

Integrity and Ethics in the Civil Service

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In order to understand the topic of this paper perhaps it would be best to have clearly before us the definition of the issues we are addressing. For this purpose resort was had to the new Oxford Dictionary of English. There are four words whose definition I sought and they are ethics, integrity, honest and moral. The dictionary definitions are as under:

- Ethics – Moral principles that govern a person’s behaviour or the conduct of an activity.
- Integrity – The quality of being honest and having strong moral principles
- Honest – Free of deceit and untruthfulness; sincere
- Moral – Concerned with the principles of right and wrong behaviour

It might be noticed that none of these four words mention legal, lawful, according to rules, etc. All four relate to a person’s own principles, his respect for truth and his own innate judgment of his own conduct which keeps him on the path of right behaviour. He is expected to do this regardless of what the law says, out of his own conviction and free of the pressure of either his peers or his superiors watching him and then pulling him up for wrongful behaviour. Ethics and integrity, therefore, have to come from within and cannot be superimposed. To help a person to behave ethically we have laws, codes of conduct, systems of checks and a standard of what is acceptable to society, but these by themselves cannot create morality, uprightness, honesty or ethical behaviour. That has to come from within the individual.

In discovering ethics where does the theory of the Social Contract, whether as enunciated by Thomas Hobbes or proclaimed by Jean-Jacques Rousseau, stand? Is man by nature ethical or do circumstances make him ethical? Hobbes had a very poor opinion of the state of nature. According to Hobbes unless there was a coercive power to ensure the basic security upon which political, sociable, civilised life depends, there would be, “... no place for Industry...; no Navigation...; no Arts; no Letters; and which is worst of all, *continually feare*, and danger of violent death; And the life of man, solitary, *poore*, nasty, brutish, and short”. In other words, without strong government there would be virtually the law of the jungle and life would be worthless.

Rousseau, on the other hand, was a humanist. He recognised that man was no longer living in an absolute state of nature and, therefore, we do need civil society in order to create a social contract. This is how he puts it, “The passage from the state of nature to the civil state produces a very remarkable change in man, by substituting justice for instinct in his conduct and giving his actions the morality they had formerly lacked. Then only, when the voice of duty takes the place of physical impulses and right of appetite, does man, who so far had concerned only himself, find that he is forced to act on different principles and to consult his reason before listening to his inclinations”. (Discourses on the Arts and Sciences). This is followed up by his most famous pronouncement as given in his article, Discourse on Political Economy. The opening lines of the treatise are, “Man is born free and everywhere he is in chains. Those who think themselves the masters of others are indeed greater slaves than

they”. Rousseau was the philosopher of the democratic state and Hobbes of the authoritarian state. In both, however, there is an underlying streak of similarity in that both recognise that orderliness in society is vital and the bounds which, by giving freedom of action and thought, also prescribe the limits whereby the exercise of one man’s freedom does not impinge on the freedom of someone else, are of the essence. This, then, is the real social contract and in a democracy this is the contract according to which the State must exist and its servants must function. In other words, together with ethics which guide the conduct of every civil servant there is also the social contract which binds civil society, of which the officials are both the servants and functionaries.

In 1957, that is, just ten years after India became independent I joined the Indian Administrative Service and became both a part of civil society and a functionary whose job was to ensure that society remained civil. If we adopt the *reductio ad absurdum* method of deducing what is expected of a civil servant we would come to the following conclusions.

- An unrepentant and unreformed criminal cannot provide us with a crime free society.
- We must have the Magistracy and the Police to ensure law and order, prevent, detect and prosecute crimes and to create an environment of security in which citizens can go about their lawful business peacefully.
- If a criminal cannot ensure law and order and freedom from crime and this duty devolves on the Police, then by definition the Police has to be a servant of the law and because most laws are based on sound moral principles, a policeman cannot afford to behave dishonestly, immorally, without integrity and ethics which, therefore, are built into the police and into every individual policeman. Ethics and integrity, therefore, should be as natural to a policeman as is breathing.
- A democratic state is required to function justly and to ensure to its citizens good government, equal protection of laws and to establish a social order which promotes their welfare. The Preamble to the Constitution which states that the republic will provide social, economic and political justice, the liberty of thought, expression, belief, faith and worship, equality of status and opportunity and promote fraternity mandates that the State and its functionaries will act with integrity and ethics because a dishonest or unethical State or civil servant cannot promote any of the basic principles laid down in the Preamble. Article 14 mandates equality before law and equal protection of laws within the territory of India. This equality is not restricted to Indian citizens only and would be enjoyed by every single person residing within the territory of India. How can an unethical State functionary ensure equality? Article 38 of the Constitution requires the State to secure a social order for the promotion of welfare of the people. Immoral behaviour by public servants will invariably be inimical to the welfare of the people and, therefore, Article 38 makes it mandatory for public servants to behave ethically. I have referred to these three provisions of the Constitution specially because according to me the Constitution demands that there will be ethical behaviour and total integrity on the part of public servants.

The scheme of government in India is that the Constitution provides for separation of the three constituents of the Indian State, the Executive, the Legislature and the Judiciary. These

organs do not operate in a vacuum or in watertight compartments and obviously there is interaction at different levels. However, this is not an essay on separation of powers and I shall leave aside that argument here. The organ of the State which interacts on a day-to-day basis with the citizens is the Executive. There is the President in whom all executive powers vest, but who is required to exercise this power through officers subordinate to him and, in exercising these powers, he is constitutionally required to go by the aid and advice of the Council of Ministers. The Council of Ministers consists of Members of Parliament appointed by the President on the advice of the Prime Minister and constitutionally the Council is collectively responsible to the House of the People. India being a representative democracy, Parliament represents all the people of India and because the Council of Ministers is accountable to the House of the People its members are, through Parliament, accountable to all the citizens of India. In other words, the Ministers, too, are bound to respect the social contract in which civil society appoints them and they, in turn, serve the civil society with integrity. The civil servants, who help the President to exercise executive power on the aid and advice of the Council of Ministers, are also expected to adhere to the same code of ethics and of integrity as would be applicable to a Minister, only more so. The Council takes policy decisions on the basis of the mandate of the electorate, the ideology of the party to which its member belongs and the programme given by the party in its manifesto at the time of the election, subject to such decisions being within the framework of law. There will be political bias in such decision making, but that has to terminate at the level of policy. Implementation is the responsibility of the civil servants and they are totally precluded from allowing any political bias to qualify their judgement when implementing policy. Article 14 of the Constitution specifically prohibits civil servants from denying equality to any citizen and, therefore, in implementation of policy the civil servant is required to be totally fair and without prejudice. He will be guided by the policy, by the law, by the rules and by his much higher accountability to the principles of integrity and ethical behaviour.

I served the Indian Administrative Service for twenty-eight years and I left eight years before my date of superannuation. I left the Service on an issue where I totally disagreed with the Chief Minister because I was convinced that he wanted me to do something which was contrary to law and I, therefore, appreciate the kind of pressure put on civil servants to do things which a politician feels would be beneficial to him, even though it is ethically wrong and legally untenable. After all we are living in an environment in which after 1967 defections were engineered through bribery in order to gain power. This has corrupted our polity almost beyond repair, in which the politician tries to subvert the State in order to get the money to buy and retain power and, for this purpose, to tame the civil servants first into submission and then into acting as the provider of illicit funds. Civil servants who resist this are side-tracked, browbeaten, humiliated and worse and it becomes difficult for them to resist or to follow a higher code of ethics. Many civil servants have succumbed and there are several who have both become willing partners and the instigators of corrupt practices which would benefit both the politician and the civil servant. This is in an unenviable situation for civil servants who are under pressure to do things which are neither honest nor ethical. Prior to 1967 it was easy for us to practise both honesty and ethics because the politicians would not pressurise us to do something which they knew we would not do and had they done so, we ourselves would reject that which was unacceptable. After 1967 the politician has not listened to either to the voice of reason or to the voice of morality. Does that release civil servants from their bounden duty to follow the principles of integrity and ethics?

When I am in doubt I refer to the Constitution, a practice I would commend to all civil servants. Because Articles 53 and 154 vest the executive power of the Union and the States in the President and the Governor respectively, because the power is required to be exercised by the officers subordinate to the President or the Governor and because these officers together constitute the Civil Service, the Executive is divided into two equal parts. The first consists of the Council of Ministers who are elected members of the Legislature and on whose aid and advice the President or Governor would be required to take executive decisions. This part of the Executive, the Council of Ministers, would be the elected executive. Because the elected Executive is required to function through civil servants the Civil Service would be the permanent part of the Executive. This part of the Executive does not exist at the mercy of the political executive. Part XIV of the Constitution provides for the Civil Services, including recruitment through the Public Service Commission, guarantees against arbitrariness under Article 311 and the very special provisions under Article 312 for All India Services appointed by the President, under the ultimate rule making control of the Central Government but constituted into State Cadres for serving both the Centre and the State at senior levels. The permanent part of the Executive, therefore, has an independent existence under constitutional guarantee and, therefore, the Civil Service is not permitted to quote the orders of superiors as an excuse for wrongdoing. After Second World War during the Nuremberg Trials the War Crimes Tribunal ruled that there was a higher ethical responsibility which required public servants to disobey orders which were crimes against humanity and, therefore, the orders of superiors could not be offered as justification for war crimes. This principle is actually enshrined in our Constitution because it is the only Constitution in the world which provides this kind of protection to the Civil Service. No other Constitution has the equivalent of Article 311, which provides almost total immunity against arbitrary behaviour of the political executive. The Civil Services in India can never be forgiven for unethical behaviour or for deviation from integrity because the constitutional guarantees presuppose that they will be honest. If they are not they cannot expect constitutional protection.

How has the system actually functioned? By and large where the Congress or the BJP have ruled or where the Left Front has been in power, the Civil Services have been under pressure but not of the type which would break their morale. Where governments have fallen through defection and where regional parties have ruled, the Civil Services have been under immense pressure, partially because politicians are corrupt and partially because they need to corrupt other politicians so that they themselves can retain power. There has also been an attempt to marginalise the Civil Service, not through legal devolution of powers to local government but through a method of working whereby the civil servants are humiliated, muzzled and prevented from doing their duty impartially. Because civil servants themselves are human many have succumbed to pressure, in clear violation of their duty under the Constitution and their accountability to a much higher code of integrity and ethical behaviour. The worst culprits are the All India Services which, despite the escape route available to them of central deputation or the ultimate protection of the Central government, have gone along with politicians who practise a very low kind of politics. How can such officials ever be forgiven? My personal view is that the All India Services have sunk to such a depth that we need drastic action in order to bring them back on the rails. I have expressed the view more than once that we need to publicly hang ten percent of the most corrupt IAS and IPS officers and dismiss another fifty percent of those who do not enjoy a well earned reputation for integrity.

This would leave behind a Spartan elite who would together constitute the best Civil Service in the world. Somebody cynically pointed out to me that considering how the system works in India we would probably hang ten percent of the innocent, dismiss another fifty percent who are honest and what would be left would be a group of criminals who would govern this country. The fact remains, however, that laws, rules, the Constitution, peer pressure, fear of punishment apart, the Civil Service has to remind itself whether integrity and ethics should not govern its behaviour. Being ethical sometimes brings unpleasant moments, but the sheer sense of satisfaction and pride one gets on gaining a public reputation for integrity is compensation enough.

Perhaps I have excessively emphasised the negative aspects of integrity and ethics. There is a very positive side to it also. An officer's reputation is made in the first two years of service. If he shows himself to be keen to learn the nuts and bolts of his job, if he insists from the beginning on living within his means and not taking the petty favours that almost automatically come to government officers, if he is open and available to people, he is at all times polite but firm and if his attitude is one of helping people rather than obstructing them, he will be respected by the people. If he is even handed he will be looked upon as just. If he refuses to be swayed from the path of correctness politicians will also begin to respect him. They may not like him but they would also know that they cannot pressurise him. Every politician is not bad and since they all have to depend on grass-root support most of them do speak for their constituency and have a right to be heard positively. Let me give an example. In Ujjain where I was Collector forty-seven years ago, we had the only CPI (M) MLA in Madhya Pradesh, Bhairav Bharti. He was in opposition, he could be awkward and difficult, but he was dead honest and he knew his constituency like the back of his hand. Despite being a gadfly for the administration I liked him and we had a cordial relationship. One day he came to me to report that there had been an incident in his village, Bhatisuda, in which nine people had been killed and sixteen were arrested. He wanted me to do something to restore normalcy. The next day I went to Bhatisuda with Bhairav Bharti and could sense the tense environment. I went to the site of the incident, which was some fields almost on the village boundary. It seems that the cattle of one party would go along the field bunds of the other party's land in order to reach a pasture on the village boundary. The field owners objected to this because they felt that the cattle caused damage to the crops. The *wajib-ul-arz*, or the record of customary rights of the villagers, permitted people to use field bunds to move around. Therefore, when the field owners stopped the movement of cattle the cattle owners became annoyed, a fracas developed and nine of the field owners were killed. Sixteen of the cattle owners were in custody on a murder charge. I asked the villagers whether anyone could object to cattle coming up to where we stood and they said that because this is a village road no one could object. When I asked whether there would be any objection if the village road went up to the pasture at the village boundary they said that this was perfectly in order because anyone could use a public road. I then ordered the Patwari to measure off a twenty feet width of land up to the village boundary and directed that the land stood acquired by the State. I then told the cattle owners to pay as compensation an amount, fixed by me, then and there to the field owners whose land was being converted into a public road. This was done, the land records were amended and the cause of the quarrel eliminated. Suddenly the environment changed and Bhairav Bharti told me that I could not leave the village till I feasted with everyone and that so long as I headed the district he would never oppose me. He kept his word. I also persuaded the police to reduce the charge from murder to culpable

homicide not amounting to murder, which meant that the arrested person could be bailed out by the Court of Session. Bhairav Bharti became a friend for life.

Another example is of the then Chief Minister, Shyama Charan Shukla, wanting to extend nistar facilities (timber, bamboo, etc. given to villagers virtually free of cost as a matter of right) to the villagers in seventeen non forest districts where they were not so entitled. Because this would benefit the farmers I readily agreed in my capacity as Secretary of the Environment Group of Departments, which included Forests. He asked me how soon we could start supplying forest produce to these districts and I told him that our first lorries could move the next morning. It was my duty to implement this pro people policy of the Chief Minister and our first vehicles left our forest depots with material for these seventeen districts the next morning. I then sent a note to the Chief Minister through the Chief Secretary stating what action I had taken and requesting an appropriate change in the Nistar policy which would extend Nistar facilities to non forest districts, asking for a contingency fund advance of rupees five cores to cover initial costs and submitting that I could not immediately give a budget estimate for supplementary grants because that had to be worked out and that all this was being done without consulting the Finance Department. The Chief Secretary recommended my suspension for violating every norm of financial and official propriety and procedure. The file returned from the Chief Minister with the following remarks; "There is no question of suspending Buch for the initiative shown by him. In fact I want this file to be circulated to all Secretaries as a model of how a Secretary to Government should implement the welfare oriented orders of the Chief Minister. The Nistar policy is hereby amended as required by Buch, the contingency fund advance of rupees five crores is sanctioned, the Forest Department may submit a proposal for a supplementary grant in due course and all this is done in anticipation of orders in council". I mention this case as a pointer to how a civil servant should work to promote welfare. Had Shyama Charan Shukla asked me to give a businessman or industrialist free timber I would not have obeyed him even if he had hung himself upside down. A civil servant, whilst adhering to the highest code of integrity and ethics, must still rapidly implement a welfare policy and not act as an obstructionist. Obstructionism is itself a deviation from both integrity and ethics because it prevents government from performing its primary task of delivering welfare to the people. Ultimately integrity, ethics, decisiveness all come from motivation and if an officer is correctly motivated to serve the people, then he is bound to be honest and ethical.

Let me end with a story. I spent the whole of 1980 without a post in Delhi after I had been thrown out of DDA. I very often went to the India International Centre, a haven for people such as I who had temporarily fallen foul of government and desperately needed a place where one could think, discuss and write. I had illustrious companions such as Ved Marwah, Jagdish Jetli and Hari Pillai for company. One day I had walked to the Centre from my house in Teen Murti Lane and when I came out of the library to walk back home I found it was raining. At the gate was a Sikh auto rickshaw driver who agreed to take me home. He did not ask for and I did not tell him my destination but he still took me home to 18, Teen Murti Lane. He then refused to accept any fare from me. On being asked why he said, "You do not remember me but I had come to see you in DDA. I had registered for a house which I should have been allotted years ago but despite my wearing out several pairs of shoes I got no remedy. One day I came to Vikas Minar and found no guards, no security personnel. I entered the office building and asked someone where I could meet the Head. I was told to go to the fifth floor and your name plate was at the door. I asked the orderly how I could meet

you and to my surprise he told me to open the door and walk in. You were doing some work and asked me to sit down. After you finished the file you asked me my problem. I, a mere auto rickshaw driver, was not only heard but the Housing Commissioner was sent for and two hours later I walked out with my allotment order and my occupation order. I can never forget my debt of gratitude to you and will never take any fare from you". What had I actually done for this man except to hear him and give him what was due to him? His accolade was my Bharat Ratna. I narrate this story because if civil servants follow the path of integrity and ethics each one of them would earn a similar Bharat Ratna.
