of different central and state services are subject to the rules of their service.

Thus, there could be three concepts of homogeneity of the civil services;

1. The generic definition of all civil services i.e. giving advice and carrying out the decisions of the political executive,
2. The Appointing Authority, the mode of appointment and service rules, and
3. Common examination pertaining to the recruitment to certain Services.

It is to be considered whether the proposed vision should cover all civil services of the Union and the States or should be confined to a set of services or to one particular Service.

In my view, if we have different vision for each Service, it would defeat the very purpose of inspiring the unity of the civil services and would be limited to having a motto for each Service depending on its area of operation.

On the other hand, if we contemplate a common vision for all Services of the Union and the States, it would be very difficult to bind them with a common thread, because there could be contradictions in their respective perspectives and perceptions. But if the real vision of the civil service is to be realized, the whole mass of civil servants will have to contribute to the effort and share the vision. The civil servants occupy a crucial position in the executive pillar of the State contributing to policy making at the national and state levels as well as implementing the policies at different levels of administration. It should, therefore, be the endeavour of the leaders of civil service to bind all the civil servants belonging to different services and working at different levels in bureaucracy in a single bond of brotherhood.

The third aspect to deliberate on is what the present state of the civil services is. In our view, there are two parts of answering the question;

1. What do they think of themselves, and
2. What do others think of them?

Without going into the popular perceptions about the role and performance of civil services (which incidentally are not very

flattering), it should suffice to say that the Services themselves are not satisfied with the present state of affairs. It is their general perception that they are capable of much better performance. They view the current situation of governance as being sub-optimal, though their overall contribution to maintaining the stability of the Nation and sanity of the system of governance remains highly commendable. They are also of the view that their worth is not properly evaluated by the politicians, social thinkers, civil society and the media.

On the other hand, the citizens find the performance of civil servants deficient in the delivery of services promised by the governments. The popular perception, though somewhat misplaced, of a typical civil servant is that he is inefficient, insensitive and often corrupt.

The next issue relates to the goals to be achieved by the civil services at a future date as well as the self-image to be realized by them. These should constitute the essence of the vision statement.

The usual way of putting the goals is to enumerate the constitutional role and desirable characteristics of an ideal civil servant. One of the ways in which the civil services need to be recognized by the people can be summarised in the following;

**To be acknowledged as the main repository of knowledge and skills relating to all subjects of governance,*

- *To be recognized for their ability to deliver services and implement the policies and programmes of the government efficiently and honestly,*
- *To be seen as capable of working with other stakeholders including the civil society, and*
- *To be perceived as people friendly and helpers of the weak and less privileged.*

The Botswana Civil Service Vision presents a detailed examination of the elements of a vision. It summarises the vision statement as:

“We, the Botswana Public Service, will provide a world class service that is efficient, effective, caring and responsive to local and global challenges”.

The statement of mission, vision and core values of the Singaporean civil service says:

Our corporate mission

We work with the elected government to shape Singapore's future, forge a common vision among Singaporeans and transform the vision into reality.

We safeguard the independence, sovereignty, security and prosperity of Singapore.

We uphold justice and equality, guided by the principles of incorruptibility, meritocracy and impartiality.

Our goals

We build a dynamic, successful and vibrant nation of excellence with a safe, secure and stable environment.

We create the best conditions for Singapore to succeed and for Singaporeans to attain high standards of living.

We foster a cohesive and harmonious society based on respect, care and concern for fellow citizens.

In the context of the Indian civil service, the issue was put to confabulation in the Core Group of the IC Centre for Governance. Some of the formulations suggested by the members of the Core Group are summarized below.

"An important factor is service of the people, service of the masses, service of the common man, wiping the tears from every eye, being helpful to the last person in society.

Another area is efficiency, to be perfect, to achieve excellence, to be world class.

Then we have service of the country, raising India to super power status. Make India prosperous. Raise the GDP. Raise the indicators of social development, raising the happiness index."

"Zero tolerance to corruption and total compliance with ethical behaviour and integrity."

"To develop a civil service that is professionally sound with highly competent and qualified personnel, performance oriented, effective in service delivery,

accountable, fostering enduring partnership with all stakeholders, and capable of meeting the challenges of twenty-first century globalized world, by way of creating a conducive environment for sustainable growth and development, shared by all the people of India.'

'Doing work to perfection and striving for equanimity of mind in work and life by working for the good of the society'.

A member enumerated four aspects of the vision viz. service to the people, relationship with the political executive, relationship with other services and relationship with non-governmental organizations as essential features. He has designed the vision statement as:

"The civil service, in conjunction with other wings of the public service, would ensure the continued progress of the people towards a life in which they can have a sense of self satisfaction while leading a life free of wants and fear".

"To develop a highly trained, professionally sound and politically neutral, public Service, who are accountable and transparent in their professional dealings, maintaining highest standards of professional ethics, ensuring prompt delivery of services to the people-at-large, being 'sensitive' to the needs of the common man, as also ensuring 'justice, liberty and equality' to all citizens, as enshrined in the Preamble to the Constitution of India, both in Letter and spirit".

"To develop a highly trained , professionally sound, politically neutral, and a very sensitive public service, who are accountable and transparent , in their professional dealings, maintaining highest standards of professional ethics, ensuring prompt delivery of services to the people-at-large, as also ensuring justice, liberty and equality to all citizens, as enshrined in the Constitution - both in Letter and spirit."

"We, the civil servants of India, aspire incessantly to be the best in class as politically neutral agents of economic, social and environmental change in a global context."

"We, the members of Civil Services of India, resolve to commit ourselves to serve the people of our nation by providing an ethical, honest, professionally sound, accountable, humane and truly participative system of governance."

Another formulation was:

'We shall redeem our pledge of being world's best civil service with highest

standards of efficiency, integrity, authenticity, objectivity and the spirit of public service. We shall do our job fearlessly. For us, the country shall come first, always and every time.'

Each of the above mentioned formulations is a legitimate rendering of where the civil services want to reach. The question is how best to project the most desirable future for the civil Services, the future not being too distant a future but in a timeframe within the horizons of the present serving civil servants.

The Vision Group finalized the following

"We resolve to convert civil services into a cohesive, honest, highly professional group providing India with a truly participative system of governance that will wipe the tears from every eye."

Conclusion

Vision is the 'created' future shape of the organization. It is the ideal of what the organization should be in the future. Having a vision gives a meaning to the members of the organization as well as to other stakeholders a cause which binds them. For example, the vision of the armed forces of a country persuades them to lay down their lives for the country. Vision provides them that cause. Vision is a permanent statement of the organization and does not change from time to time unless the organization itself is transformed.

A typical vision statement should be brief and succinct; it will say a lot in just a few words, so those words must be very carefully chosen.

The elements of an effective vision statement are as follows:

- Should be understood clearly by all members and other stakeholders
- Should be short and have a sharp point
- Should define the destination only
- Should excite the members and provide them a binding force
- Should be so challenging as to force members to stretch their capacity beyond normal limits

Finally, the vision making exercise has to be intensely iterative. We cannot start with the best statement. It has to be generated in consultation with all the concerned stakeholders. Therefore, the attempt of IC Centre for Governance is merely to start the dialogue. The issue would be posed to the associations, groups and training academies for their consideration. The final vision statement adopted by the civil services would, in all probability, be quite different from the one drafted by the IC Centre.

Vinita Chopra

65 Years of Indian Bureaucracy – Issues and Challenges

The term 'Bureaucracy' is derived from two words, the French word 'bureau', meaning a table or a desk and the Greek word 'Kratos', which refers to the god of might or strength or power. The synthesis of these two words describes 'bureaucracy' as the desk from where power flows in the form of rules, regulations, laws, directives, policies, etc., being framed and implemented. Emerging from this basic definition, the term 'bureaucracy' has come to acquire universal application and meaning for describing the 'set of officials' who are empowered to manage and control the administrative set-up of a government. Bureaucrats are distinct and separate from the elected representatives, the politicians, who are one arm of the government and the other one is the non-elected bureaucrats.

The upper rungs of bureaucracy work directly under the political bosses, the ministers and deputy ministers and at lower level, they work in close coordination with politically elected representatives. While the political masters are temporary incumbents of authority as they come for the fixed term for which they are elected, the anonymous bureaucracy provides permanence to the system. It provides the much required continuity, stability and uniformity in policy formulations and their implementation, irrespective of the political ideology of the ruling party. Bureaucracy also provides the technical, intellectual and legal support, needed by politicians, for decision making and governance.

In India, the existence of 'bureaucracy' in some form or the other can be traced back to the ancient times. The kings, who were monarchs themselves, used to have certain framework of rules for administering their kingdoms. Welfare of the people and protection

of their territories used to be their main concern. The kings would always have some trusted advisors to guide them and advise them on rules of governance. The name of Chanakya, also known as Kautilya, has gone down in history as the shrewd and crafty advisor to Chandragupta Maurya, the founder of the Mauryan empire. He authored the treatise 'Arthashastra', which laid down the principles of fiscal policies, international relations and war strategies. A structured form of 'bureaucracy' could be seen in the court of the Mughal king, Akbar the great, in the 16th century. His Revenue Minister, Raja Todarmal was responsible for collection of land revenue. There were other separate 'heads' for military operations; for managing the royal court and palaces; and for the judiciary. Akbar also greatly valued the advice of his philosopher friend, Birbal. Akbar provided such a sound administration that it continued in the same form till the end of the Mughal empire. However, the foundation of the present form of 'bureaucracy' was laid down during the regime of the East India Company and the 90 years long rule of the British Empire.

The British had successfully adopted a formidable system of administration with the main objectives of perpetuating the Imperial rule in an alien country and culture. Enforcing law, collecting revenue and providing basic but efficient systems was their main aim. The model of district administration with District as the unit of administration and District Collector as the head, bequeathed by the British, is found suitable even today. The ICS officers with high academic records, mostly graduates from Oxford or Cambridge, proved their mettle and worked zealously for the British interest. At the same time, they laid down traditions of high sense of responsibility, strength of character, integrity, initiative and understanding of the pulse of the masses. They governed and administered judiciously but with an iron hand. In turn, they were bestowed with a lot of privileges and they wielded immense authority and power.

The independence of the country had led to the unfortunate partition of the country coupled with communal hostilities, problem of rehabilitating the refugees and confusion about merging of

princely states, demarcation of provinces and myriad other big and small problems. In the face of these problems and the political upheaval the country had witnessed, the bureaucratic apparatus bequeathed by the British was accepted by the then political leaders without indulging in the need for making any changes. It was an already tested machinery and nobody had the time or inclination to tamper with it.

Post independence, ICS officers were succeeded by IAS officers. The IAS officers in independent India were expected to carry forward the legacy with the same strength and fortitude as the ICS had. However, after the initial few years, the machinery started weakening and could not remain as formidable as it had been. The high standards of integrity, commitment, initiative and fortitude started getting diluted. The frequent transfers of IAS officers made them vulnerable and adversely affected their effectiveness. The whims and fancies of political masters at the centre and at state level started telling on the health of the bureaucracy.

During the emergency, in 1975 to 1977, the image of IAS got a severe beating as the fundamental principle of 'political neutrality' was flouted by them and they were no longer found to be committed to the ideology of the Constitution of India. Bureaucrats also committed lot of excesses during this period. The period of emergency was the turning point and in the eighties, their hold on administration weakened considerably. Since then, there has been constant decline in the quality of administration provided by the bureaucrats; the image of the bureaucracy; as also the satisfaction level of officers.

The primary role of Bureaucracy is to run the administration, may it relate to collection of land revenue; administration of a district; maintenance of law and order; policing; enforcement of fiscal, social and criminal laws; collection of taxes; providing of public utility services; or any other maintenance or developmental function. Formulation of policies and their implementation is yet another significant function of the bureaucratic set-up. They also perform certain quasi-judicial functions.

From the point of view of the common man, 'bureaucracy' is

nothing but all those officials working in government offices, who are required to perform a defined role and render certain services to the public. That is why they are also referred to as ‘public servants’ or ‘government servants’. But more appropriately, bureaucrats are civil servants who are members of the elite Civil Services like the IAS, IFS, IRS, IPS, and other technical and non-technical services, though for a long time it is only the IAS which represented bureaucracy like the erstwhile ICS. But with the emergence of better defined and distinct roles of other services, they have also acquired their rightful place in bureaucracy and in the comity of Civil Services.

Officers for manning the Civil Services are selected through a highly competitive examination so as to select the best of brains with right kind of attitude, aptitude and temperament for the onerous responsibilities they are required to discharge. By becoming part of the Civil Services, they hold highly coveted positions and enjoy the prestige, power and authority associated with it. Ideally they should provide a perfect, flawless, efficient and smooth administration so as to aid progress and evolution and make the life of law abiding citizens comfortable and obstacle free. At the same time, errant citizens should be punished in a befitting manner.

Bureaucracy as a model of ‘administrative set-up’, should be a dynamic one, which should evolve, develop and adapt itself so as to fulfil and match with the aspirations of the public, the society and the nation as a whole. It should keep pace with the technological, social and economic developments and progress being made. It should be able to provide the administration, which caters to the basic needs of the masses; enforces laws judiciously and effectively; is progressive; punishes the law breakers; and provides a secure and just environment to the citizens. It should work with complete political neutrality.

It’s time we sat back and had a closer look at how our bureaucracy is functioning, performing and delivering; whether it is meeting the expectations of the public and the needs of the teeming millions, while protecting national interests. In my opinion, the greatest challenge being faced by bureaucracy at present is the loss of image

and credibility crisis. In the eyes of the public, its image is at all time low. People are frustrated and disgusted by the way the officers and clerks are functioning. All those, who have had interface with any public office or a government department, unanimously talk of the insensitivity, indifference, callousness, inefficiency, harassment and corruption encountered by them. Public interest seems to have got lost somewhere in oblivion and it appears that every bureaucrat has his own axe to grind in every action he takes.

Visiting a government office for an ordinary citizen (that is if you are not the son or daughter, or the nephew or niece of a politician or a top bureaucrat) for any work is nothing short of a nightmare. If, unluckily, you have been slapped with an inflated electricity bill, or a wrong tax demand, or your driving licence needs to be renewed and you have to go to the concerned government office, what you will face is an insensitive bunch of officials who would rather mislead than guide you. You are required to fill some obsolete forms and furnish umpteen testimonies and after that, you are shown the door that your work cannot be done due to some reason or the other. But if you somehow manage to grease the palm of the concerned officials directly or through a tout, your file will move swiftly from one desk to another and the work will be done.

Have you been in a queue at the ‘Help desk’ of a public dealing department? You will wait for hours before your turn comes and finally you thank your stars when you have made it, but you are in for disappointment as the person on the other side will not even lift his face to look at you. Either he is fiddling with his computer or reading some non-descript documents or is distracted by the ringing of his mobile at that very moment. You wait for some time before reminding him that you are there at the counter for making an enquiry, and this is the ‘Help Desk’ and then you are casually but callously told that he is closing the counter for lunch. You have no option but to curse your luck and the bureaucracy and wait for the lunch hour to get over.

Even senior officials are found to be curt and rude. If at all you manage to cross the hurdles of a ‘private secretary’ and a ‘peon’ and manage to reach the senior officer for a solution to the problem you

are facing, you will be dismissed with a brusque ‘no’. If the officer happens to be a bit humane, he may explain to you why it can’t be done. If he is outwardly a suave kind of officer, he will ask you to leave the petition with him and will assure you that he will get it examined. But be sure it is only lip service. The moment you leave, the petition will find its way to the dustbin. And you will be where you were before meeting the officer.

Callous and indifferent attitude of government doctors in CGHS dispensaries towards the non-VIP patients is a study in itself. If you are on an unimportant clerical post or you are a retired government official or you do not wish to disclose your identity, you fall in the category of a non-VIP patient. More often than not you will be told that the computer-system is not working, so the medicines cannot be prescribed or reference to a specialist cannot be made. The CGHS doctors do not appear to be doctors but data entry operators. They are often seen fiddling with the key board of the computer but rarely with the pulse of the sick person. The ‘System is down’ is the most common excuse to stall the work and to forget that the person they are dealing with is suffering from some ailment and he is there to find a cure of his illness. Even sick persons are not spared this insensitivity and apathy.

Civil servants have been bestowed with so many privileges that they have completely alienated themselves from those, who they are supposed to serve. They lead a cocooned life in sprawling houses, provided by the government in prime localities, with round the clock power and water supply, completely oblivious of the kind of life the ordinary mortals are leading. They have isolated themselves from the long and winding queues of forlorn, dejected faces in banks, post offices and other public utility offices as also from public transport system. The unscheduled and frequent power cuts; the water shortages; the killer buses on roads, etc. are all alien to them. How can they be expected to have any empathy for the common man? If they cannot feel the pulse of the public, how can they serve them? To call them ‘public servants’ is not just inappropriate, but a complete misnomer.

Projects for construction of roads, fly-overs, laying of drainage

pipes or electric cables, etc. are never completed within the time frame they are expected to. Inefficiency and delay is the norm rather than an exception. High rise buildings by private builders get completed much faster than the municipality roads required to reach them. Residents move into the buildings without water or electricity being provided to them. The chaotic state of affairs is whether on account of inefficiency or is intentional is yet another case for study.

The applications for clearances, permits or licences, electricity connections, completion certificates, allotment letters, etc., remain pending for no ostensible reasons, leading to harassment of the applicants and delays in starting of enterprises, for which these are needed. Again, payment of ‘bribes’ or ‘speed money’ is required to have some movement. You can blame it to inefficiency or corruption or both!

Complicated rules, cumbersome procedures, and lack of standardization in processes, is yet another area of grave concern. Bureaucrats just do not believe in the dictum ‘Simplicity is Beauty’. For them, the more complicated the rules and procedures, the better it is. A citizen wants ‘delivery’ and not a labyrinth of complex rules and procedures. It is very easy to take recourse to legal jargons and incomprehensible rules for avoiding delivery of services, to which the citizens are entitled. Bureaucrats are experts in avoiding rather than doing, what they are expected to do. Complicated rules come handy. A friend, an honest tax payer, wanted to pay the amount demanded by the Income tax Department. He had to visit at least seven different banks before he succeeded in making the payment. It is mind boggling that even a designated bank refused to accept the payment on the ground that he did not have a bank account in that branch. How do we expect the citizens to comply, if we make the procedures and processes for compliance so difficult?

Bureaucracy has lost credibility and image both. People no longer have faith in the capability and intentions of bureaucrats to run the administration efficiently, effectively and in the interest of the nation and the citizens. The inability of the system to check

corruption and nepotism has further compounded the problem. The credibility crisis is of such a magnitude that in the eyes of the public the entire bureaucracy is inefficient, corrupt and lacking in will. It may not be fair to paint every bureaucrat with the same brush, but it shows how helpless and frustrated the common man finds himself in his interface with the bureaucrats. The malady is serious and needs to be dealt with on war footing. Public is voicing its disillusionment and frustration from roof tops and it will not be long before the movements started by certain NGOs and some social activists take the form of rebellion. It is time bureaucracy wakes up from slumber and takes corrective action to redeem its credibility and its image.

I will not be doing justice if I present only one side of the story. Some of the bureaucrats functioning from their ivory towers are also a disillusioned lot. You simply have to scratch the surface of their powerful existence to find out that what meets the eye is not the reality. They are as disgruntled and dissatisfied as the public, to whom they are expected to serve. This is the other most challenging issue the bureaucracy is facing.

Instability in personal life because of frequent transfers and postings is the biggest bane in the life of bureaucrats. Though every department and every Service has a transfer policy, yet it is not implemented in a fair manner. There is so much flexibility and there are so many loop holes that transfers and postings become a tool for favouring some and punishing others. Important posts are generally reserved for those who can unscrupulously manipulate and manoeuvre the system, the rules, and the senior bureaucrats and politicians. Straight officers are thrown to unwanted places and posts. Frequent transfers neither allow an officer to stabilise in his personal life, nor it is conducive to productivity in official life. Straight officers, without 'godfathers', are at the mercy of a system, which is neither kind nor fair.

Honest and upright officers are suffering in the same way as the public is, on account of the ills that have crept into bureaucracy. Unscrupulous officers are found to invest all their time and

energies in pleasing the bosses; cultivating relationships with senior bureaucrats and politicians; and handling lower levels of bureaucracy through their money power with the main objective of getting best of postings, foreign assignments and trainings, other privileges, and even rewards, appreciation letters and outstanding appraisal reports. Through their manipulative tactics and money power, they even ensure promotions they do not deserve, and post retirement assignments, etc. It is anybody's guess, how do such officers come to acquire money power and how they develop such kind of prowess? Then there is the other breed of conscientious, hardworking and honest officers, who get left behind in the race for fair and unfair privileges. They are completely disillusioned with the system, which promotes such unfair practices.

What is even more pertinent is that bureaucrats are suffering from another malady, which could be described as the 'quest for power'. There is a race or competition for power amongst themselves. Each one is vying for more and more power, apparent or real. The games they play, in their pursuit for power, are not simply for postings and assignments. There is a much larger game plan, which is outside their official position. All officers with the same hierarchical position are not equal. Some are more equal than the others. It is not because of their personal merit but because of their capability to manipulate and play games. In this game plan are the unofficial advantages they are able to secure for themselves and their kin. Everything is theirs for asking, whether it is admission to an elite school or to an engineering or medical college; whether it is allotment of a particular coveted house; whether it is allotment of plots of land for their clan out of those reserved for certain special categories; whether it is out of turn appointment with a specialist doctor; etc., etc. Such officers also possess a great capacity to harm or help but they themselves are immune to any kind of harm. They get the rules and policies changed and manipulated to suit their personal needs. Interest of the common man on the street and more importantly of the nation is nowhere in picture. Idealism and values have been replaced by dogged pursuit of power. And

in this pursuit, they have forgotten the distinction between right and wrong, fair and unfair, empathy and apathy. This malady has brought the bureaucracy to such a pass that the few upright, straight and well intentioned officers have got relegated to obscurity.

Needless to mention that the very reason for the existence of bureaucracy, of running the administration effectively and efficiently, has taken the back seat. Officers are no longer interested in proving their competence and administrative acumen. Their talent is being directed towards undesirable ends. If the system is still running, though in a lame duck fashion, it is only on account of the few selfless, loyal and honest officers, who are working in the background, without any undue expectations.

At the level of the State Governments, there is yet another disease of political interference and subservience to political bosses, which is plaguing the bureaucracy. Willingly or unwillingly, the officers of the State Governments belonging to IAS and IPS get identified with political parties. If any officer has occupied an important position in a particular political regime or is perceived to be close to any political leader in power, he is sure to be victimised when the change of regime takes place and the opponent political party comes into power. He will be made persona-non-grata and thrown to some non-descript and inconvenient place or post. False vigilance cases may even be slapped against such an officer. This is the most tormenting factor in the lives of the officers, who have otherwise been bestowed with tremendous amount of prestige and privileges. State level officers, like the District Collector or the Superintendent of Police, enjoy a special status in society. It is even difficult to fathom the vast amount of power they come to wield. But their authority and independence is often marred by the interference of the politicians, expecting subservience and undue favours.

To sum up, the evolution of bureaucracy has not kept pace with the phenomenal changes taking place at the social and economic level. It has not been able to break free from the feudal mind set and draconian rules and procedures inherited from the British. In fact it has lost the idealism and values of the early years after

independence and the ills plaguing the society have quietly sneaked in to make matters worse. If the bureaucracy cannot keep pace with the needs of the public and cannot deliver, how does it justify its existence? What is the use of all the brain power behind it, if the life of the common man is miserable and not worth living?

Our 65 years old bureaucracy is just limping. It needs drastic measures and infusion of new blood to revive it. There is a crying need for change. Either we change or we perish, is the lesson to be learnt. It is time to revive the old values of integrity, patriotism, empathy, commitment and judiciousness along with political neutrality. The bureaucrats, who are still the privileged lot in our society, should themselves take the lead. They should channelize their energies and talent in the right direction and bring order in the chaotic bureaucratic systems, we have come to acquire. Let the bureaucrats deserve to be once again respected as ‘worthy officers’ or simply as ‘civil servants’ and not contemptuously referred to as *‘babus’*.

B.K. Chaturvedi

Governance: Civil Service & Politician Interface*

Summary

The relationship between civil servants and politicians in the last six decades has changed qualitatively. As people's aspirations for good governance have increased and the accountability of civil servants for delivering results has become more manifest, there has been no corresponding improvement in norms of professional conduct. The independence of civil servants emphasized in the Constituent Assembly is not valued strongly. If outcomes have to improve and people given good governance, the civil servants must strongly adhere to certain professional norms. This, however, will need a support of the strong political consensus to succeed.

Two important issues facing the nation today are how the economic growth can be accelerated and how benefits of growth and development can flow to the citizens in an efficient manner. Issues of governance have increasingly come to centre stage while working out strategies for above. There is a strong view that corruption in civil service is endemic and funds provided by government leak very badly. I recall a recent discussion during a book launch when it was argued that from the famous fifteen paisa reaching the poor man, the amount is now reduced to five paisa. There are large technological changes taking place in our society. The aspirations and expectations of citizens from the government system are of delivery of service of the highest order of excellence.

The independence of civil service in giving advice in policy making and in performing field responsibilities is an important issue which has affected the functioning of the civil service in recent years. In the Constituent Assembly of India on 10th October, 1949, Sardar Vallabh Bai Patel had said:

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“If you want an efficient all-India service, I advise you to allow the service to open their mouth freely. If you are a Premier it would be your duty to allow your Secretary, or Chief Secretary, or other services working under you, to express their opinion without fear or favour. But I see a tendency today that in several provinces the services are set upon and told, “No, you are servicemen, you must carry out our orders.” The Union will go-you will not have a united India, if you have not, a good all-India service which has the independence to speak out its mind, which has a sense of security that you will stand by your word and, that after all there is the Parliament, of which we can be proud, where their rights and privileges are secure. If you do not adopt this course, then do not follow the present Constitution.”

And further:

“Today my Secretary can write a note opposed to my views. I have given that freedom, to all my Secretaries. I have told them, “If you do not give your honest opinion for fear that it will displease your Minister, please then you had better go. I will bring another Secretary,” I will never be displeased over a frank expression of opinion.”

In the initial years of independence, in the 1950s¹ and even the early 1960s, the relationship between political executive and civil service was of trust and non-partisan functioning of the civil service. This trust has gradually given way to segmentation of civil servants and their politicisation in many cases. Two different types of relationships have emerged. First covers those who try to maintain a degree of integrity and upright behaviour. Second covers those senior civil servants who cosy up to the political executive and go along with them irrespective of the civil service norms, good conduct or ethical behaviour. Often, the second category is bifurcated when the political power is transferred from one political party to the other. Invariably, one group of the committed faction of civil service starts its innings in close proximity with the political executive and the other committed class is put in the dog house. Of the first category, the number is gradually dwindling. There is increasingly a feeling that civil servants who fall in this category

may not be treated fairly by the political class in respect of their assignments, transfers or their other service matters.

An important point, which is often overlooked in the above context, is the requirement of citizens for good governance. This is invariably a casualty when the political executive and the civil service cosy up to each other forgetting the norms for good administration.

Civil Service provides an exciting opportunity full of challenges. There are very few services which provide such a vast range of challenges, a mix of field and policy making opportunity and opportunity to act as a key player in the national growth process. One has to be proud of one's work and dedication to get full satisfaction from these challenges. These, however, require qualities which one has to develop.

Senior civil servants belonging to All India Services (AIS) have a special responsibility, in case they are to live up to the commitment with which they have entered service. Business as usual cannot deliver results. The civil service have to live up to certain norms of behaviour which in the long run will bring them success, but may be painful in a short run. At times acting in accordance with laws and rules or pointing out their implications maybe termed as risk-averse behaviour. One may be assigned inconsequential jobs. There can be others who may try to get short-run advantages by using their closeness to political masters. In the long-run, however, persons who have acted in accordance with norms and delivered results are generally able to come up and recognized. Such civil servants are well-respected by peer groups, subordinates, the people and even the political parties across the spectrum.

Civil Service has to follow norms of professional conduct. These will not only bring good governance agenda on centre stage but also once again enhance the reputation of the All India Service as that of a steel frame which serves the county for growth and prosperity. It will also help development of confidence of people in the civil services and earn them new respect.² Let me highlight some norms for civil servants:

First, maintain high personal integrity. The strength of civil service is people's faith in their absolute incorruptibility and honesty. This is specially so in top civil servants who should be absolutely beyond reproach. This gives you strength to get your way with political executive who respect such officers. Even in corrupt regimes, such officers are respected.

Second, be fair in administering law, policies and administrative decisions. The biggest strength of civil servants is people's faith in their impartial and fair actions and transparent functioning. Do make positive efforts to ensure that your decisions appear fair and transparent in people's eyes as well. It is worth several battalions of paramilitary forces.

Third, people respect you for your knowledge and skills. Acquire thorough knowledge and develop an analytical ability to fully assess and understand issues which need to be addressed with adequate attention to details. Decisions arrived at, after full understanding of issues, are likely to be implementable and deliver expected results.

Fourth, field jobs, on which civil service often has to spend time, provide an opportunity for change in the system. Your motto should be to deliver results and work as an effective field officer. This may require taking tough and unpopular decisions. It often requires "out of the box" thinking, and taking action against the corrupt. Don't hesitate while taking right action. But be fair and just in your decisions. You may have to face difficult times in some cases.

Fifth, Good Governance is a Fundamental Right of citizens. Identify gaps in public service delivery and implementation of schemes. Identify rules and regulations which are hampering progress and suggest changes to Government. Use innovation and adoption of best practices in implementation and encourage its development in your team. Be open-minded and mentally receptive to new ideas. Delivery of public services, if done efficiently, leads to consumer satisfaction, optimum use of financial resources, economic betterment and lower corruption.

Sixth, the biggest disservice to the governance structure is to hesitate in taking decisions or deliberately avoiding it. Do not hesitate to take decisions. If you have reservations on your ability or are worried about being responsible for its consequence, don't join the civil service. The entire career in civil service is about taking decisions and making clear policy recommendations for decision taking. Acts of omission often may go unnoticed or be not punished. These are, however, extremely harmful for good governance.

Seventh, in civil service you may invariably be the leader of the pack. Assume full responsibility for achieving the targets and key performance parameters of the organization which you are heading. Learn to delegate authority but ensure effective leadership. This can come if you are perceived by your organization as not prone to blaming subordinates for shortcomings in any targets. This will earn respect from subordinates, colleagues and even seniors. It is an excellent remedy for success of leadership.

Eighth, be sensitive to needs of poor, especially marginalised groups, women, SC/ST and minorities. These are the groups which need your support most. By effective implementation of programmes for them and your empathy for their welfare, you can help build an egalitarian society. Affirmative actions in their favour build confidence in civil service.

Ninth, political executive make policies in consultation with civil service for attaining certain objectives for the welfare of people. While advising Ministers and working as senior civil servants, analyse all reasonable policy options which can be considered on the issue under examination. Examine also whether a policy, which the government is wanting to implement, is under political compulsion and has short-term benefits only and not in the long-term national interest. If so, put forth your views clearly and logically. Suggest quite clearly, with reasons, why you consider any policy option as most appropriate and meeting the policy objectives.

While giving advice, don't anticipate what the Minister may like to hear. State what you consider the most appropriate course of action. You will be respected in the long run by peers, as well as, political executive.

Tenth, don't criticise Government policies in public discussions. As civil servant, the responsibility on you is to provide support to government to enable it to defend the policies. By criticising it you are undermining government as well as yourself. If the issue is really serious and you don't think that you can live with such government policies, you should consider quitting the job and undertake other assignments.

Eleventh, develop inter-personal skills. In the modern world with wide range of organisations, private sector expansion and technological explosion, it is important that you have good relations with persons from different sectors to enable you to access them when needed. It increases your effectiveness while handling difficult issues in the field.

Twelfth, adapt to IT use, new technologies and their use to ensure good governance. Information technology can help reduce delays, ensure efficient delivery of public services and cut down corruption. You must be, therefore, fully cognisant of its use and potential. Simplifying administrative procedures promote good governance.

Thirteenth, prepare well in advance to ensure effective articulation of view point of your Ministry. Put forward your point of view concisely and in a focused manner. It is important that you absorb fully the issues at hand and are clear in your mind about the approach which you wish to take in any inter-ministerial forum.

Fourteenth, develop ability to listen to visitors and different points of view carefully and patiently. An enormous amount of feedback about problems in the field and different approaches can be had in this manner. This is the best learning method

Fifteenth, develop ability to integrate and form a consensus view point consistent with the policy objective planned. While doing so, you should be able to evaluate and assess technical, social and political dimensions of the problem. This is extremely critical at senior policy making levels where different approaches and points of view have to be put together. You should not be shy of taking

tough decisions in the interest of effective policy implementation.

Sixteenth, make a well-informed judgement of ground realities and policies which will work. Have a feedback on the proposed policies from those working in different geographical area where the proposed policies or plans are supposed to be implemented. Ensure enough flexibility with ground realities in your plans.

Seventeenth, accept challenging assignments. Don't try to wriggle out of it. Often, these assignments involve tough decision taking and have risk of failure. Success can be assured if you have accepted the challenging job and are working diligently with all stakeholders as a team. This will give you visibility and test your ability to handle tough assignments.

Eighteenth, in face of grave provocation, stand by your principles and convictions. Do not lose your cool. The administrative challenges are varied and involve wide varieties of people and organisations with vested interests. You can handle them only if you are considering all questions coolly and objectively.

Nineteenth, civil servants are accountable to Government. There is, however, public accountability also. Identify key target areas which you must achieve during your work based on Government policy and programmes. Identify people's felt needs and enmesh them in your programme, too.

An interesting aspect, in the above context, is the relative responsibility of political executive and the civil service in improving the governance system. It has to be emphasized that onus is on civil servants to strengthen public administration and good governance. However, while working as part of policy making or field responsibilities, it may be useful to understand the nature of relationship between the political executive and the civil service. It is also necessary to appreciate the enormous inconvenience and widespread corruption faced by the people while availing of public service. Following points, therefore, need special focus:

First, the corruption in governance system and delivery of public services is quite widespread. It has to be tackled initially by preventing

possibility of corruption. For this, it is necessary to make public service delivery procedures simple, use of Information Technology and bringing in transparency in decision taking. Next, those guilty of corruption have to be identified and punished quickly.³

Second, it is useful to recall that the All India Services are creatures of the constitution (Article 312). While the services have to follow the policies laid down by the Government headed by the political executive, they also have legal obligations under certain statutes, whenever they exercise those powers. Such exercise of power has to be done with an independent application of mind.

Third, it is important that Civil Servants clearly bring out their views in writing while doing an analysis of the issues concerned when engaged in the task of policy making. If certain government policy is not in public interest and may lead to harmful results, this has to be clearly brought out in your notes and analysis. Once, however, you have clearly mentioned your view and a considered decision has been taken, that has to be implemented with full vigour. Thus, while the civil servant is free to express his views freely, one cannot keep opposing a decision taken by the government unless there are serious intellectual differences. In such cases, one should consider quitting the job and undertaking new assignments.

Fourth, there may be complex situations in which Ministers and some civil servants try to push illegal orders on subordinates. This could be because of ulterior monetary interest or corruption. There could be Mafia. In all this, foggy and unclear vision, the civil servants have to be clear on their course of action for handling these situations. The approach should be quite clear to them while handling these situations. First, orders which are illegal or against any statues or interfere with your exercise of authority vested in you under a law, have to be ignored. Second, administrative orders, if you find unfair or unjust, must be protested against with reasons. If reiterated, these have to be implemented. It may in some cases cause damage to one's career. In the long-run, however, peers and colleagues respect you for it. In many cases, colleagues and seniors come forward to undo the damage to your career caused by your

not implementing unfair or unjust orders. Success has its price. It cannot be built on falsehoods, inequity and illegality.

The political executive which is responsible to the legislature has to also reconsider how the governance can be strengthened. The norms of conduct mentioned above will need a strong political consensus. They may need to discuss it across the country and their readiness to act on it as Sardar Patel had advised more than six decades back.

References

1. Constituent Assembly Debates on Indian Civil Service in the Constitution Hall, Volume (X), 10th October, 1949.
2. “Ethics in Governance” (January, 2007): Fourth Report, Second Administrative Reforms Commission, Government of India.
3. Governance, Volume-I, Chapter 10, pp 295, Twelfth Five Year Plan of India (2012-17).

B. K. Taimni

Inclusive Governance

*“Governments emanates from Community,
is subordinate to Law and must seek*

Popular Welfare....Government Is A Trust On Behalf Of People”.

John Locke “The second Treatise on Government”

Delving on the Theory of Social-Contract, Locke held that “the agreement is between individuals, not between ‘ruler’ and the ‘ruled’. The former are merely ‘fiduciary power or ‘Trust’, to be exercised solely for the ‘good’ of the community. This conception of ‘Trust’ explains, the relationships better, than the ‘ruler’ and the ‘ruled’ conception under the ‘Contract (social)’ theory of Political Science. In a contractual relationship, there are ‘rights’ and ‘Obligations’, on both sides, but where a ‘Trust’ exists, the rights are all on the side of the beneficiary (the Community).

Hence, the starting point is that the Government and its ‘Representatives’ are merely the ‘Trustees’, and shall always work for the betterment of the ‘community-at-large’, irrespective of caste ,colour , creed or sex and other disabilities.

‘Origin’ of concept relating to ‘Power of the people’ towards formation of Government is attributed to Greek ‘City-States, of which Athens could be said to be the leader. It was based on a concept of democracy, comprising of the word Demos and ‘kratia’ of ‘cracy’. While ‘Demos’ stands for common people, the latter conveys ‘rule or Government by’. The word Democracy means, ‘form’ of Government, in which sovereign power resides in people as a whole, and is exercised by them ‘directly’ or by their elected representatives. Ancient Greece was indeed unique. Its contribution to both, the Form and the Understanding of the content of Democracy cannot

be over-emphasised. It is important to appreciate that the success of Athenian Democracy 'turned' on the climate, it created for 'open public 'discussion on issues concerning them, rather than just 'balloting. It is important to note that while 'balloting 'certainly started in Greece, the tradition of 'public-discussion(very strong in Athens and ancient Greece) has had a much more wide history of success .In his celebrate book 'Theory of Justice', John Rowls puts this focus upfront" The definitive idea of 'Deliberative Democracy' is the idea of deliberation itself. When citizens deliberate, they exchange views and debate their supporting reasons concerning public political questions'.

Democracy also was meant to convey Government by the people, of the people and for the people, which was reflected in the Constitution of U.S.A for the first time.

J.S. Mill in his famous, Treatise -Considerations on Representative Government, says, "It is but a small portion of public business of a country, which can be well done or safely attempted , by the Central authorities; and even in our own Government, the least centralised in Europe, the legislative portion at least of the governing body busies itself too much with local affairs, employing the supreme power of the state in cutting small knots, for which there ought to be other and better means of untying . The enormous amount of private business, which takes up the time of the Parliament, and the thoughts of individual members, distracting them from proper occupations of the Great-Council of the Nation, is felt by the thinkers and observers as a serious evil, and, what is worse, an increasing one", and goes on to suggest fortifying "Local Representative Bodies", by way of constituting, "Representative Sub- Parliaments"" for local affairs, along with executive staff and funds.

Since this is not happening, hence the need for 'Inclusive Governance', so that fruits of 'growth are shared by all and not cornered by few.

The word 'inclusive' as per Dictionary means 'including, enclosing comprehending, comprising (something specified), and embracing'.

World Bank describes ‘Governance’ as relating to decisions that define ‘expectations’, grant power, or verify performance. It consists either of a separate process or of a specific part of management or leadership processes sometimes people set-up a Government to administer these processes and systems’.

There would be other definition of ‘Governance, but I find it best defined by the ‘European Commission’, according to which , the word ‘Governance’ is meant to “refer to rules, processes and behaviour that effect the way in which powers are exercised at European level, particularly as regards openness, participation ,accountability, effectiveness and coherence. These five ‘Principles of Good–Governance’ reinforce those of ‘subsidiarity and proportionality.

Inclusive Governance represents/reflects, the extent to which governance institutions provide ‘space’ to overcome the systemic exclusion of ‘disadvantaged’ groups, seeking to participate in ‘Decision–Making’, affecting them. Inclusive Governance encompasses the ‘management’ of Social, Political and Economic issues for Human Development and represents the ‘Issue’ of Rights-based approach.

It is now well appreciated that one of the ‘key’ instrument for ‘Inclusive Governance ‘could be, by way of ‘Decentralisation’. Decentralisation or Decentralizing Governance, refers to the restructuring or reorganization of Authority, so that there is a ‘system’ of co-responsibility between Institutions of Governance at the Central, Regional and Local levels, according to the Principle of ‘Subsidiarity’, thus increasing the overall quality and effectiveness of the system of Governance, while increasing the “authority’ and ‘Capacities’, at sub-national levels. Decentralisation could also be expected to contribute to key elements of ‘Good-Governance’, such as increasing people’s opportunities for participation in Economic, Social and Political decisions; assisting in developing people’s capacities; and enhancing government responsiveness, transparency and accountability., Decentralization can take any of the forms- ‘De-concentration’, ‘Delegation’ and’ Devolution’.

Decentralization and Inclusive Governance could be said to be

two sides of the Gold-Coin, called Empowerment. Empowerment is a process that challenges our assumptions about the way ‘things are’ and ‘can be’. Max Weber in 1946 clarified that ‘Power exists within the context of a relationship between people and things. Power does not exist in isolation, nor is it inherent in individuals. By implication, since power is created in relationships, power and power-relationships can change. Empowerment, as a process, then, as a Concept, becomes meaningful. It will be germane to mention, that Empowerment could be said to be a social process that help people gain control over their lives. It is a process that fosters power (that is the capacity to implement) in people, for use in their own lives, their communities and in society, by acting on issues that they define as important.’

Even though it is now well appreciated that only ‘Inclusive-Governance’ can lead to Inclusive and Equitable Growth, yet, lack of Inclusive Governance continue to widen the ‘divide’ between the rich and poor across the world. Barriers to Governance Institutions are preventing tens of millions of women , indigenous people (SC’S /ST’s/ OBC’s in this country), people with disabilities from taking the benefit of critical governance services, as well as, preventing them from exercising their human rights and achieving higher levels of Human Development . Political inclusion of such Groups is a *sin-qua-non* to overcome the deeply embedded social and economic inequalities prevalent in our country.

The ‘challenge’ to overcome this is a common one- to create an enabling Governance environment , that is not only aware-of and responsive to the needs and interests of most disadvantaged and marginalised, but that is willing and able to provide sound and effective remedies to this group’s concerns. Remedy perhaps lies in the application of principles of accountability and empowerment in governance areas as well as promoting the use of Human-Right’s – based approach to ‘programme’ Inclusive Governance.

To be ‘inclusive’ is a core value of Democratic Governance, in terms of equal-participation, equal-treatment and equal-rights,

before law. This implies that all people –including the poor, women, ethnic and religious minorities, indigenous people and other disadvantaged groups – have the Right to participate meaningfully in Governance process and influence ‘decisions’ that effect them. It also means that policy –makers and Governance Institutions , charged with the responsibility of providing diverse population with equal opportunity for Public Services such as Health, Education and Justice etc are ‘accessible, accountable and responsive’ to the disadvantaged groups.

World Development Report 2000-2001, prepared by World Bank, had this to say: - “The potential for Economic growth and poverty reduction is heavily influenced by State and Social Institutions. Action to improve their functioning also improves both Growth and Equity, by reducing bureaucratic and social constraints to economic action and upward mobility. However, devising and implementing these changes require strong Political will, especially, when the changes fundamentally challenge social values or entrenched interests. Governments could do much to influence Public debate to increase awareness of social benefits of pro poor public action and build political support for such action. For achieving this, one of the key steps suggested was “Promoting inclusive Decentralization and Community development”.

Inclusive Governance is considered ‘critical’ , to accelerate progress on human-development, an integrative concept that aims at ‘real improvements’ in people’s lives and in the choices and opportunities open to them. Central to the human development is the concept of human empowerment. This goes beyond Economic Development in terms of Income and Gross Domestic Product, to encompass access to education and health-care, freedom of expression, the Rule- of-Law, respect for diversity, essential dimensions of human development. The future course of UNDP’s Policy and Programming for Inclusive Governance was set out in its Strategic-Plan , which focuses on three areas of support to Democratic Governance(1) Fostering Inclusive Governance, (2) Strengthening Accountable and Responsive Governing Institutions;

and (3) Grounding Democratic Governance in International Principles.

In UNDP's Human Development Report, this country and many others in the region fare at lower –middle level in respect of, almost, all Indicators. We are not really much better –off in achieving many important 'goals' enshrined in the 'Millennium Development Goals' to be achieved by 2015.

It is not, that this country and many other countries in the Region have not done well Economically in terms of GDP/GNP, but we are severely affected by, what Prof. Amratya . Sen calls "an extremely asymmetric development of the global economy, including Indian".

In its report titled "A World Bank Development Policy Review-India Sustaining Reform, Reducing Poverty" it states "India's poor suffer not only from lower incomes but also lower access to and quality of public services, such as basic health, education and infrastructure. The poor often lack the leverage to ensure that State Institutions serve them fairly, and thus lack access to public-facilities or receive goods and services of inferior quality. They often must pay for education and health services, which other receive for free. For example, studies by India's Public Affairs Centre indicate that wealthy and middle classes are often likely to resolve their complaints at lower cost. Corruption is often a highly regressive tax and poor pay more of their incomes proportionately, than do the wealthy and the middle-class".

One of the major issues involved is the attitude of the Policy-makers at Macro-Policy levels, who see the country's development solely in terms of growth in GDP/GNP, with a fervent hope that its fruits shall trickle-down. They have trickled down, but most un-equitably. We still have over 25% populations living below the Poverty-line, even though; no unanimity exists on the definition of the 'poor'. We continue to have one of the highest ratios of 'hunger and malnutrition' as also of Infant. Mortality. Rate (IMR).

It is by now well appreciated that while 'growth' of GDP must be kept up, it is the 'trickle-down' concept, which leaves much to

be desired .It is here that, ‘Inclusive Growth’, led by ‘Inclusive Governance’ holds the key, for taking benefits of ‘growth’ to those sections of people, deprived of the same hitherto.

The answer is ‘Participatory Inclusive Governance’, aiming at reducing poverty and in-equalities - both social and economic, by increasing citizen’s influence in decision-making. This can contribute towards more equitable access to ‘Services’ and ‘Resources’. When the people are equipped with the knowledge of their ‘entitlements’, and are empowered to engage with State –mechanism, they are better positioned to secure their rights and pursue their interests. This shall also lead to their ‘Empowerment’, which refers to increasing the Political, Social and Economic strength of individuals and communities. It often involves the ‘empowered’ developing confidence in their own capacities.

“The potential for Economic –growth and poverty- reduction is heavily influenced by State and Social Institutions. Action to improve their functioning also improves both growth and equity, by reducing bureaucratic and social constraints to economic action and up-wards mobility.

However, devising and implementing these changes require strong political –will, especially when the changes fundamentally challenge social values and/or ‘entrenched –interests’. Governments can do much to influence public debate to increase awareness of the social-benefits of pro-poor Public action and build support for such action. (This could be on following lines)

- Laying the Political and Legal basis for Inclusive development;
- Creating Public Administrations for faster growth and equity;
- Promoting Inclusive ‘Decentralization and community development;
- Promoting gender equity;
- Tackling social barriers; and
- Supporting poor people’s Social capital”.

(Source- World Development Report 2000/2001)

Participative Development i.e. grass – root development through grass-root Democracy could be the answer.

In India, this was sought to be done by way of amending the Constitution in 1992, empowering the Local bodies – both , Urban and Rural, by conferring powers on them with regard to Subjects mentioned in Eleventh and Twelfth Schedule of the Constitution. They were also conferred powers to levy Taxes, to raise ‘revenues’ to meet their financial requirements. Provision was also made for State Election Commission as also for State Finance Commission, to ensure ‘free and fair elections’ at the local level, as also ensuring financial autonomy / self sufficiency of funds to meet their requirement. This was the foundation of Participative Democracy as well as Participatory Development, guided by Inclusive Governance.

As a result of this, elections were held in all States at all levels-both urban and rural local –bodies. As per report of the Central Ministry dealing with the subject, in rural areas alone , there were 2.8 million elected representatives, comprising over 30% women, 19% and 12%respectively for marginalised and indigenous people, thus realising the dream of ‘taking power nearer the people/empowering people’, living even in remote areas.

Over the last more than 20 years, since the Constitution was amended, local–level ‘Elected Self- Government’ has by now become ‘irreversible and irremovable’. Yet it is seen that while the Institutions of Local-Self Government are in place, the ‘empowerment’ of these Institutions, in terms of functions, finances and functionaries, has been uneven, fitful and subject to reversal. This is inevitable, given, that the very Constitution, which confers a Constitutional status to Panchayati Raj, also leaves it “Exclusively Within The Diction Of The State To Determine The nature, direction and pace of Devolution”.(Article 243G and 243 W of the Constitution) .

The fact remains that, It has not worked well , and upto the ‘expectations’ in most of the State’s / Union Territories, as the Programmes and Funds continue to be allocated / managed at the Central/ State Government levels. If we wish to realize the dream of “Swaraj’ as envisioned by our father of the Nation Mahatma Gandhi , then the Programmes along with three F’s , namely-Funds, Functions and Functionaries will need to be placed at the

disposal of Local Bodies- Urban and Rural, subject , of course to the principles of Accountability, Transparency and Equity-accountability not only in terms of fund management but also 'achievements' in matters like ensuring employment to the poor , sending children to school, access to health-care, supply of safe and potable drinking water, sanitation and creation and maintenance of rural 'infrastructure'. An action-plan needs to be prepared at district, intermediate and Village(level) Local body(Gram Panchayat), on the 'subjects' allocated to these bodies, where they shall be discussed at 'Gram- Sabha' and other equivalent levels, to elicit the views of the 'stakeholders', and also to review their ' progress'

There are many such initiatives taken by various States, empowering the people, resulting in 'inclusive governance', resulting from Decentralization. However a World Bank study carried out in India, spelled out , further need for empowering the Local -bodies by , giving them 'Funds, Functions and Functionaries', uniformly, all over the country to realize the 'Objective ' of Decentralization ' in letter and spirit'.

The Participatory Budgeting (PB) Initiative of Brazil needs a special mention in this regard. PB is based on the premise and principle, that an empowered Civil-Society, must have an autonomous capacity for Self-expression, and an Opportunity structure, in which it can effectively and meaningfully engage the State.

The 'basic-process', of Participatory Budgeting, begins with 'Neighbourhood. Assemblies', in which Citizens deliberate and set 'budgeting- priorities'. It concludes when delegates, directly elected by the Neighbourhood. Assemblies, formulate a City-wide budget that incorporates the Citizen's demands. In principle, by empowering Citizens and their Organizations to engage in Budget decisions, Participatory Budgeting marks a dramatic break, with the patronage – driven politics, that has long dominated Municipal -budgeting in Brazil.

The case that has been made for PB follows the logic of

Decentralization, more generally. The devolution of decision-making authority downwards and into the hands of local actors increases 'Transparency,, taps into local sources of information, improves 'Accountability' of elected officials and Public Service deliverer, and encourages innovations. In the case of PB it has also been argued, that expanding the spaces, in which Citizens can directly influence 'resource-allocation', creates incentives for the citizen's engagement, and strengthening Civil- society. PB, in other words, is seen as an institutional mechanism for building an empowered citizenry. In its design, PB specifically seeks to expand the opportunity structure for 'Empowerment', both by reducing the transaction costs of participation for the poor and by increasing the transaction costs for traditional elites.

A World Bank study carried out to assess and evaluate PB in Brazil arrived at the conclusion that Power relations rooted in political associations can be challenged, and that changes in opportunity structure, can both build assets and empower citizens. With respect to material development, the evidence from the Statistical analysis indicated a striking positive association between the introduction of PB and the reduction of extreme poverty, especially, in the context, where the initial incidence of extreme poverty was high.

In a Study carried out by Indian Institute of Public Administration(IIPA) New Delhi on 'Panchayat Devolution Index -2012-13', relating to the implementation of the 'operative-core'-devolution of Funds, Functions and Functionaries, revealed that certain States have done better than others. Maharashtra, Karnataka, Kerala, Rajasthan, Tamilnadu, West Bengal, Madhya Pradesh, Chhattisgarh, Haryana, Gujrat, Odisha, Tripura, Uttarakhand and Sikim are above average in the Devolution Index, Uttar Pradesh, Assam and Himachal Pradesh are at mid-point, and States such as Goa, Punjab and Bihar show a very low level of Devolution.

Maharashtra: The State leads in overall Index. The State has regularly constituted State Finance Commission's, taken steps to facilitate IT-enabled governance, and has empowered Panchayats to levy Taxes, As many as 102 schemes of 11 Departments stand

transferred to Panchayats, along with about 16000 personnel. The downside is that with regard to the 11 Subjects transferred, the devolution is not complete. Moreover, the subjects, who have not been devolved, are critical to the working of the Panchayats.

Karnataka: The IIPA Devolution Index places the State at number 2 position. While the State is number one in devolution of functions, it is, number two in Devolution of Finances and number three in devolution of Functionaries.

Kerala: The State is number three in the Devolution Index, but it has demonstrated greater compliance with the 73rd Amendment. Most of the provisions of the Model Act have been reflected in the States Panchayat Raj Act. Devolution has been spelt in respect of 17 functions. However, as in many other States, the number of 'functionaries' was not found to be adequate, relative to the 'functions' devolved on them.

Other States were found to be at different levels, leaving much to be desired in respect of devolving 'Funds, Functions and Functionaries'.

The work done by two Sarpanchas, namely, Chhavi Rajawat of village Sodha in Tonk District in Rajasthan, since recognised by United Nations New York, and work done by Rangasamy. Elango in, Kutambakkam Gram Panchayat in Tiruvallur District in Tamilnadu, appreciated by several European countries, needs special mention. Chavvi, has been able to provide assured drinking water and Electricity supply uninterruptedly to the villagers, She has also been able to ensure rural employment to the poor /BPL, as also bring in Transparency and accountability in the functioning of Gram Panchayat. Rangasamy, on the other hand, has, not only, been able to assure much higher income levels to the villagers but has taken a remarkable initiative of starting a Panchayat Academy, which has trained 150 Panchayat Presidents and 600 Women Self-help groups and much more. The only thing common seen between Chhavi and Rangasamy is that, both of them are qualified personnel; While Chhavi is an MBA, Rangasamy is graduate in Chemical engineering. Both of them left their professional jobs to come and work for the

upliftment and welfare of Villagers.

Following steps could go a long way in attaining the Aim and Objectives of, in letter and spirit, of the Constitutional Amendments enshrined in Article 243 of the Constitution. Firstly, Central Government could accelerate and rationalise the process, by adapting the Guidelines of Central Sector and Centrally Sponsored Schemes, the principle source of funding for Panchayati Raj Institutions (PRIs), to ensure the ‘Centrality’ of PRIs in the Planning, and Implementation of these Schemes in conformity with the letter and spirit of Parts IX and IXA of the Constitution.

Secondly, there is a crying need to ‘Incentivise’ the States to further empower these PRIs, as also to incentivise PRIs to be transparent and accountable in their transactions, besides steadily contributing an increased share of their ‘expenditure’, that they themselves mobilise.

Thirdly, there is an imperative need to make available ‘untied-block- grants’ to the PRIs, so that that they have an adequate reserve of Financial–resources, which they can plan and implement for local economic –development and ‘economic justice’.

Fourthly, provision of ‘minimum educational qualification’ requirement for being elected as Sarpanch , could go a long way in upward mobility of the villagers; and

Fifthly, there must be a ‘mandatory’ requirement for the elected members of all levels of rural and urban local bodies to undergo a short ‘training’ to be made familiar with Panchayat Law as also of the ‘Rights, Obligation and Expectations’ of/from, the local representatives’.

A need will arise to develop ‘well-developed’ Indicators that shall help ‘monitor and evaluate’ the progress and achievement of a ‘given’ Programme Objective, in real and substantive terms, in order to strengthen the capacity of ‘Inclusive governance ‘institutions

There shall need to be a provision for ‘Social- Audit’. Any level of Institutions not adhering to the Programme Objectives , Time-frame , in executing the Schemes/ Programmes entrusted to them,

should be held accountable, and there could be a ‘provision’ for showing them the ‘door’- remove them for non –performance.

This shall reaffirm the key elements of Democratic Governance:

- Inclusion and Participation in areas having political, economic, civil, social and cultural *dimensions*;
- Equality and non discrimination - very important for minority groups and indigenous people; and
- Transparency, Accountability and access to ‘effective’ remedies.

These will help reach the benefits of State’s, Policy and Programmes to each and everyone.

The following quote from Prof. Amratya Sen’s book ‘The Idea of Justice’ could be a fitting conclusion .

“In understanding the contrast between an arrangement- focused and a realization –focused view of Justice, it is useful to invoke an old distinction from the Sanskrit literature on ethics and jurisprudence. Consider two different words-*niti* and *nyaya* -both of which stand for Justice in classical Sanskrit .Among the principal uses in term *niti* are organisational propriety and behavioural correctness. In contrast with *niti* the term *nyaya* stands for comprehensive concept of realised justice. In that line of vision , the roles of Institutions , rules and Organisation , important as they are, have to be assessed in the broader and more Inclusive perspective of *nyaya*, which is inescapably linked with the world that actually emerges, not just the Institutions or Rules we happen to have”.

INITIATIVES OF CHANGE

J. S. Deepak

3G and BWA Spectrum Auctions - Good Governance in Action

Introduction

The Department of Telecommunications, Ministry of Communications & IT, concluded highly successful auctions for the award of spectrum for 3G and BWA services in June 2010. The auctions have been praised by all stakeholders as being efficient, fair and transparent and offering all interested parties an equal opportunity to win rights to 3G and BWA spectrum. Stakeholders have agreed that the fair and transparent process of the auctions has resulted in the discovery of the true market value of spectrum, a scarce resource being allocated by the Government and in the process optimised revenue proceeds for the Government.

It is important to note that while the overall proceeds from the Auctions, were of the order of Rs 106,000 crore, have exceeded all expectations, an equally important aspect is that all stakeholders are satisfied that true market value of the spectrum was determined through an efficient and transparent process. There was no ambiguity in price setting mechanism and the price was discovered based on what free market participants were willing to pay for the spectrum. All the rules of the auction process were declared upfront and stakeholders were provided opportunities to comment on these. No discretion was left with anyone with respect to the auction ensuring a fair and transparent process.

Considering the aforesaid success of the 3G and BWA spectrum auction process, the Government could consider implementing a

similar mechanism across various other arms of the Government where scarce and valuable Government resources are awarded. This article provides an overview of the auction methodology and describes salient aspects of the 3G and BWA spectrum auctions including the key learning therefrom. These lessons learned could help extend the auction process to sale of other Government assets and scarce resources in a transparent manner. It has to be noted that specific situations will require customised auction approaches, however some of the underlying principles could be the same to enhance the efficiency and transparency of such processes.

Auction Methodology

An auction is a method of sale or award of asset by competitive bidding. It is most useful when the potential price of the asset to be sold is uncertain. Sellers typically prefer auctions for sale of assets since auctions involve bidders competing simultaneously, and this benefits sellers. It has been empirically tested that typically the realisation for the seller increases significantly in an auction situation as against in bilateral negotiations.

Auction Formats

Different auction formats exist, varying according to how prices are quoted and bids tendered. Four basic types of auctions that are commonly used include the ascending bid auction (also called the open or English auction), the descending bid auction (also called the Dutch auction), the first price sealed bid auction, and the second-price sealed bid auction (also called the Vickrey auction). There are several other variants of auction design as well. However these in some way are variants of the four basic types of auctions.

The various departments of the Government typically follow the first price sealed bid auction, through a physical bid submission process, for award of Government resources. While it is one of the forms of auction mentioned above, the first two forms of auction i.e. the ascending bid auction and the descending bid auction have

several advantages over the sealed bid auction, especially in certain situations discussed later, for better price discovery of a scarce Government resource. Further the auction conducted online ensures greater transparency and lesser opportunity for manipulation.

It may however be noted that there is no standard auction design that can be applicable in all situations. Infact, auction design would need to be customised for any specific situation depending on the objectives of the auction, prevailing industry dynamics, demand-supply scenario etc. Thus, while the ascending/ descending bid auctions may be useful for spectrum auctions, sealed bid auctions may be more appropriate for small supply contracts where the level of competition may be limited.

Details of the 3G and BWA Spectrum Auctions

Background of the Auction

The Government of India, through the Department of Telecommunications, conducted the auction for the award of spectrum for 3G and BWA services. This was a path-breaking step as this was the first time that spectrum was being auctioned in the country. Therefore, while the process took a long time as DOT had to resolve issues pertaining to the auction of spectrum, it ensured that a fair and transparent system was followed to award the spectrum.

DOT developed guidelines for a transparent auction mechanism to ensure that the key objectives of the Government from the auction were met. The auction design ensured the following:

- Open ascending e-auction, factored in the best practices in auction design globally;
- Prevented irrational bidding or collusive behaviour;
- Ensured all successful bidders pay the same price for spectrum, and that spectrum becomes available for commercial use at the same time for the successful bidders;
- Was non-discriminatory towards both incumbents and potential new entrants.

The DOT specified the above parameters as well as the base rules concerning the conduct of the auction upfront (August 2008) and then appointed a reputed auction advisor to conduct the auction, to ensure that the process was conducted smoothly.

The base auction parameters were then used by the DOT and its auctioneers to develop the detailed auction design, rules and auction documents (March 2009). Upfront finalisation of the base auction parameters was very useful as it helped in expediting the framing of auction rules as well as mitigating uncertainties.

Objectives of the Auction

The Government set the following objectives for the Auctions:

- Obtain a market determined price of 3G/ BWA spectrum through a transparent process;
- Ensure efficient use of spectrum and avoid hoarding;
- Stimulate competition in the sector;
- Promote rollout of 3G and Broadband services;
- Maximise revenue proceeds from the Auctions;
- Resolve congestion issues related to second generation (“2G”) mobile services.

The objectives of the auction process were clearly laid down upfront by the Government. This was very useful for a number of reasons:

- The objectives were used to develop the auction rules. A lot of customisation of the auction rules was required based on the objectives from the auction, which ranged from maximising upfront revenue proceeds to ensuring multiple operators to maximising investment in the sector etc;
- The risk of litigation was minimised as the objectives were defined upfront and then all steps taken to meet the said objectives. The objectives were straight forward and unambiguous;
- Defining the objectives upfront made the process more efficient and reduced uncertainties as everyone is aware of the key requirements and worked accordingly.

Auction objectives were widely disseminated to all concerned stakeholders so that these could be incorporated in the auction documents and monitored. All aspects of the auction were analysed with respect to their impact on the objectives of the auction. Even the final outcome was evaluated based on how well it had resulted in meeting the objectives of the auction before the Government approved the auction results.

Auction Design

The Auction design was developed following an extensive consultation process among all the relevant stakeholders. Inputs were sought from operators and likely bidders, experts, industry participants and general public at various stages, including through two open-house sessions that were conducted. Presentations on the auction design were also made to Government agencies such as representatives from the office of the Comptroller & Auditor General, Central Vigilance Commission, Planning Commission etc, to seek their views on the auction framework. Suggestions provided by them, some of which came as late as two days before the start of the auction process, were incorporated in the framework to ensure that a fully acceptable process was conducted. In spite of having already worked on the auction framework for almost 16 months before the start of the actual auction process, both the DOT as well as the auctioneers, were never averse to accepting suggestions to make the auction process more robust.

The Auction design also drew from the lessons learnt from spectrum auctions in other countries. Infact, the Joint Secretary (Telecom), the principal DOT officer responsible for the auction, along with the auctioneers spent considerable time in reviewing the key risks in such auction processes as well as auction failures in the past, to ensure that all risks were addressed adequately. The key risks in the context of the 3G and BWA auctions were issues such as collusion, limited demand, signalling etc.

There was a strong emphasis on keeping the entire process transparent and conducting it under public scrutiny. Some of the

key features of the auction design are mentioned below, which helped in meeting the objectives from the auction process:

Feature	Description	Benefit
Electronic or e-auction	The auction was designed as a simultaneous ascending e-auction. Bids were accepted only through a secure Electronic Auction System (“EAS”). Since the auction was conducted over the internet, bidders had the option to bid from any location with a basic internet connection using their authentication protocol. Bidders could maintain standby systems in multiple locations to guard against any contingencies.	The process was completely transparent. All bidding data was logged into the EAS, thus preventing any possibility of manipulation as well as making available all data for audit purposes. The e-platform also minimised requirement for any human intervention. Also, the risk of physical disruption of the auction process was mitigated through this approach.
Security features	The EAS was a fully secure system with multiple levels of security maintained at all times. Bidders were provided four sets of authentication certificates and passwords through different means to ensure security of the system. All the security requirements under various Government guidelines were met.	There was no scope for any manipulation or compromise of the auction system. All auction data was being backed-up on real time basis across multiple servers in different locations. These security features complied with the Government guidelines of Department of Information Technology (DIT) and Central Vigilance Commission(CVC).

Feature	Description	Benefit
Common winning price	The price discovery process in the auction balanced the objective of revenue maximisation, with the need to prevent irrational bidding. As a consequence of the auction design, the winning price for any service area was the highest price at which all the blocks on offer in that service area could be sold.	All winning bidders in any service area paid a common winning price, ensuring a level playing field and no possibility of predatory bidding.
Price setting by auction system	The auction was in the form of Ascending Clock Auction, where price of a spectrum block in any service area kept increasing till demand-supply equilibrium was reached. A key feature of the auction design was that the bid prices were not set by the bidders, but by the auction system (based on a pre-defined algorithm). Bidders merely indicated whether they were willing to purchase a block at the indicated price (which was the same for all bidders).	This feature was an important safeguard against any potential collusion (by signalling through bids) and against the risk of irrational over-bidding.
Simultaneous auctions	The auction was held simultaneously for each of the 22 telecom service areas in the country. This provided bidders the ability to optimise their bidding strategy across service areas as they were able to analyse	The decision to keep the auction simultaneous for all service areas was positive both for the bidders and the Government. It let bidders develop an

Feature	Description	Benefit
	<p>bidding trends across service areas. The simultaneous auctions across 22 service areas made the auction fairly unique when compared with other similar auctions across the world.</p>	<p>aggregation strategy, and then bid more aggressively for getting their desired footprint. They also had the opportunity to bid in other service areas to use their budget in case they lost their desired service areas. The Government benefitted from the bidders tending to bid to the extent of their budget approvals.</p>
<p>Switching flexibility</p>	<p>Subject to certain restrictions, bidders had considerable flexibility to switch across service areas. While allowing bidders strategic flexibility, this feature also helped in maximising revenues to the Government as bidders had the option of redeploying their budgets to other service areas even when the prices of their preferred service areas may have increased beyond the value ascribed by them.</p>	<p>As with the “simultaneous auction” feature, the ability of bidders to switch service areas also kept other bidders in any service area on their toes, since they risked getting outbid by “new” bidders coming into the service area in a later round of the Auction even if demand-supply equilibrium was reached for that service area in an earlier round. This combined with small price increments even after equilibrium had been reached prompted bidders to bid upto the economic value ascribed</p>

Feature	Description	Benefit
		by them to the spectrum, while maximising auction proceeds for the Government.
Minimal risk of unsold lots	The Auction rules minimised the risk of unsold lots by a system of designating provisional winning bidders in each service area after every round. These provisional winning bidders were “locked” into a service area till such a time that they were outbid in that service area.	This helped in meeting one of the key objectives of the Government which was to avoid any unsold lots, both from revenue maximisation point of view as well as to ensure adequate competition.
Confidentiality, with transparency	After every round, bidders were informed about their own bids (e.g. whether they were a provisional winning bidder in any service area) and the aggregate demand-supply situation and price levels in each service area. However, identities of other bidders and their positions in different service areas were not disclosed. This feature, while maintaining adequate transparency, helped in sustaining competitive tension among the bidders and in reducing chances of collusion, leading to higher revenues.	This feature worked well in the auction process by enhancing competitive tension and encouraging bidders to bid to avoid competition. However, the level of information dissemination may need to be different across situations and should be decided accordingly.

It was important to ensure that the final auction design was fair to all the bidders, both incumbents as well as smaller operators and new entrants. The above features were useful in developing such a mechanism. All the operators were satisfied with the impartiality of the auction process, as it gave an opportunity to incumbents to bid based on a market determined price and consolidate service areas, while giving an opportunity to smaller operators to bid aggressively in the service areas important for them. No undue advantage was provided to any class of bidders.

Conduct of the Auction

The following section provides an overview of the conduct of the auction, based on the key features already described in the previous section.

Clock Rounds

Each auction was a simultaneous ascending e-auction comprising a series of bidding rounds (“Clock Rounds”). For each service area, a Clock Round had a price associated with it (“Clock Round Price”), which was the price at which bidders had the option of buying a single block of spectrum in that round. In each round, bidders were expected to submit a bid (i.e. a “yes”/ “no” decision for each service area) through the EAS.

Bidders had multiple opportunities to verify and confirm their bids in each Clock Round.

Depending on the demand in each service area (relative to the number of blocks available), the Clock Round Price kept moving up in small increments, which had been disclosed in the Notice Inviting Applications, till a demand-supply equilibrium was reached across all service areas.

For each service area, the auction began with the bidders being asked to indicate whether they were willing to buy a single block of spectrum at the Reserve Price (i.e. in the first round the Clock Round Price was set equal to the Reserve Price). If the number of

bidders offering to buy a spectrum block at the Reserve Price was greater than or equal to the number of blocks on offer, the Clock Round Price in the next Clock Round moved up (the size of the increment was a function of the excess demand in any round, and was determined according to a pre-set formula as laid out in the Notice Inviting Applications). In the next Clock Round, the same process was repeated at the new Clock Round Price. These rounds occurred simultaneously for all 22 service areas.

Eligibility Points and Activity Requirement

At the start of the auction, each bidder was allotted a certain number of initial eligibility points based on the amount of Earnest Money Deposit (“EMD”) submitted by the bidder. Each service area had a certain eligibility requirement associated with it. In any Clock Round, a bidder had to ensure that (a) the sum of eligibility requirements associated with all the service areas for which it was bidding was less than or equal to the total eligibility points available to it; and (b) the sum of EMD requirement associated with all the service areas for which it was bidding was less than or equal to the total EMD submitted by it, e.g. in order to bid across all 22 service areas in the 3G Auction, a bidder must have submitted an EMD of Rs. 505 crores, for which it would have been allotted 350 initial eligibility points.

After the completion of each Clock Round, the eligibility of each bidder was recalculated depending on the activity level of the bidder (i.e. the sum of eligibility requirements of service areas where the bidder was active) in the recently completed round and the Auction Activity Requirement. This ensured that bidders were kept honest throughout the auction process and while they had some flexibility in bidding and therefore following an aggregation strategy, they could not hide their bids and thus wait for other bidders to show their cards before starting to bid.

At the start of the Auction, the Auction Activity Requirement was set at 80%. This implied that a bidder had to utilise at least 80% of the eligibility points available to it in any given round in

order to carry over all of its eligibility points to the next round. If a bidder's activity was less than this threshold, there was a pro-rata reduction in its eligibility for the next round. The Auction Activity Requirement at 80% provided bidders the flexibility to bid in their most desired service areas rather than having to bid in all the service areas from the start of the auction itself. As a result, bidders could follow an aggregation strategy i.e. they could bid in their most preferred service areas and start bidding in the balance service areas only if they were comfortable of winning a desired footprint. At the same time, the Auction Activity Requirement was kept at 80% so that bidders could not hide their bids completely. This feature was appreciated by the bidders as it gave them the opportunity to follow their aggregation strategy, while it was advantageous to the Government as it incentivised bidders to bid more aggressively to get their desired footprint and then bid for the balance service areas.

As the Auction progressed, the Auction Activity Requirement was increased, initially to 90% and eventually to 100%. Once the Auction Activity Requirement was 100%, a bidder was able to carry over only as many eligibility points to the next round, as it had utilised in the most recent round (i.e. "use it or lose it"). Bidders did not have any flexibility once the Auction Activity Requirement reached 100% and therefore the Auction Activity Requirement was raised to 100% towards the last stages of both the auctions, once the bidding had reduced substantially.

Switching Flexibility

Bidders were provided with the flexibility to switch across service areas from one round to the next, subject to their meeting the eligibility points and EMD restrictions at all stages, and subject to bidders not being allowed to move out of service areas where they happened to be Provisional Winning Bidders. In order to minimise the risk of "unsold lots" and still allow bidders flexibility to switch across service areas, after every Clock Round and for each service area, bidders were ranked from 1 to n (where 'n' was the

number of spectrum blocks being auctioned in that service area). This ranking was based on a set of pre-established criteria and such ranked bidders were termed Provisional Winning Bidders. Till the time that a bidder remained designated as a Provisional Winning Bidder in a service area, it was not allowed to move out of that service area in subsequent rounds, unless and until, it was overbid in that service area.

Auction Closure Requirement

The Clock Stage of the Auction closed when (a) the Auction Activity Requirement was 100%; and (b) for every service area the number of Bids at the current Clock Round Price was less than or equal to the number of blocks available in that service area. The winning price for each service area was the bid price of the least ranked Provisional Winning Bidder in that service area after the final Clock Round.

The next stage, the Frequency Identification stage, was used to allot specific frequencies to the Winning Bidders in the different service areas. This was done randomly by the auction software.

Conduct

The Clock Rounds were conducted Monday through Saturday, from 9:00am to 7:30pm. The bidders made their encrypted bids over the internet (and could do so from any location). At the end of each day, a status report on the Auction was put up on the DOT website, which indicated the current bid levels and the number of bidders in all service areas. However, identities of bidders were not revealed while the Auction was in progress in order to safeguard against the risk of collusion.

Security Features and Back-up Procedures

It was important to ensure that the EAS was fully secured, with adequate back-up mechanisms, and met all the requirements laid down by the various arms of the Government such as Department

of Information Technology, CVC etc. Considerable time was spent by DOT with the auctioneers to ensure that the security features were implemented optimally.

The EAS provided for detailed security aspects with respect to access, conduct, hardware and data management, which ensured highest level of security as well as compliance with guidelines in this regard. This was ensured by providing access security with strong ciphers, digital certificates for access control, EAS authentication system, login password and physical security for servers.

Testing of the System

The EAS, along with the security features described above, was used for a mock auction conducted for the bidders prior to the start of the actual auction process. While the mock auction provided bidders an opportunity to familiarise themselves with the auction software and test their systems on the one hand, it also provided the auctioneer an opportunity to test all the systems and user connections. All the features of the EAS worked well during the mock auction and to the satisfaction of the Government as well as the bidders.

Auction Process

As a result of the detailed auction rules and systems put in place prior to the start of the auction, the auction process progressed as per the rules established upfront and therefore there was no human discretion required at any stage. Information about the auction was disseminated to all stakeholders through the DOT website at the end of each day so that confidentiality and integrity of the process could be maintained. This was further re-inforced by ensuring that there was only a single point of contact with the auctioneer during the auction process. All interactions were held at the level of the Joint Secretary (Telecom) and decisions taken at that level in consultation with the auctioneer.

This was one of the positive aspects of the auction process as human intervention was minimised and therefore there was limited

risk of manipulation, exchange of information or unauthorised sharing of information with any bidder and complete accountability. Any interaction of bidders with the auctioneer was logged into the system, while all phone conversations were recorded.

Key Learnings from the 3G and BWA Spectrum Auctions
Summary of key results

The 3G and BWA auctions were highly successful and met all the objectives laid down by the Government from the process, as described below:

Objective	Comment
Obtain a market determined price of 3G/ BWA spectrum through a transparent process	<ul style="list-style-type: none"> <input type="checkbox"/> Successful price determined in the Auction was the true market determined price for spectrum. All bidders had the opportunity throughout the Auction process to bid for any circles that they wanted to and they only stopped bidding once the prices increased beyond their threshold levels; <input type="checkbox"/> Auction was highly competitive and there was no evidence of coordinated bidding; <input type="checkbox"/> The Auction process was transparent in that: <input type="checkbox"/> Rules were pre-determined and declared to bidders; <input type="checkbox"/> All bidders had access to the same information throughout the process; <input type="checkbox"/> Rules did not benefit any of the bidders in any form or manner. There was a proper consultation process on the Auction rules, wherein bidders were able to provide their comments; <input type="checkbox"/> All bid data was released to allow independent verification of the results.
Ensure efficient use of spectrum and avoid hoarding	<ul style="list-style-type: none"> <input type="checkbox"/> Bidders moderated their demands for spectrum as prices increased; <input type="checkbox"/> Successful Bidders outbid other potential users, ensuring the spectrum was efficiently awarded. In order to optimise returns from the spectrum,

Objective	Comment
	<ul style="list-style-type: none"> <input type="checkbox"/> winners would necessarily have to put the spectrum to use at the earliest so as to make profitable returns from the spectrum.
Stimulate competition in the sector	<ul style="list-style-type: none"> <input type="checkbox"/> The outcome produced a diverse range of providers; <input type="checkbox"/> Auction design ensured that there were no unsold lots in the Auction and as a result there are 4-5 operators of 3G services and 3 operators of BWA services in each of the service areas: <input type="checkbox"/> This ensured sufficient competition between 3G and BWA service providers prompting them to offer <input type="checkbox"/> high quality of service, competitive pricing as well as a variety of tariff plans, in the best interests of the subscribers.
Promote rollout of 3G and Broadband services	<ul style="list-style-type: none"> <input type="checkbox"/> Strong competition and high valuations suggests winners had strong commercial plans. They had to ensure efficient and prompt use of the spectrum to make viable returns from their investment. It will, therefore, be in their interests to rollout the services at the earliest opportunity and to as wide a population as possible in order to maximise returns from the purchase of spectrum; <input type="checkbox"/> Auction prices reflect the profits operators expect to earn, which is determined by anticipated competitive conditions (especially the number of licences awarded). Operators will charge what they can for services and what they paid for licences will not affect this; <input type="checkbox"/> Bidders factored in the 'early mover advantage' in their pricing strategy, as they will be able to beat competition through early rollout of services.
Maximise revenue proceeds from the Auctions	<ul style="list-style-type: none"> <input type="checkbox"/> Features of the auction designed to stimulate competition and promote revenue generation worked well; <input type="checkbox"/> Revenue proceeds were arrived at through a competitive auction process, wherein bidders

Objective	Comment
	<ul style="list-style-type: none"> <li data-bbox="418 324 1083 427">□ continued bidding till auction price reached the fundamental value that they were willing to ascribe to spectrum; <li data-bbox="418 437 1083 690">□ The Government earned Rs. 1,06,262.26 crores from the auctions. Revenue of more than Rs. 1 trillion from these auctions is unprecedented. The revenue was more than thrice of the target of Rs. 35,000 crores fixed by the Ministry of Finance in its budget documents and more than five times the reserve price. The realisation for 40 MHz of 3G spectrum <li data-bbox="418 699 1083 915">□ was Rs. 67,718.95 crores which was 4.75 times the reserve price and Rs. 1,675.10 crores per MHz pan India. Similarly the realisation for 60 MHz of BWA spectrum was Rs. 38,543.31 crores which is 7.34 times the reserve price and Rs. 642.39 crores per MHz pan India; <li data-bbox="418 924 1083 953">□ Revenues exceeded most analysts' expectations.
<p>Resolve congestion issues related to second generation ("2G") mobile services</p>	<ul style="list-style-type: none"> <li data-bbox="418 971 1083 1037">□ All available spectrum was allocated and there were no unsold lots; <li data-bbox="418 1046 1083 1187">□ Provision of 4-5 blocks of 2X5 MHz spectrum to the Successful Bidders (including BSNL and MTNL) would help them to address congestion issues in their existing 2G networks.

In addition to meeting the objectives of the Government, it is very important to note that all stakeholders have been highly satisfied with the smooth, fair and transparent conduct of the auction process and the supportive role played by the Government and the auctioneer.

It may be pointed out at this stage that while all the objectives of the Government were met from the process, one of the desired outcomes which was the entry of new international operators could

not be accomplished. Both the DOT as well as the auctioneers did market the auction process aggressively to new entrants and international operators, however the existing regulations, uncertainty around new UAS licenses and limited spectrum on offer in the auctions, resulted in no interest from new operators in the 3G auction. The learning here was to possibly develop consistent and long-term policies which provided clear guidance to new operators for establishing the viability of their businesses. It may however also be pointed out that the BWA auction, which had no legacy issues associated with it, saw interest of new operators who bid quite aggressively in the auctions and were more successful than the incumbent mobile operators.

Feedback from Stakeholders

The feedback from all stakeholders regarding the auction process was very positive, as reflected in comments made by them post the completion of the process. Some of the comments are highlighted below for reference:

- The COAI said that “... *the conclusion of auction for spectrum for third generation (3G) telecom services takes India’s telecom sector a step forward. The conclusion of 3G auction adds to the success of India’s telecom sector and its growth story and takes it a step forward. We are happy that it has concluded in the estimated time,*” COAI director general Rajan S. Mathews told LANS”;
- FICCI in one of its publications has said that “*The 3G guidelines have been structured to eliminate any potential arbitrage opportunities for carriers, and will lead to a fair and transparent auction process*”;
- CARE Ratings, a leading credit research agency, said in its recent publication on 3G and BWA spectrum auction that “*One of the major developments that took place in recent times is the auction of 3G spectrum. The auction finally began on April 09 and culminated on May 19 after 34 days of a highly competitive and transparent bidding process*”;
- Even the Delhi High Court, while dismissing a PIL for putting

a stay on the auction process had said that “... **Transparency is there.** *The Government had already put all the information regarding the auction on its website in October. It is a commercial transaction and all the norms were followed.*”

The feedback from the media has also been very positive, which is even more encouraging considering all the negative reporting which preceded the start of the auctions. Excerpts from some news reports are provided below:

 **THE FINANCIAL EXPRESS**

Clock Auction Worked Superbly

The recently concluded 3G spectrum auctions are a reason to celebrate. This is so not only because the windfall gains have put a smile on the FM's face and the industry has received clean, fair and hassle-free spectrum, but also because it is a watershed in the future allotment of the country's natural resources in a manner that is undisputable in its merits. The chances of controversy were close to zero due to the infallible auction design—the clock auction method rather than the usually practised English auction.

THE ECONOMIC TIMES

Auction Sends the Right Signal: Govt is Maharaja

The auction involved multi-stage bidding that was conducted online. The process was designed to prevent bidders from acting in concert and using specific bids to signal intentions.

Fool Proof Mechanism

A prime reason behind the success of one of the most intensely-tracked telecom auctions in the world was its foolproof mechanism. The auction involved multi-stage bidding that was conducted online in the nature of an ascending e-auction where bidders could log in from anywhere in the world. They were also able to access the electronic auction system (EAS) using

standard web browsing software. To ensure a totally secure environment, pre-qualified bidders had also been issued authentication tokens (including passwords) to access the EAS safely.

Business Standard

3G, BWA Auction: No Scope for Unrealistic Bids

Telcos have no problem with e-auction of 3G

spectrum

Telecom operators have endorsed the online mechanism designed for conducting 3G spectrum auction, saying the process virtually eliminates any scope for unrealistic bid. All the top telecom firms including Airtel, Vodafone, Idea, Aircel, RCom and Tatas would be participating in the e-auction process, the first of its kind in the world, to acquire 3G spectrum for which the auction begins on April 9.

THE HINDU

The spectrum Bonanza

The auction of spectrum for the third generation (3G) mobile telephone services has been remarkable in many ways.

Bidders Express Faith in 3G e-auction

All telecom majors that are taking part in the forthcoming e-auction of 3G spectrum on Tuesday endorsed the online mechanism. Expressing full faith in the auction, they said it had been designed to hold the auction process in a transparent manner that virtually eliminates any scope for unrealistic bid.

3G Auction: It's a win-win for All

The marathon auction of 3G spectrum has ended in a win-win situation for all.

DECCAN Chronicle

FT.com
FINANCIAL TIMES

India's 3G Auction - A Clean Process Brings in Some Needed Cash

The Financial Times, in a recent article, mentioned that *“They (the Indian Government) have two reasons to be cheerful. One is that they have raised \$15bn, nearly double what was expected. This is good news for a country that has been running*

the largest fiscal deficit for 20 years. Overnight, the government looks more purposeful in its economic management.The second is that the auction mechanism has not only raked in the cash but also produced a clean process.”

Best Practices

While the 3G/BWA auctions were extremely successful their real strength was in the process. Some aspects which contributed to the success and can be termed best practices are:

Preparation and Upfront Finalisation of Rules: It is very important to release the auction rules upfront, after following a consultative process with the key stakeholders, to ensure transparency of the process. Furthermore, for it to be effective, it is also important that no changes are made once the formal auction documents are released as any changes give rise to uncertainty. During the 3G and BWA auction, despite all the uncertainties that prevailed prior to the start of the auction, no changes were made once the Notice Inviting Applications was issued by the DOT. All preparation had been done well in advance to ensure that the timelines and processes could be adhered to. All the bidders and other stakeholders have greatly appreciated this aspect of the auction and said that their confidence in the process went up manifold once they realised that

the Government would adhere to the rules completely and there was no possibility of any manipulation.

e-auction: Conducting the auction online was highly useful in maintaining transparency of the process and giving bidders comfort while at the same time providing Government with a useful tool to capture all back-up data for subsequent testing and analysis. The e-auction format has several advantages, which would be valid across almost all auctions:

- Confidentiality is paramount in any auction, which is ensured better in an e-auction. Paper trails can be manipulated but electronic trails cannot be manipulated;
- Allows bidders to participate without any obstructions. Artificial obstructions could be created in certain physical auctions by some of the stakeholders;
- Bidder identity, if so desired, can be concealed in an e-auction but is very difficult to conceal in a physical auction unless it is a single sealed bid process;
- There are no delays in processing of bids in an e-auction, unlike in physical bid auctions;
- e-auction does not give any opportunity for price bid manipulation as bids once submitted are recorded and backed-up immediately.

Adviser: Specialised and expert inputs should be obtained for designing customised auction rules and conducting auctions, including conducting sessions with potential bidders to make them aware of the rules and procedures. The advisors played a very useful role in the 3G and BWA auctions in developing the auction design and then assisting the DOT in putting together all the relevant documents as well as in actually conducting the auction.

Objectives of Auction: Defining the objectives of the auction process upfront was useful in the 3G and BWA auctions to devise the optimum auction strategy as well as to be focussed in the approach towards auction. This also allowed the Government to lay down clear rationale for any decisions taken.

Consultation Process: The mechanism to allow stakeholders (including potential bidders) to provide feedback while the process was being designed, and incorporating them, where applicable, also played a key role in enhancing stakeholder comfort with the process. In the case of the 3G and BWA auctions, two pre-bid conferences were conducted and there was a mechanism for bidders to submit queries through e-mails and detailed public responses were put-up.

Objective Criteria: Another important feature of the 3G and BWA auctions was that the criteria for selection of successful bidders was objective. The single criteria for winning spectrum in any service area was price offered by the bidder. This price was arrived at through multiple rounds of bidding, with all bidders getting sufficient opportunity to match the prevailing highest bid. Technical criteria were also kept simple and easy to adjudicate. Auction steps were rule-based and predictable with minimum scope for discretion.

Transparency: Maintaining transparency was instrumental in increasing stakeholder comfort with the 3G and BWA auction process and helped in more active participation in the process. The process was made more transparent through a number of measures such as by advance publication of Information Memorandum, sections of which served as “draft” version of the Notice Inviting Applications, by conducting open-house sessions to obtain stakeholder feedback, by making presentations to the press and Government departments such as C&AG, CVC etc to obtain their feedback on the auction framework, by uploading all external documents promptly on the DOT website, by releasing shareholding information of applicants for public and inter-bidder scrutiny, creating an auditable electronic record of all auction steps, publishing end-of-day reports disclosing current price levels to the general public etc.

Well-defined Governance Architecture: A well-defined governance architecture was put in place for the auction process, with policy-related decisions taken by the EGoM. An inter-ministerial group supervised the auction process. In addition, a Committee of Secretaries chaired by Cabinet Secretary approved the auctions.

Clear responsibilities were assigned to key people to ensure there was no ambiguity in performance of key tasks. The Joint Secretary (Telecom) acted as the single point of contact with the auctioneers, thereby ensuring that there was no confusion, clear communication and accountability the risk of leakage of information is minimal.

Such a governance structure should be put in place for any auction process so that clear responsibilities, including those for the advisors, are laid down upfront for the process to be managed smoothly.

Drawing on Global Experience: Extensive research was done during the 3G and BWA auction for experiences from other auctions internationally, both with respect to auction features that contributed to meeting objectives of auctions, but more importantly with respect to auction failures to ensure that the same mistakes were not made again. Some of the examples include use of clock auction mechanism eliminating scope for signalling through bids (this happened in one of the European auctions), implementation of simultaneous ascending multiple-round auction with common winning prices to prevent predatory bidding (this happened in the Turkish 1,800MHz auction) etc.

Applicability to Other Government Departments

Conditions for Replication

While no two auction situations can be identical, there are several features of the auction design and framework that could be implemented across auctions. The key underlying requirements from an auction situation for the 3G and BWA auction model to be implementable include the following:

- (i) **Scale of Auction:** The scale of auction should be above a certain amount (say proceeds of Rs. 100 crore) for the detailed auction mechanism to be practical as it would involve a lot of preparation, would be time taking and would involve certain expenses
- (ii) **Competition:** There should be adequate and known competition

as that keeps bidders honest and active. If competition is not adequate, then there is risk of under-bidding or collusion, which may result in under-recovery of auction price.

- (iii) **Price Uncertainty:** There should be some uncertainty involved around valuation such that bidders also benefit from the price discovery process and are encouraged to bid more aggressively through an empirical verification of their valuation hypothesis. Typically bidders may bid conservatively if there is uncertainty about the business case of an asset, however a competitive process will lead them to reconsider their assumptions if other bidders are willing to bid beyond a certain level.
- (iv) **Multiple Related Assets:** Such an auction framework would be optimal when there are multiple assets being auctioned, which have certain inter-relation/ inter-dependencies such that bidders are willing to pay a premium for an optimum mix of assets.

5.2 Applicability in other Government Departments

Having considered the typical criteria where the multiple round ascending/ descending auctions may work best to meet the objectives of ensuring transparency and maximising revenues, it is observed that there are several situations involving the sale or award of scarce Government resources that meet these criteria. Some of the examples include the following:

- (v) **Coal/mineral mines & oil and gas blocks:** Award of mining rights for coal/other minerals is an important Government activity. Considering the above, award of mining rights for coal/ mineral mines appear as a good example where such open ascending e-auction may work well to meet the objectives of the Government. A process fairly similar to the 3G and BWA auction could be implemented for such assets, with the bidding parameters being upfront premium or recurring royalty or a combination of both of these.
- (vi) **Land parcels:** Both the Central as well as State Governments and Municipalities and Public Sector Undertakings award long-

term land lease rights to private sector developers for developing commercial/ residential projects. The standard form of award of such lease rights is through sealed bids. However several of these awards also meet the underlying requirements discussed earlier. Considering the above, award of land leases also appear as a good example where such open ascending e-auction may work well to meet the objectives of the Government

- (vii) **Construction contracts:** Various Government departments award construction contracts for infrastructure projects through a tender process, where the award is through a sealed tender after the initial technical qualification. While the technical pre-qualification would still need to be done, the award process appears amenable for a descending e-auction mechanism as these awards meet the underlying requirements discussed earlier. Considering the above, award of construction contracts could also be done through an e-auction, where instead of the process being ascending (i.e. prices being increased), the process could be descending i.e. the awarding department would set the initial price (reserve price, which could be its cost estimate) and then amounts would be lowered till the successful bidder is selected.
- (viii) **Road projects:** The Central Government, through the NHAI, as well as State Governments have been awarding several large road, highway and bridge projects through the PPP model. Bidders bid an upfront amount (which could be positive or negative subsidy) depending on the profile of the project, including its revenue potential. These award processes, which are done under the model PPP framework, also meet the underlying requirements discussed earlier. Considering the above, the Government (NHAI) may evaluate the award of these projects through an ascending e-auction instead of the one-shot sealed tender process being followed currently. Certain modifications may be required in the extant PPP framework for this purpose.
- (ix) **Airport/port privatisation:** The ascending e-auction mechanism could also be used for the award of ports and airport licenses. These awards also meet the underlying requirements

discussed earlier. Good examples would be the privatisation of the Delhi and Mumbai airports done by the Airports Authority of India, or the award of terminal contracts at JNPT or MPT. The bidding parameter for many of these projects, post the technical pre-qualification, is the revenue share (in percent) that the successful operator would share with the Government. The ascending e-auction could be customised to provide for such a bidding parameter instead of an upfront consideration.

The above are only examples where the open ascending/ descending e-auction mechanism could be used for the award of scarce Government resources. There are several other situations as well where such processes could be applicable. An illustrative list is:

- Utility projects, with firm clarity on regulations;
- Power generation projects, such as the UMPPs and renewable energy projects;
- Rail factories, or materials contracts for the Railways;
- Airport slots at congested airports;
- Lotteries (and other concessions to run services protected from competition);
- Emission permits (e.g. CO₂ or sulphur).

It would therefore be useful for the various Government departments to consider the merits of the open ascending/ descending e-auction approach for the award of scarce Government resources prior to formalisation of any one approach. Even in situations, where the specifics of the open ascending/ descending e-auction may not be relevant, the Government departments could consider the following aspects of the 3G and BWA spectrums which are almost universally implementable:

- e-auction, even where a single sealed bid auction is being contemplated, as it enhances the credibility of the process and minimises the risk of manipulation;
- Upfront detailing of the auction rules, associated policy guidelines and objectives from the auction process followed by

a stakeholder consultation process, before finalisation of such rules:

- Appointment of an independent expert agency to manage part of the process.
- Study of global best practices in similar situations to learn from the successes and failures of the past;
- Complete transparency at all stages of the process, such that all details are made public as soon as possible. This would include bidder details, however in sealed bid auctions such details may be made public post the submission of bids.

Conclusion

There are several lessons from the experience of the design and conduct of the 3G and BWA auctions. The auctions were hugely successful not only with respect to the proceeds realised for the Government but also with respect to the stakeholder approval for the process. It is felt that key aspects of the auction could be implemented in other similar auctions of the Government to make them more efficient, fair and transparent. Some of the key features of the auction design that were identified in the process include:

- E-auction, over secure internet platform;
- Upfront preparation and detailing of auction rules followed by stakeholder consultation process;
- Appointment of independent expert agency to provide inputs;
- Study of global best practices in similar situations;
- Complete transparency at all stages of the process.

In addition to the above, it is also felt that the ascending/ descending clock round auction process would be especially useful in several situations where the Government auctions high value and scarce Government resources and where the single shot sealed bid mechanism is not able to capture the true value of the resource at times. Some of these situations would include the following:

- Coal/ mineral mines and O&G blocks;
- Land parcels;
- Construction contracts;
- Road projects;
- Airport/ port privatisation
- Utility and power generation projects.

COMMENT

A P Saxena

An End Note on Governance

Of late crude inelegant stream of publications, at best described as a plethora of pulp are emerging from the pens of assorted former civil servants who have found a comfortable perch on a bandwagon in the company of populist politicians. It seems as if a kind of Gresham's Law by which the bad and the extreme seem often to drive out the subtle the moderate and the good. A deliberately, distorted profile of "governance" is being presented by those publicists, relying on the basis of untenable, illogical scenarios by means of superficially attractive packaging appealing to a transient mass looking for sensationalism

We are, so it is argued, converts to or could soon be, school based on a curriculum of cast-iron/skepticism and disbelief, district in the instruments, the structure of government, and this even the constitution, described by a distinguished jurist in the recently published must read text by Fali Nariman, as "a document of governance", (1). Government, based on the alleged wisdom of hindsight, by a crop of retired officials cannot be reduced to probably illogical generalizations forgetting in toto what an acknowledged authority on Indian Constitution-Granville Austin asserted in his monumental text, "Working a Democratic Constitution-A History of the Indian Experience" (2). Governance means what citizens do when governing themselves. Governance is a process, government is an object.

Even if the critics of governance are granted the liberty of an 'untamed language of dissen', its trajectory it is submitted will need to be justifiable sane and mature-hopefully relevant and verifiable as well.

It seems as never before a need to understand, even protect the apparatus of government, its instruments and the processes. How by a thinker who is also a doer ‘a question posed by Gopal Gandhi the other day () himself a former IAS officer.

Let not at the least the tribe of former bureaucrats, turned pseudo-fly by night authors, alide activist like sandbags in a see- saw to the heavier side and become destroyers of the very system in which they thrived for long .

A memorable speech of Jawaharlal Nehru in the lok Sabha (14 August 1951) responding to a debate on governments performance is worth a recall:

“A government is apt to go wrong because it is overburdened with pressing problems and has little tenure to think in a co-ordinated in a integrated way...And obviously there are falings. It is quite absurd for anyone to say that government has not made mistakes, and will not make mistakes...You have to see both the credit and the debit side. You have to remember how for both these sides are governed by faction beyond our control—there are so many other factors that affect our achievements and exaggerate our factors. The thought of these factors has often distressed me but at no time I had a feeling of frustration. I do not personally like the word frustration to be used as often as it is. A person, who sees frustration in another, usually has in his own mind and heart and he conveys that sense to another person. When I begin to experience that feeling of sheer frustration in my work, I shall cease to have any value for this governments, because the spirit that makes me work , the vision that drama one world cease and vanish...I must confess to you that the morrow is slightly more important to me then today”.

References:

1. Fali S Nariman :2013 “The State of the Nation “ Hay House Publishers(1) Pvt. Ltd. New Delhi
2. Gvanville Austin, 1990,’ Working a Democratic Constitution-A History of Indian Experience “Oxford, New Delhi

Alok Sinha

Governance & Bureaucracy

As so well set out by the famous thinker Max Weber, functioning of a bureaucracy demands that, both internally as well as externally, there should be a set of pre-determined rules that must be uniformly applicable to all, without any exception or discrimination.

That is the key to success --- or failure. This is as applicable to a government system, as it would be to any organization (corporate or civil society). Absence of well-laid rules and regulations --- or even non-adherence to such a body of rules etc --- would to that extent diminish the efficiency quotient of governance by that body.

As societies evolved from fruit-gathering stage to a nomadic one, from a nomadic, pastoral one to an agrarian one, from an agrarian one to an organized feudal one, and then on to the beginnings of industrialization --- all these compelled further evolution of the governmental system based on an ever-growing network of rules etc. For example, power of awarding capital punishment, the hallmark of absolutism till medieval times, now survives only with the King of Saudi Arabia ! Trials and punishments are procedurally well-laid out in all modern States, not any more whimsical or personalized.

As governmental systems as well as and trade and commerce kept pace with expanding economies, it was imperative that ever-expanding organizations (both within the government as well as outside) had to be based on a network of rules, else their functioning would have remained in an impasse wherein spurts of activities would perforce be erratic. That is, transparency, permanent memory, and neutrality (both within and outside the organization) became the basis of functioning, and a bench_mark to measure

accountability. It in this historically evolving organism that Max Weber conceptualized the bureaucratic system.

Coming to india, how does the picture obtain here ? What was evolving from Mauryan times got some cohesive shape under the Mughals, with Todar Mal's patwaris laying the foundations of land measurement and land revenue. With a rapidly industrializing Britain colonizing us through the length and breadth of the sub-continent, the promulgation of the Indian Penal Code, the Criminal Code of Procedure, the Civil Code of Procedure and the Indian Evidence Act supplemented by the Police Act of 1861 laid the foundations of the judicial and police set-ups. But what ensured their implementation in a fair and dispassionate way were the provincial and Federal Public Service Commissions.

Recruitment to government posts was hereafter to be by open competitive tests. Bureaucrats so recruited were to discharge their duties through a plethora of integrated laws and rules covering all departments and subjects. What is more, within the bureaucracy, movement was to be governed by uniform patterns of rewards and punishments, transfers and postings etc.

Pandit Nehru and Sardar Patel continued with such merit-based entry into government posts. But as our democratic system guaranteed by the Constitution became entrenched, sub-pools of sectional interests within the political mass gave rise to an increasing tendency of post-electoral "spoils of office" becoming increasingly co-terminus with transfers and postings as well as rewards and punishments. And as if to certify a "life-after-death", such patronage started tainting post-retirement jobs too !

Jockeying for posts increasingly became a mutual lobbying game between selected politicians, selected bureaucrats and selected deal-makers. Not necessarily only on financial considerations, often good but rule-bound officers would be shunted out, to be replaced by pliant ones, on grounds of personal proximity or tokenism based on caste, creed or religion. The latter is even more insidious, because then action against an errant officer would be akin to hitting out at an entire caste or community !

Of course, such deviant postings never last for too long, errant officers get caught or at least exposed, and finally have to be eased out. But grievous damage has in the meantime been done, in more ways than one. Initially, the errant officer's erroneous ways diminish governance in the immediate and local context. But in the long run, examples of wrong postings on grounds other than merit pose a terrible example, showing juniors how to compromise in the way of the erroneous amongst their seniors. This puts paid to governance values and performance levels for generations to come.

While entry into governmental posts as of now, luckily, continues to be merit-based (and equally importantly is seen to be so, with the Union Public Service Commission's integrity still having wide acceptability), post-retirement job selections are marked by a high degree of discretion, both political and personal. At times, the ruling dispensation even throws to the winds adverse views on record, witness the bumptious manner in which a Central Vigilance Commissioner was selected and appointed in 2010, even when the whole world knew he stood charge-sheeted --- every knew except the Prime Minister and the Home Minister !

Appointments to various Commissions and Regulatory authorities are presently up for grabs, as there is no independent body to do the selection. If the Union Public Service Commission and the State Public Commissions are not to be given this task, surely a Collegium of serving and retired judges and officers could do it. In any case, it is too important a job to be left to the private agendas of self-seeking Prime Ministers and Chief Ministers.

What is important to bear in mind always is that the qualities of governance would be directly proportionate to the qualities of accountability. When a public servant --- be it a bureaucrat or a judge or a military officer or even a Minister --- knows he would be held accountable for his misdeeds or lack of competence, he would strive to perform better. That is, rewards and punishments should always go hand-in-hand in public services. That alone would enhance governance.

BOOK REVIEW

The Accidental Prime Minister
The Making and Unmaking of Manmohan Singh
Sanjaya Baru
Penguin Viking
PP 301 Rs.599
ISBN 9780670086740

Sanjaya Baru's book has come at a time when it had to become a best seller.. The book does not bring anything new or sensational. The happenings in the PMO and the power centre of the government has been a subject matter of columns and newspapers as also talks in drawing rooms of New Delhi. Books about current events make contemporary history and interesting to the reader as he has lived through the period and can identify the events as they took place and this makes Sanjaya's book very readable and unputdownable.

While bureaucrats do regularly write their memoirs (which are invariably stories of "I"), a journalist worries about the events and as a witness albeit with him or her own likes and prejudices. While journalists like Kuldip Nayar, B G Verghese, Prem Shankar Jha and H K Dua have worked in the PMO and officials like G Parthasarthy, Ram Mohan Rao have done the job of media advisor, none of them have written a book or an exclusive account of their stay in the PMO. Kuldip Nayar and B G Verghese in their memoirs do cover their period in PMO, in passing. H Y Sharda Prasad was with Prime Minister Indira Gandhi for 16 years but wrote only a few columns in news papers about his tenure in the PMO. Of course, Lord Mountbatten when he came as Viceroy and Governor General of India had a Press Attache Alan Campbell-Johnson who kept notes and after the Earl's assignment was over wrote "Mission with Mountbatten".

According to the author, even he had decided that he would not write on Manmohan Singh but Chiki Sarkar and Kamini Mahadevan of Penguin books made him change his mind and also because he

was sad that Manmohan Singh was being ridiculed during his stay in UPA II and he wanted to bring in the correct perspective. A political leader should either be admired or hated but not be an object of ridicule.

When Dr. Manmohan Singh became Prime Minister it was a job he did not seek nor did he get elected to—it was indeed a sheer accident, but there was so much hope and admiration for the man. A man with a unique combination of personal integrity, administrative experience, international stature and political appeal across a wide swath of public opinion. There was hope for governance. In June 2004, the prime Minister said “no objective in this development agenda can be met if we do not reform the instrument with which we have to work, namely the government and the public institutions. Clearly this will be my concern and challenge in the days to come”. But this was not to be and this failure to act on this assurance remained a major weakness of UPA I. No major reforms in administration or governance were effected even though Veerappa Moily produced voluminous reports but there was very little follow up.

The book is not a biography but it does cover and well, the period when Dr. Manmohan Singh was Finance Minister, while other events of his life get mentioned only in passing. The author also gives a peep into the working of the PMO and about the trio J N Dixit TKA Nair and M K Narayanan—all three jobs done at one stage done by one person, Brajesh Mishra, when he was with Atal Bihari Vajpayee. Sanjaya Baru was Dr Manmohan Singh’s eyes and ears in the PMO and an admirer. He clearly brings out that Dr. Manmohan Singh was the architect of UPA’s electoral victory in 2009—but he was not given the credit. While his first term may have been by accident, the second time was not so but it was in the second term that he failed to achieve anything significant. Singh was king and his popularity surged when he fought for the nuclear deal, however he failed to cash in. Dr. Manmohan Singh is the only Indian Prime Minister not from the Nehru –Gandhi family to have served this long and as he said himself, perhaps history will be kinder to him than contemporary commentators.

MAHESH KAPOOR

BOOK REVIEW

National Security and Intelligence Management- A new paradigm

Vappala Balachandran

Indus Source Books

PP 331 Rs.895

ISBN 97881-88569-502

As It is quite difficult to find a volume on the obtuse subject of National security that is also eminently readable. This book by my senior colleague Balachandran is one of such rare books. In this book, he interweaves his experiences as a practicing security man and a keen observer of current affairs to make propositions on how to view security situations. Needless to say, the propositions he advocates are deeply insightful.

The most remarkable feature of this book is that it covers most of the important aspects of National Security with special emphasis on Intelligence Management, which is Balachandran's forte. He exhibits great professional expertise in this regard. He has also dealt with some other related and relevant issues like terrorism including Left Wing Extremism, police functioning in States and a few issues of foreign policy etc. This book is a store house of information and contains valuable details about incidents and developments relating to security issues of a few important countries. He has made efforts to relate it to happenings in India. His analysis of States' attitude towards National Security matters and comparison of functioning of our intelligence agencies with similar agencies of other Countries especially USA is very relevant and deserves attention of those who are concerned. A huge change is required both in our attitude and approach to this critical issue.

I entirely agree with the author that the central Government should not leave the entire responsibility of Internal Security to the states on the plea that 'Law& Order' and 'Police' are subjects of State List. The present situation requires more direct involvement

of the Central government and there are enough constitutional provisions which empower the Central government to take the required effective initiatives (Art 355 of the Constitution and other relevant articles). Both Sarkaria and Punchi Commissions have specifically discussed this issue.

The Group of Ministers (GOM) in Feb 2001, had also made important recommendations in this regard. I was Secretary Internal Security in the Ministry of Home Affairs (MHA) at that time. But neither the then NDA nor the UPA, which succeeded it, took any further action in this matter. Balachandaran has very aptly observed that initially our approach towards National Security Council (NSC) was quite casual as the then Principal Secretary to the PM was also working as part time National Security Advisor (NSA). The genesis of creation of NSA was to meet the requirement of intelligence integration and strategic assessment. I agree that the US model of NSC is not workable in India due to differences in our Constitutional Structure. I also agree with the author that our intelligence gathering process has an infirmity due to the absence of an institutional mechanism for oversight and performance review, which is a must in a democracy for ensuring accountability & protecting them from the vagaries of political shifts. The recommendations at the end of chapter 4 (section I) are important. However I do not totally agree with the author that clear cut and non overlapping charters should be prepared for different intelligence agencies as they have been by and large functioning quite well for a long period without it. Their nature of work also does not gel well with any defined charter of functions.

While dealing with 'Intelligence Management' he talks about the concept of 'Intelligence Cycle' especially about the importance of intelligence arbitration by a moderating agency, which is required to reconcile the information received from different agencies and fill in the gaps. He gives the example of Kargil attack, which according to him was mainly due to the absence of a proper strategic assessment for the decision makers by the then NSC, and not due to intelligence failure as concluded by the Kargil Review Committee. I think he

has a valid point. He has also mentioned that the then R&AW Chief agreed with him.

The author has made a very interesting observation that our intelligence agencies observe needless secrecy even about non sensitive subjects and mentions about the practice existing in US which is a refreshing contrast. The CIA releases non operational details officially. The press, law makers and other people, who are denied information even on non sensitive issues, adopt a hostile attitude which affects the credibility of these agencies. The author has also very correctly observed that technical intelligence itself without human ministrations does not provide actionable intelligence. I appreciate some practical measures he has suggested towards the end of chapter 13 to fill the gaps in our intelligence framework and to make it more effective and actionable. His suggestion, that 'professional enquires' should always be conducted in all national security incidents to avoid further mistakes and for systematic improvement, cannot be disputed.

While talking of police in India the author has very rightly observed that rationalizing of police working in India has not been given priority, but I do not agree with his observations that strength of police force should not be increased as it creates problems of 'Command & Control and 'Shortage of Housing for Men'. The suggestion regarding creation of a 'federal police force' for handling interstate crimes, terrorism and other transnational criminal activities is no doubt a genuine need, but it was not acceptable to Chief Ministers of various states in spite of recommendations of GOM in 2001.

Emphasis on "Community Policing" during which he has quoted some exemplary experiments undertaken by different state police organizations deserve special attention of the state police leaders. If police officers reach out to the underprivileged, it will reduce the trust deficit and bring transparency in police functioning. He has very correctly talked about the reorientation of their attitude. The experiment carried out by the British Government of appointing 'Police and Crime Commissioner' for each police area

through elections deserve consideration. It brings accountability and connects police with the people. He has also mentioned the concept of 'Public Approval' of police actions which in my view, is the key to ensure efficient policing and increases the level of 'Public Satisfaction'. He has rightly criticized the gradual transfer of control over police force from its top leadership ie. DGP to Home Secretary.

However his view that the Delhi Police should be accountable to the Chief Minister is probably a hurried conclusion without appreciating the problems that may arise in handling 'Law & Order' in the National Capital, which is a Union Territory. A local government belonging to a different political party can create very embarrassing situation for Government of India e.g. overnight dharna at Rail Bhawan crossing, by the then CM Delhi caused a lot of embarrassment to the Government and created serious security concerns for the local police, as it happened in the week preceding Republic Day.

He has made thorough and critical analysis of problem of terrorism, especially Naxalite menace. It is true that the problem of Left Wing Extremism assumed gigantic proportions because there was no national consensus on how to tackle it. It also lacked intelligence integration. His observation in chapter 53, that we do not know what the exact roles of the NSC or NSA are, vis-a-vis that of the Ministry of Home affairs with regards to Internal Security deserve serious and immediate attention.

Since this book is compilation of the authors' published articles and lectures spread over a period of almost 15 years, it suffers from inherent shortcoming i.e it does not provide a holistic view of issues covered in the book.

Balachandran deserves special compliment for writing 2 pieces (chapter 12&26) about the contribution made by R.N. Kao and N.F. Santook. He has also mentioned about certain officers who have set examples by their ethical conduct and initiatives in the area of community policing. I am simply amazed to see the commitment

and sustained interest towards National Security. He certainly has a remarkable memory. Most of the articles in this book have been written over a fifteen years following his retirement, which speaks volumes for his perseverance.

MUKUND B KAUSHAL

MAIL BOX

1. Vol. 8 makes a interesting and insightful reading. I take this opportunity to convey my best wishes to the Editorial Board of the IC Centre for Governance.

Mukul Kasliwal
Chairman
MW Corp Ltd.

2. Thank you for giving us copies of The Journal of Governance (and other publications). This will help the Library of Congress develop its outstanding India collection.

ATISH CHATTERJEE
Chief, Acquisitions Division, Library of Congress

3. As always it makes for an excellent reading.

B Muthuraman
Vice Chairman
Tata Steel Limited

4. It is a very informative publication and I have shared the articles with my colleagues.

K S Sachidananda Murthy
Resident Editor
THE WEEK

5. I have read the articles in the Journal and found them very informative and relevant. The Civil Service is at the cross roads today and it is high time that all the stakeholders introspect on the various problems that confront it. The Civil Service feels that it has been let down by the political masters who, on the hand feel that the Civil Service is unresponsive to the needs of the people, very rigid in its outlook and bureaucratic in its approach. There is the widespread impression that the Civil Service lacks in resilience and does not radiate the dynamism that is necessary smoothly and efficiently. Its neutrality and integrity have been put to a very severe test in recent times. The public perception

of the Civil Service among the public is none too favorable. Any discussion on the Civil Service has to take into account the various facets outlined above. I have looked at the Journal in the light of this background and have the following comments to offer.

The articles, no doubt cover many of the aspects referred to above. They have highlighted issues such as ethic and standards in governance, trust and governance, and protection of civil service in the light of the recent judgment of the Supreme Court. The problems of the bureaucracy for which the bureaucracy itself can be blamed to a large extent are highlighted, stressing the need for some “soul searching”. The paramount need for restricting the framework of governance in the light of the policies initiated in the decade of the nineties of the previous century, depoliticizing the bureaucracy, and introduction of new methods of appraisal has also been rightly privatization, outsourcing and decentralization of power, and new initiatives based on introduction of reforms and induction of technology also find their place. In other words, the multifaceted problems the Civil Service has to face and the multi-dimensional role necessitated by the former have been correctly projected.

- The Journal does well in highlighting the above and also the following:-
- The shortcomings of the civil service have been pointed out, but the civil service has not been totally condemned. This indicates a balanced approach.
- The Govt. is not overstaffed. Reorientation and redeployment of the workforce; creation of a multi-skilled workforce reengineering, etc., are rightly stressed
- The need to implement the recent judgment of the Supreme Court.
- The need for restoring the trust between the political executive and the bureaucracy.

The necessity to avoid the pitfalls in the light of the experience gained in introduction of economic reforms in other countries.

However, having said so, let me also state that the following issues also need to be highlighted more prominent in a journal of this kind.

The response of the civil service to the Right to Information Act. Shri Fareed Zakaria in his book on The Future of Freedom has highlighted the dangers of stressing transparency beyond a point. He has cited concrete instances in the U . S . A to illustrate the point.

Administrators seem to be forgetting the importance of administrative law. That is why the courts are coming down heavily on the decisions taken by the Executive.

The policy of economic reforms assumes a greater role for the private sector. This in turn requires new skills among the bureaucrats, collaborative skills for fostering Public Private Partnerships.. There could be a detailed article on this only.

Decentralization of power will continue to be a mere myth unless proactive steps are taken for enhancing the capacities of personnel at all levels of the three tier system. A detailed evaluation of the effort s made so far is called for.

- The need for a skilled work force in government has been stressed. However, in a fast changing economy in which the contribution made by the agricultural sector is on the decline, the acquisition of new skills by labour in various sectors assumes paramount importance. Reskilling of the work force is not taking place to the requisite extent at a time when the workforce is getting increasingly deskilled in many sectors due to structural changes in the economy. The civil service has to play positive role here too.
- The Centre for Governance I thought could concentrate on these and other issue of vital importance to the nation by publishing articles which deal specifically with them. This is however not to deny the merit of the Journal. I enjoyed reading the same.

A V GOKAK
Bangalore

OUR CONTRIBUTORS

VAPPALA BALACHANDRAN is a former Indian Police Service officer who served 17 years in Maharashtra State and 19 years in foreign intelligence. He retired as Special Secretary, Cabinet Secretariat, Government of India in 1995. He writes a weekly column “Police & State” in “Sunday Guardian” New Delhi, Chandigarh & Mumbai and also a fortnightly column in “The Citizen” India’s first on-line daily. His book “National Security and Intelligence Management-A new Paradigm” was released in March 2014.

PS BAWA joined the Indian Police Service in 1964 after spending three years in the Rajasthan Administrative Service. He retired as Director General of Police in 1997. And became member of the Delhi Prison Reform Committee. Presently he is the chairman, Transparency International India.

B K CHATURVEDI is presently member, Planning Commission and was earlier Cabinet Secretary. After his Masters from Allahabad University, he studied Public Administration at Manchester University, U.K (1976), Worked as head of the National Crisis management Committee and handled two major national disasters: the Tsunami and the Jammu & Kashmir Earthquake. Has been awarded the Padma Bhushan.

VINITA CHOPRA is retired from the post of Director General of Income Tax in August, 2009. Bachelor of Architecture and Master’s Diploma in Public Administration. Have written book both in fiction and non-fiction categories. Few books are -They May Catch You , Besides the Side Effects.

J S DEEPAK is an Indian Administrative Service (IAS) officer of 1982 batch of UP cadre presently serving as Additional Secretary, Department of Commerce, Government of India. Deepak holds an MBA degree from Indian Institute of Management (IIM), Ahmedabad in 1982 and has also completed the advanced course in

Health Communication from Johns Hopkins University, Baltimore, USA in 1995.

ANAND GUPTA A Ph.D. in Economics, University of Florida . have served as Professor of Economics and Chairman of the Economics Area at the prestigious Indian Institute of Management, Ahmedabad (IIMA). Currently, I am Director, Economic Management Institute, New Delhi, and Member, Core Group, IC Centre for Governance, New Delhi. have authored many publications, including: "Improving the Efficiency and Effectiveness of Public Expenditures", The Journal of Governance, Volume 9, July 2014 (forthcoming); and "Evaluation of Governance: A Study of the Government of India's Outcome Budget", Journal of Development Effectiveness, Volume 2, Number 4, December 2010 (which is amongst the Journal's "most read" (downloaded) papers).

PRABHAT KUMAR was a former Cabinet Secretary and Governor of Jharkhand. Presently, President of IC Centre for Governance, New Delhi. Has did his Masters in Physics, Mathematics and Economics.

SURESH PRABHU Have been a Member of Parliament (India) in the 11th, 12th, 13th and 14th Lok Sabha (from 1996-2009), with an indelible mark on the Indian politics and reputation of a performing minister. An Ex Federal Cabinet Minister of Industry, Energy, Environment and Forests, Chemicals and Fertilizers, Heavy Industry & Public Enterprises. Bachelor of Commerce (Hons) from Mumbai University, Mumbai

ALOK SINHA- An IAS of 1973 -UP Cadre, retired as Secretary to Govt. of India. He has served various important position like Chairman & Managing Director of Food Corporation of India, Principal Secretary to Govt. of UP in the Public Works Deptt. And Chairman of the UP Bridge Corporation. A MA in history from St Stephen College, Delhi.

BRIJ K TAIMNI has done a Master's in Economics before joining the IAS Madhya Pradesh Cadre where he worked in several

departments including Food and Agriculture. He was Secretary in the Ministry of Food and Civil supplies at the Centre. Authored a book 'Agriculture in 21st Century Perspective and Vision'. Was a member of the National Consumer Disputes Redressal Committee.

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Chairman, Asian Institute of Transport Development

Shri N. Vittal
Former Central Vigilance Commissioner

Shri Shanti Narain
Former Member, Traffic Railway Board

Contributors

Suresh Prabhu • Anand Gupta • Vappala Balachandran

P S Bawa • Prabhat Kumar • Vinita Chopra • B K Chaturvedi

B K Taimni • J S Deepak • A P Saxena • Alok Sinha

Mahesh Kapoor • M B Kaushal

IC CENTRE FOR GOVERNANCE

Niryat Bhawan, Rao Tula Ram Marg, New Delhi-110057

Telefax: 91-11-26146236/40809939

E-mail: iccfg@yahoo.co.in • Website: www.iccfg.org