

## Citizen, State and the Bureaucracy

*Dr Jayaprakash Narayan\**

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Over a quarter century ago, Sir Douglas Wass, in his Reith Memorial Lecture Series of BBC, argued that a permanent civil service is vital to reconcile the conflict between the short term political price an elected government is forced to pay, and the slow rate of social pay off in adopting sound public policies. As a budding civil servant, that argument made a profound impression on my mind.

Today, with the benefit of the hindsight, that argument seems to be increasingly implausible in the Indian context. Dispassionate examination of our record shows that the civil service could not promote long terms public good. We are in a dire predicament: the Weberian concept of rational-legal bureaucracy applying laws and rules uniformly without fear or favour has not actually been realized; the Wass argument of the civil service being the custodian of the long term public good acting as a countervailing force to the short term political compulsions has been belied; and the functional efficiency and professional competence a society needs and expects of a meritocratic, politically neutral, trained civil service have not been achieved.

This analysis would seem to be, and indeed is, a very harsh indictment of the Indian bureaucracy. After all, a civilized society needs a functioning government. A democratic state needs a professional bureaucracy to execute the policies and programmes of the elected government. Despite great obstacles, the Indian bureaucracy served us well in many respects. The nation-state overcame the trauma and mayhem of partition, a large number of princely states were effortlessly integrated, the Constitutional instruments and practices have been institutionalized, election are held regularly and reasonably well, the nation remains united and democracy endures, moderate progress has been made in achieving national goals, a steel-frame and a labyrinth of bureaucracy exists as the basic skeleton of the state, the 'functioning anarchy' has not descended into dysfunctional anarchy, and India remains the only multi-ethnic, multi-lingual, diverse, federal, free nation-state that is thriving.

And yet the approach paper of the Second Administrative Reforms Commission concedes: "There is increasing lawlessness in several pockets of the country and armed groups are resorting to violence with impunity for sectarian and ideological reasons. The state apparatus is generally perceived to be largely inefficient with most functionaries serving no useful purpose. The bureaucracy is generally seen to be tardy, inefficient and unresponsive. Corruption is all-pervasive, eating into

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\* The author is the founder and President of Lok Satta Party – new politics for the new generation;  
Email: [loksatta@satyam.net.in](mailto:loksatta@satyam.net.in); [info@loksattaparty.com](mailto:info@loksattaparty.com); Url: [www.loksatta.org](http://www.loksatta.org); Tel: 91-40-23231818

the vitals of our system, undermining economic growth, distorting competition and disproportionately hurting the poor and marginalized citizens. Criminalization of politics continues unchecked, with money and muscle power playing a large role in elections. In general there is a high degree of volatility in society on account of unfulfilled expectations and poor delivery (sic). Abuse of authority at all levels in all organs of state has become the bane of our democracy.”

And yet, as the approach paper points out, “we have an impressive administrative infrastructure and it responds well when objectives are clearly defined, resources are made available and accountability is surely enforced.” The glass is clearly half-full. The truth as always, lies in the middle. Our bureaucracy has impressive achievements to its credit, and yet it failed miserably in several respects.

Let me state a hypothesis before going into a more detailed analysis of the problems, or outlining some of the key solutions to our predicament. My hypothesis has three components. First, over-expectation from bureaucracy and delegitimization and decline of political leadership are at the root of the problem. Second, objectives, resources, authority and accountability must all be attuned to yield results and promote public good; mere platitudes and ham-handed efforts will end in failure. Third, a bureaucracy becomes self-serving, inept and dysfunctional unless the citizen is empowered through local governments and the state is reorganized on the principle of subsidiarity.

The myth of omnipotence of bureaucracy has been perpetuated at least in the early decades of independence for several reasons – the institutional power and prestige of the ICS and its successor, the IAS, the phenomenal success of nation-building in the early years after freedom; and the misplaced state control and patronage regime created in the license-permit raj in the name of socialism. The successes of visionary leadership in integration of princely states and preserving stability and order are attributed to the bureaucracy, little realizing that the horse is only as good as the rider. The license-control raj reversed the roles – the citizen became a mendicant seeking favours and patronage, the public servant became the master, the ‘mai-bap’ and the benefactor distributing doles. All these, coupled with state control of the economy led to a phenomenal scramble for public employment and bureaucratic positions. An economy of scarcity, state monopoly and control, centralization of power, political domination of a single party, failure to promote enlightened citizenship – all these led to pervasive corruption. As Robert Wade pointed out, ‘a well-developed market for public office’ came into existence. The political process inevitably declined in some respects as wrong incentives crept in. Democratic participation widened and power is shared by more sections of the population. But simultaneously politics became a source of private gain, and the business-entrepreneurial approach came into prominence in our political process. As politics is deligitimized, people have been looking for solutions from other institutions –

bureaucracy, judiciary, media, NGOs, and so on. The hard lesson that society is learning only now is that bureaucracy or judiciary or media or NGOs can be no substitute to sound, inclusive and ethical political process and vigorous and enlightened political leadership. Our search for solutions and leadership in non-political institutions to overcome the damage inflicted by failed politics is bound to be futile. Bureaucracy has a vital role to improve our conditions, but its role is, and has to be, subordinate to political leadership. The real answer lies in political transformation.

The bureaucracy has the pre-eminent role in delivering services, managing resources and implementing laws and policies. But there are preconditions for its success. Strong and visionary political leadership is obviously the first requirement. But even when there is clear political direction, bureaucracy can deliver only if the objectives are clear, resources and authority are adequate, and accountability is swift and effective. Management of elections (the technical part) is a classic example of bureaucratic success in India. While there are innumerable deficiencies in our political process, India held regular, credible elections with great success. How? We created a strong and independent Constitutional authority, the Election Commission. The Commission and its agencies are vested with adequate authority and resources. The whole bureaucracy has one clear, overarching objective during elections. Lines of authority are unambiguous. Accountability is definitive and immediate. Political parties, media and public are vigilant and vociferous. Miraculously, an otherwise corrupt and indifferent machinery delivers! But it is no miracle. Principles of sound management have gone into conduct of elections. In a few other sectors, to a lesser degree, there is such convergence. Disaster management, VIP visits, riot control – these are some of the areas in which our bureaucracy is sure-footed. But the same bureaucracy responds very poorly and harasses the citizens in many other areas: land records, education, healthcare, crime investigation, basic amenities, urban management, rural infrastructure, agricultural extension – the list is endless. We simply do not have the requisite political leadership or the necessary and sufficient conditions for competent and effective delivery of these services.

At the heart of democracy lies the citizen. In the ancient state, the purpose of state was only three fold – defending the realm from external aggression, maintaining internal order, and rendering rough and ready justice. The bureaucracy was limited, and the might of the sword prevailed. In the medieval state, land relations were critical, and slightly larger bureaucracy was necessary in addition to the armed forces. In the modern state, the state's role in creating common infrastructure and services became critical, and bureaucracy's role expanded. In the 20<sup>th</sup> century state, helping the citizen fulfil her potential and eliminating avoidable suffering became the norms of a civilized state. Dignity, opportunity, and justice became the watch words. The role of bureaucracy expanded vastly. But despite democracy, we still have a highly centralized state. For a country of 1.1 billion people, India has possibly the smallest number of final

decision makers in the public realm. The PM-CM-DM syndrome still dominates our psyche and our system. There is a near-complete divorce between the vote and public good as the remote, centralized government has neither the will nor the capacity to address matters of real significance to the citizen – drinking water, sanitation, schooling, healthcare, electricity, roads, transport, agricultural productivity, market linkage, value addition, skill promotion and myriad other needs. The district magistrate has become the embodiment of state power. As a result, the periodic change of governments has not altered the outcomes or quality of services. Politics has become power game, and power became the source of private fortunes. Vote has become a purchasable commodity, or a means of transient assertion without real consequences. Democracy is reduced to electoral competition for power, and elections are about the fortunes of those who are contesting, and not about the citizens and voters. Tax payer has no clue about the utilization of resources, nor any voice in demanding, and role in getting, better services. The remotely controlled bureaucracy is totally unaccountable to the local people it is supposed to serve. With politics becoming commerce, public office is for sale. Public officials are often placed in positions for a price, and they in turn seek 'rent' and extract bribes for myriad services. Except in a few *ad hoc* functions, authority and accountability are delinked. When someone has the notional responsibility to deliver a service, the real 'power' lies elsewhere. A system of alibis has come into being, in which every one can abdicate responsibility with impunity, and the citizens end up suffering. These inevitable consequences of over-centralization have created an unaccountable bureaucracy and corrupt political system, and have enervated and marginalized citizens.

Over the past two decades Indian federalism matured significantly, and there is now a far more balanced Union-States relationship. Gone are the days when the states held periodic conclaves to ventilate their collective grievances against the distant, arbitrary, partisan, all-powerful Union government. Four major shifts resulted in this healthy development. First, thanks to the Supreme Court verdict in the Bommai case, Art 356 of the Constitution became a dead letter, as hoped by Ambedkar. The perpetual fear of dismissal no longer haunts the elected state governments. Second, with economic liberalization, states are no longer dependant on the discretionary power of the Union in locating public sector undertakings, or licensing private industries. They could attract investment and economic activity through their own policies and competition among them, rather than wait for the patronage and favours bestowed by the Union in a command economy and license-permit raj. Third, after the Tenth Finance Commission's report, there is a far more balanced allocation of resources between the Union and States, with all the revenues of the Union treated 'divisible pool'. Fourth, with the end of monopoly of a single political party dominating politics, regional parties came to the fore, and coalition governments became the norm. The Union government and national parties now depend on state governments and regional parties for survival. This tendency has been reinforced by the Tenth Schedule of the Constitution (the 52<sup>nd</sup> and 91<sup>st</sup> Amendments) which made it difficult, if not

virtually impossible, to engineer defections and gain control of state governments.

These significant developments made states far more assured and capable of seizing the initiative. And yet, this shift has not undermined the Union government. True, the Union has to now negotiate deftly with states and utilize its moral authority, power of persuasion, and fiscal carrots to make them agree to pursue desired policies. The agreement on VAT, the implementation of national programmes like Sarva Siksha Abhiyan or National Rural Health Mission are examples of such initiatives. Even more important, with the balance of power shifting in favour of states, the Union's legitimate and strategic role is not diminished. This is one of the silent revolutions in Independent India. Not only has the Union retained the ability to persuade the states to pursue desired, policies, but it has now discovered a far more legitimate and important role. International trade, fiscal and monetary policies, more robust and deft diplomacy, leveraging our growing importance to gain economic and strategic advantage, larger infrastructure projects (like national highways), rise of competition, choice and new modes of regulation to create level playing field and protect consumers (telecom policy and TRAI), newer areas of activity related to emerging technologies (biotechnology, information technology, spectrum allocation) – all these are some of the key areas in which the Union's strategic role is enhanced, not diminished in recent years.

Despite the adoption of the 73<sup>rd</sup> and 74<sup>th</sup> Amendments of the Constitution fifteen years ago with great hope and anticipation, local governments have not taken roots in India. The state governments, legislators and bureaucracy have become the biggest stumbling blocks to local government empowerment. The government in our parliamentary executive system survives with the majority support of legislators. The legislators have by now become disguised executives. Over the past 60 years an unwritten compact has come into operation, making the legislator the *de facto* ruler of his constituency. From a local road and village water supply to the posting of the revenue official and transfer of a police inspector, the legislator usually is the key decision maker. Contract and tenders, transfers of officials, mining leases, filing of a FIR and investigation of an offence, allotment of government land, awarding of liquor or transport licenses – everything is done at the behest of the MLA. As political office has become a source of huge, illgotten income, elections have become extremely costly. It is not uncommon for a candidate for the State Assembly to spend Rs 5 crore or more in Andhra Pradesh and Karnataka. This is 50 times the legal ceiling of expenditure (Rs 10 Lakh). Most of this expenditure is to buy the vote, distribute liquor, hire criminals and musclemen, and organize big jamborees with hired crowds at enormous expense. A single, large public meeting with hired crowds for a major 'leader' may cost as high as Rs 30 crore – 50 core! All this is unaccounted, and such skyrocketing of costs and irrational, illegitimate expenditure radically alters the nature of elections, politics and governance. The MLA who spent vast sums to get elected cannot survive in politics unless he gets

back multiple returns on investment. The whole administrative system is subverted with this single goal of making money while in office.

The bureaucracy became a vital partner in this loot of public exchequer, extortionary corruption, collusion in public procurement, perversion of rule of law and abuse of authority. On occasion there is conflict between the political demands and the bureaucrat's legal-rational approach based on rule of law. Often the bureaucrat pays a modest price of being peremptorily shifted. While the professional damage to the bureaucrat on account of arbitrary and frequent transfers is significant, the damage done to public good by rewarding pliant and corrupt bureaucrats and undermining public morale is incalculable. In extreme cases, the bureaucrat may have to pay the ultimate price and lose life or limb. The brutal murder of an executive engineer in Uttar Pradesh by a legislator and his goons allegedly for refusing to comply with demands for huge bribes in December 2008 is a telling and tragic example of the potential risks faced by a bureaucrat, who does not play by the 'rules' and refuses to 'cooperate'.

But more often, the bureaucrat is a willing accomplice and co-conspirator in corruption and abuse of public office. The MLA-Babu nexus is deeply entrenched, and cliques are formed instantly once a government assumes office. There are very considerable private gains to the bureaucrat by this collusion in the form of prized postings and a share in the loot. In addition, institutional nostalgia and lust for power and prominence that the premier civil services are prone to, impeded local government empowerment. For the IAS, as for its colonial predecessor ICS, the district magistrate's job is the most prized office offering tremendous satisfaction and opportunity for the enlightened public servant, and immense ego gratification and power and prestige to the not-so-enlightened bureaucrat. Nowhere in the democratic world do we have the lives of millions influenced on a daily basis and in the long term by an unelected official like the district magistrate in India. Apart from ignoble motives, this institutional nostalgia is a powerful factor perpetuating inertia and status quo, and resisting devolution of power to people.

The other lower bureaucracy, with its vast numbers, has the power of collective bargaining and protection of anonymity in a large, centralized system. Any devolution to local governments diminishes the collective bargaining power of public servants and makes them accountable. They will have to actually perform and deliver services in order to retain their jobs! In a society in which the vast majority of people eke out a precarious livelihood, are not even functionally literate, and depend on state patronage and good will of the officials for even the basic minimum services and entitlements, the power of the petty bureaucrat is oppressive and awesome. With such power and opportunities to indulge in corruption with impunity, even the humbler public servants are naturally resistant to the idea of being accountable to the local government and the community they are supposed to serve.

In addition to these incentives to maintain status quo, there is a short-term functional requirement that is protecting the CM-MLA-DM stranglehold on the districts and local governments. The institution of DM has enormous traditional power and prestige, and for long the DM has been regarded as the head of the district. The educational and professional qualifications of a young IAS official who is posted as the DM, the traditional authority, the convergence of all key functions, the institutional and legal linkages established over decades, and the exaggerated public esteem in which the DM is held – all these make the Union and State governments depend heavily on the DM for managing crisis situations or to get quick results in implementing a programme or scheme. There is exaggerated but genuine fear of serious disruption and paralysis, or even anarchy and collapse, if power suddenly devolved on the local governments. This fear is reinforced by the endemic propensity to abuse office at local level by the elected leaders as much as at the state level. The culture of abuse of office and corruption, politics as big business, high cost of elections and vote buying, power for private gain have spread from state level to local governments very swiftly. Therefore it is easy to find alibis for retaining power and perpetuating status quo, without taking the trouble to laboriously build institutions, install an efficient system of accountability and restructure governance institutions at the local level.

The quest for solutions to make our bureaucracy respond to the Constitutional imperatives, people's urges and changing needs will be productive if we briefly examine the nature of power and its distortions in contemporary India. In the public domain, we may broadly state that power is the ability to influence events, resources and human behaviour in order to promote public good. The tools of power are the authority to make laws, rules and regulations, and to give orders; the ability to collect taxes and make allocations, and utilize public money prudently; and the control over the vast bureaucracy to enforce the will of the elected government to implement laws, rules and orders, and utilize public money in desired ways. This exercise of power has been severely distorted over the years in independent India. As the Second Administrative Reforms Commission, in its approach paper pointed out:

*"In general, the positive power to promote public good seems to be severely restricted, making it difficult for even the most conscientious and competent functionaries to deliver optimal results. The systemic rigidities, needless complexity and over centralization have made most elected politicians and appointed public servants ineffective and helpless. But the negative power of abuse of authority in pursuit of pelf, privilege and patronage, or harassment of public through flagrant violation of law, petty tyranny and nuisance value is virtually unchecked. This imbalance in the exercise of power is at the heart of the crisis of governance. As a result most agencies of government are functioning sub-optimally, and government programmes have not yielded the desired results. At most levels authority is divorced from accountability, leading to a system of*

*realistic and plausible alibis for non-performance. Most functionaries are thus caught in a vicious cycle.”*

Any serious administrative reform effort to make bureaucracy an effective instrument in a democratic society should address these fundamental challenges and emerging trends. There are four broad approaches which need to be adopted swiftly and in a sustainable and enduring manner. Peace-meal, *ad hoc* measures will not do. First, we need to truly empower local governments, and make them effectively the third tier of governance. An elected district government with complete authority, command over resources, commensurate devolution and full control over bureaucracy related to all transferred subjects should be the first critical step in this endeavour. The district collector should become the secretary of district government, and the relationship between the elected political authority in the district and the collector should be similar to that between the chief minister and chief secretary in a state. The artificial divide between ‘revenue’ and ‘developmental’ subjects should be dispensed with, and district government and sub-district local governments (cities, municipalities, panchayats) should deal fully with the transferred subjects. The *inter-se* division of subjects between the various tiers of district government should be determined by statute, and the classification should be based on the principle of subsidiarity. In other words, a task which can be performed by a smaller unit should never be entrusted to a larger unit, unless economies of scale and technical complexity demand such allocation of responsibility. The primary tiers in turn – the village panchayat and the municipality – should have most powers, resources and responsibilities. In addition to resource transfer commensurate with transferred responsibilities and subjects, there should be a substantial, annual per capita grant (say, 10% of the total public expenditure of the state divided by the population) made available to each village panchayat, or the urban community at the ward / division level through the ward committee. This un-tied grant should be at the disposal of the village / urban community to meet the local needs and basic amenities. The state government should have no control over local government officials, except providing a pool of manpower when demanded by local governments. A phased programme should be evolved to make local government fully responsible for all local recruitment and human resource management, subject to the statutory guidelines. Only such a comprehensive, some may say revolutionary, restructuring and devolution will ensure effective fusion of taxes with services, vote with public good, and authority with accountability.

Second, both at the local level (third tier) and at the state level, there should be a strong and effective system of accountability. Full implementation, in letter and spirit, of right to information, accompanied by an overhaul of record keeping and display; citizen’s charters with penalty for delay in services; transparent and verifiable processes in public procurement; independent, effective and integrated anti-corruption authority; mandatory confiscation of property and swift trial and punishment in all corruption cases; promotion of competition and choice in



service delivery wherever feasible; full public participation in decision making through statutory fora; direct empowerment of stake-holders wherever they can be clearly defined and identified; convergence in delivery of services through accessible and credible agencies like municipality/panchayat, post office; Independent District Ombudsmen to investigate all abuse of authority and punish; innovative mechanisms to incentivize the public to fight corruption, for instance a law similar to False Claims Act in the US - these and other measures need to be institutionalized in order to enforce accountability, prevent abuse of office, and curb corruption.

Third, we need to professionalize the bureaucracy and make it suitable to meet the challenges of governance. The monopoly of all-India services – the IAS in particular – in all key appointments should go. There should be a mechanism to honourably retire senior officials after 15 – 20 years of service, with a review every five years thereafter to determine suitability for continuance. All key offices in government should be open to competition among career civil servants of varied backgrounds as well as subject specialists, managers and experts outside government. These offices should be filled for an assured tenure, of say five years, after a rigorous and transparent selection process. Security of tenure should be guaranteed once such an appointment is made, except when gross incompetence or serious corruption can be established. After the first ten years of service, all generalist officials should be mandated to specialize in certain fields, and should be considered for appointment only in the areas of their domain expertise. Executive agencies should be created for all field agencies with security of tenure, clearly defined expected outcomes, resources and authority and effective performance evaluation and accountability mechanisms. The self-perpetuating, inward looking bureaucratic priesthood should be transformed into a highly professional, skilled, empowered, outward-looking, accountable institution capable of delivering services and meeting the challenges.

Finally, the role of the state should be redefined. Enhancement of human capability, fulfillment of human potential, elimination of avoidable suffering, creation of necessary conditions for peace, harmony and liberty, building of infrastructure necessary for economic growth, creation of an enabling climate for fair competition and rapid and sustainable growth, and creating a measure of social security for those who need it should be the core functions of state. The whole governmental power, bureaucracy and resources should be focused on fulfilling these objectives through quality education accessible to all children, full healthcare coverage to all families, skills for employment, sustainable, basic amenities and infrastructure, rule of law, natural resource development, agricultural and rural rejuvenation, urban management and innovative, and sustainable social security measures to end poverty and deprivation. A judicious blend of public provisioning and private participation, innovative mechanisms of competition and choice, incentives for better performance, and benchmarking

and standardization of services and costs is vital to provide quality services to meet the needs of a growing population.

The past 18 years have seen the collapse of old orthodoxies – command economy, public sector, government control, license-permit raj. The new approach of economic freedom, choice, competition and fair regulation has yielded significant results. But during this period, new orthodoxies emerged, and many well-meaning Indians seem to subscribe to the notion that the market is the panacea for all our challenges. Only now there is a growing recognition that a strong and efficient state, and a competitive and robust market – both are necessary to produce results. Good governance, competent bureaucracy, efficient delivery of services, effective rule of law and accountability are the critical requirements to fulfil our aspirations and build the nation. Political reform to transform our kleptocratic state into a genuine liberal democratic state based on rule of law is the foundation on which we can build a new India we all dream. Strong, capable and legitimate political leadership is the necessary precondition for success. Along with that far-reaching administrative reform and structural changes to make our bureaucracy deliver, and to empower citizens is the sufficient requirement to fulfil our potential and meeting the challenges now and in future. The time is ripe, and people are ready for the big changes. Does our leadership have the will and skill? Can the media and opinion makers create the climate to make such changes achievable? The answers to these two central questions will shape the future of India in the twenty first century.

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Lok Satta Party  
H.No. 5-10-180/A & A1  
Band Lanes, Hill Fort Road  
Hyderabad – 500 004  
Tel: 91-40-2323 1818 / 2323 2829/ 2323 3637  
Fax: 91-40-2323 0111  
Email: [loksatta@satyam.net.in](mailto:loksatta@satyam.net.in); [info@loksattaparty.com](mailto:info@loksattaparty.com)  
web: [www.loksatta.org](http://www.loksatta.org)