

## The role and importance of civil servants in India-A socio legal study

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### Abstract

The primary concern of the citizens in a good civil society is that their government must be fair and good. For a Government to be good it is essential that their systems and sub-systems of Governance are efficient, economic, ethical and equitable. In addition the governing process must also be just reasonable fair and citizen-friendly. The administrative system must also be accountable and responsive besides promoting transparency and people's participation. The test of good governance lies in the effective implementation of its policies and programmes for the attainment of set goals. Good governance implies accountability to the citizens of a democratic polity and their involvement in decision making, implementation and evaluation of projects programmes and public policies. In this perspective transparency and accountability become invaluable components of good governance as well as of good administration. Transparency makes sure that people know exactly what is going on and what is the rationale of the decisions taken by the Government or its functionaries at different levels. The Minister of a department has to depend on the advice of the civil servants who are a sort of permanent brains trust. They advise and assist the minister concerning the work of the department and find solutions of various administrative problems arising outside the normal routine of the department. Although policy making is the responsibility of the minister even in this field he is dependent upon the permanent undersecretary whose knowledge and experience provide the necessary foundation for policy determination. Warren Fisher has described the role of civil servants in the following words "Determination of policy is the function of ministers and once a policy is determined it is the unquestioned and unquestionable business of the civil servant to strive to carry out that policy with precisely the same goodwill whether he agrees with it or not. That is axiomatic and will never be in dispute. At the same time it is the traditional duty of civil servants while decisions are being formulated to make available to their political chiefs all the information and experience at their disposal and to do this without fear or favour irrespective of whether the advice thus tendered may accord or not with the minister's initial view. Further it is the civil servants of the department who prepare answers which the minister has to give in Parliament. Again it is often they who prepare the speeches to be delivered by the ministers. Thus all work requiring knowledge and experience is performed by civil servants but the responsibility rests with minister.

**Keywords:** Civil service, Accountability, Good Governance, Civil Service Reform, Role of Civil Servant, Civil Service Law

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### Introduction

A civil service which delivers policies and services to make us more healthy, more secure, and better equipped to tackle the challenges we face. A civil service which responds directly to our needs such as education and healthcare and which acts for the society as a whole. A civil service which is available when we need it and which provides services to improve the quality of our lives. A civil service that is focused on results rather than on its own internal processes. The deficit that we have today is not entirely the fault of civil servants. The causes are systemic. The present civil service in India carries the cultural baggage of the past. We have to build capacity in the civil service to shed that baggage and change itself and ensure that it has the leadership to bring it about. We need to create an environment in which the civil service is the preferred destination of the best and brightest of each generation. There is yet another compelling reason why India needs to modernize its civil service. Globalization is here to stay. Today, countries are competing with each other not only in the global market place but also on the quality of their governance structures. Several countries in the world have already built flexible decentralized and user-friendly civil services. It is with these countries that India has to compete. That is why the idea of continuing with the kind of outdated civil service that we have is untenable. We need to reshape and

compatible with today's strategic economic and technological requirements. In other words a civil service for the resurgent India of the twenty-first century. So we deserve a better civil service. our rigid hierarchical centralized process-driven nineteenth century bureaucracy into a modern and responsive organisation. The idea is to build a civil service that is truly world-class

### Role of Civil service in present day context

Civil Service is the name of an important government institution comprising the staffs of Central administration of the State. It is more for it stands for a spirit essential to the success of modern democracy and ideal of vacation in Public officials who devote their lives to the Services of the Community. The civil service carries on the important branch of the governmental system"the administration. It has been well observed that "however adequately organised the 'political' side of the government, however wise our political philosophy and high leadership and command, these would be of no effect without a body of officials expert in applying the accumulated supply of power and the general wisdom to particular cases, and permanently and specially employed to do so. The civil service constitutes the permanent executive in the modern state. While the Parliament, the Cabinet and the President may resign it is the Civil Service,

which really governs. This body of officials we call by the name civil servants, and all periods of human history have seen such public employees; perhaps their disposition, character and attainments have varied widely with time and place. A civil servant belongs to a body of persons who are directly employed in the administration of the integral affairs of the State and whose role and status are nonpolitical, ministerial or constabulary. The civil service in its official capacity is a permanent brain trust of administration having both a tradition and a technique in its national setting. If an expanding system of welfare legislation, befitting the new powerful role assumed by the state is to be effectively developed an efficient civil service is a necessity. These relative advantages tend to make the civil service the repository of the flow of all the substance and power. With weak political structures they actually become the masters. But all the same it is good that the cabinet works out the policy with the sanction of the legislature; and the civil service is conceived only as the instrument to execute this policy faithfully. The civil servant should know this limitation of his role. Nevertheless, the civil servant has a right to put forward the point of view of the department: to express his individual opinion on the soundness of a course of action or policy proposed to be formulated. It is also found that after the finalization of the policy, the civil servant straining his utmost to implement the policy forgetting his earlier reservations. Thus it is the minister who is constitutionally responsible for the policies to be pursued by the department since the civil servant has nothing to do with the collective policies of the government of the day. To put it in a nutshell the primary task of the civil service is to act legally within the limits of powers conceded to it by organising the means of administration with a view to achieving the objects laid down by the executive.

### Review of the Literature

A brief review of the literature relating to the present study been detailed as follows :- Harold J. Laski's valuable treatise entitled "Parliamentary Govt. in England" & "The Growth of Administrative Discretion" gives a wonderful account of the Home Civil Service of England tracing down its history its relevance. Similarly Herman Finer's "The British Civil Service" (London 1937 P. - 14 & 15) is also a classic source of "The Role of the Civil Service in the Modern World". We also find good research in Herman Finer's classic treatise on "The Theory and Practice of Modern Government", where he has attempted in-depth analysis with comprehension, original research & first hand observation highlighting the crucial problems of the Civil Service mainly aimed to get, keep, manage, and inspire in the service of the state enough of the best minds and characters of the living generation. This has been reconsidered with novel information and perspective. Constitutional and Administrative Law by John Alder and Constitutional Law by E.C.S. Wade & Godfrey Philips has tremendous impact on Civil Service & Civil Servant. Other books on Indian Constitutional Law like Durgadas Basu's shorter Constitution of India and the Introduction to Constitution of India have a chapter each on the services under the Union and the State, Dr. Basu gives importance to Civil Service and interpretation, recruitment and conditions of Service to be regulated by legislation subject to the provisions of the Constitution. The most respectable book on Constitutional Law

of India by H.M. Seervai has given a wonderful account of what the role of Civil Services citing quotations from Sir Warren Fisher, Permanent Head of the British Treasury, Sardar Vallabhbhai Patel and from Shah Commission's Report. Seervai's treatise gives an excellent account of Article - 309 to 311, 313 and other articles in Part - XIV of the Constitution including Chapter - 2 of Part - XIV. Another important book that is found to be very close to the subject of the research study is "The Civil Servant under the Law and the Constitution" by Dr. N. Narayan Nair, casting increasing attention on the roles governing the conduct of the Civil Servant and legislations that control Civil service, aimed at enhancing disciplined efficiency and fair service conditions. It also examines the position of the Civil Servant and the significant features of the problem pertaining to the Civil Servants under the Law and the Constitution. The subject has received a very careful treatment marked by spirit of enquiry assisted by a close examination of the opinions of jurist and judicial pronouncements. Other books close to my topical area of research study is Prof. Narendra Kumar's "Law Relating to Government Servants and Management of Disciplinary Proceedings". Prof. Kumar has in a very simple language highlighted Service law pertaining to certain controls like 'the *pleasure doctrine* under Article 310 system of Confidential Reports, disciplinary proceedings such as suspension, removal and dismissal from service and reduction in ranks etc. In order that these control mechanisms are not arbitrary constitutional and other provisions are enacted for the protection of the Civil Servants which they can enforce through the Courts. Report of the Law Commission of India on various topical legal issues concerning my research has also been studied and their significant findings have been integrated into my research. Research findings of Indian Bar Review have also been studied to integrate important research concerns. Internet Depository on my research area is a significant source of legal research and various inputs would necessarily be used in my topical research area. Justice Rama M. Jois in his work "Service under the State" influences most simple level as a source of overall understanding of civil services law and civil services jurisprudence. It is an authoritative exposition of adjudicative law as well as a critique of it helping its future renovation. The discourse on the rights of Civil Servants is anchored in the text and context of article 311 of the Indian Constitution.

### Objectives of Study

To study on practical implication of the judicial decisions explaining the extent and scope of judicial control in Government's relation to civil service matters.  
 To study on the role of administrative system for promoting transparency and people's participation.  
 To study on the decision making, implementation and evaluation of projects programmes and public policies for good governance.  
 To identify the strategy that could be formulated for maintaining balance between the interest of the civil servants and that of the fundamental interest of the society that conflict with each other.  
 To suggest the necessary legislative and reforming parameters needed in this regard.

### Hypothesis

In India the Civil Servants are responsive, transparent, accountable ethical public friendly and corruption free and deliver good governance.

In India Civil Servants unlike their counterparts in developed countries as public masters an inherited legacy of British Colonialism in India and they don't think and behave as real public servants paid by the tax payers.

Article 311 of the Constitution of India 1950 has created an environment of excessive security and made civil servant largely immune from imposition of penalties for their non-performance and Commission of crime. Article 311 of the Constitution of India 1950 is over protective and promoting arbitrary action.

All India Services Act 1951 and the concerned rules such as Central Civil Services Conduct Rules, 1964 need suitable amendment to cater to the present situation and in conformity to Article – 309.

### **Research Methodology**

The methodology adopted in this study is doctrinal and empirical one. Case study method and statistical data analysis are the basis of Empirical of this research. Data collected from both primary and secondary sources which is based on Constitution of India, official reports of Law Commissions, Reports of the findings of various GoI committees, All India Reporter on service matters etc. and leading legal bulletins. Besides a detailed survey and analysis of plethora of judicial decisions rendered in this regard by the Supreme Court and a number of High Court are to be made. Reports as available in the form of Books, Journals, Manuals Periodicals Articles and public opinion on instances of corruption constitute the pool of Secondary Sources used.

### **Civil Service in the Modern Day World**

The modern civil service, irrespective of the country to which it belongs, is being vested with more and more powers of administration, subordinate legislation and adjudication. His colorless role as executor of the will of the political heads has been replaced by a more positive role in the and of government. This has come as a fait accompli and the new mode of assessment of the civil servant in the twentieth century has gone to the extent to make a categorical declaration: the official whom we call the 'civil servant' would be a poor instrument indeed if his service consisted only of dog-like obedience to orders or of the motions of an automation". The extent to which he is expected to involve himself in the formulation of policy, as been stated already, but all admit that he should assist the minister in its formulation. This provides him with an excellent chance to stamp his individuality in the molding of policy by means of advice he tenders to the minister; and by other subtle means of persuasion, suggestion and even criticism. This is made possible by the permanent character of the civil service. The expertise at the disposal of the civil service is of immense value to the ministers to avoid pitfalls by defining the limits within which a successful government policy can be sustained. It is a matter of common knowledge that numerous programmes that are embodied in acts of legislature owe their origin to the initiative of persons who occupy senior positions in the civil service. This unostentatious part played by the civil servant will never come to light, but many a political head of the executive will readily concede that the detached criticisms offered by his permanent civil servants have saved him from blunders and the resultant political wilderness. In such a context it is inevitable that there must be a close intimacy and mutual regard between the political chiefs and their senior officials. However, this privileged partnership in policy-making is restricted to a narrow range of

persons occupying the senior posts. The extreme example of a handful of civil servants acting as powerful policymaking instruments was provided by the Indian Civil Service of the pre-independent period Delegated legislation and administrative justice are the other reasons for the enormous increase of powers wielded by the civil service. The legislatures while enacting acts, arc delegating rulemaking powers to the executive government, with the consequent necessity for the setting up of administrative courts for the determination of disputes arising under these legislations. Statutes vest wide discretionary powers with the civil servants. According to Professor Laski Administrative discretion is the essence of the modern state." It is through exercise of these discretionary powers and by the rule-making powers by virtue of delegated legislation, the modern civil servants wield vast amount of power. From the foregoing discussion it is clear that a civil service capable of carrying on the administration is an essential prerequisite to a democratic system if it is to live up to its new responsibilities and great expectations. The character and quality of the civil service guarantee the smooth functioning of the governmental system. Lack of imagination and initiative on the part of the civil service means ineffective administration. Alert and zealous officials can transform the permanent service into an instrument of real service. So it boils down to securing service personnel of proper educational background, sense of proportion, proper temperament, drive, energy and vision if the noble purposes set forth are to be achieved. All strata of society can supply men of these qualities; and many of them have proved themselves to be officials of intelligence and creative ability. There should be a proper selection by an impartial body with the avowed purpose of selecting from many intellectually keen candidates, those who will develop into strong and resourceful officers of proper calibre with the motive force of service to humanity. The keenest intellect of every generation should find a place in the civil service of the country. To achieve this purpose, the civil service should be made attractive to men of talents and capacities. There must be a guarantee of future prospects to the new entrant with ample chances for proving his mettle. The first condition which will attract a capable person to the public service is a sumptuous pay packet. The business establishments in the private sector are competing in this respect to absorb the cream of the intellectuals by offering high remuneration. All the industrial countries are experiencing this difficulty. There are also chances of wholesale exodus of civil servants to private business establishments lured by better remuneration. So the salary offered to the new entrant should compare favourably with the salary and fringe benefits paid to the nongovernment employees of similar status to ensure their retention in the civil service. The position of power is equally a great attraction for men of intelligence and ability and this certainly may also be an important factor in retaining able civil servants. Perhaps more important than remuneration in attracting and retaining efficient permanent officials is the security of tenure held out. The permanency of state employment makes the civil service a 'sheltered' occupation. The fact that there is no fear of discharge except on charges of inefficiency or misconduct has its own attraction. In India even though the civil servant holds the post at the pleasure of the Executive Head following the English doctrine of pleasure, there are constitutional safeguards for the civil servant against arbitrary dismissal, removal or reduction in rank. The Supreme Court of India has also dwelt at length on the necessity to impart a sense of security to civil servants. The Supreme Court says" in

a modern democratic state, the efficiency and incorruptibility of public administration is of such importance that it is essential to afford civil servants adequate protection against capricious action from their superior authority. If a permanent civil servant is guilty of misconduct, he should, no doubt, be proceeded against promptly under the relevant service rules, subject, of course, to the safeguards prescribed by Article 311(2); but in regard to honest, straight-forward and efficient permanent civil servants, it is of outmost importance even from the point of view of the state that they should enjoy a sense of security which alone can make them independent and truly efficient" Fixed hours of work, regular leave, regular (though modest) increments, a not-insignificant pension, chances of promotion to higher grades etc. are the other attractions of the civil service. The method of recruitment of the civil servant plays a very important role in procuring an effective civil service. Before remarking the efficiency aspect of the civil service it has to be mentioned that training is the corner stone of staff efficiency. To throw a raw recruit unceremoniously to learn by experience is a haphazard method. It is highly desirable to formulate a sound scheme to impart training to the new entrant whether clerical, technical or administrative.

### **Role of the Permanent Civil Service in Present Day Scenario**

The work of the civil service falls broadly into two main categories. In one category may be placed all such work as either is of simple mechanical kind or consists in the application of well-defined regulations decision and practice to particular cases in the other category the work which is concerned with the formation of policy with the revision of existing practice or current regulations and decisions and with the organisation and direction of the business of the government. The top administrative class which performs the activities enumerated in the second category plays a pivotal role in the administration of the country. The minister who heads a department is an amateur. He is a politician. He is appointed not because he possesses expert knowledge of the work of the department but for other considerations. The civil servants are experts. They possess besides technical knowledge a vast fund of practical experience. The minister therefore has to depend on the advice of the civil servants who are a sort of permanent brains trust. They advise and assist the minister concerning the work of the department and find solutions to various administrative problems arising outside the normal routine of the department. Although policy making is the responsibility of the minister even in this field he is dependent upon the permanent undersecretary whose knowledge and experience provide the necessary factual foundation for policy determination. Warren Fisher has described the role of Civil servants in the following words : "Determination of policy is the function of ministers and once a policy is determined it is the unquestioned and unquestionable business of the civil servants to strive to carry out that policy with precisely the same goodwill whether he agrees with it or not. That is axiomatic and will never be in dispute. At the same time it is the traditional duty of civil servants while decisions are being formulated to make available to their political chiefs all the information and experience at their disposal and to do this without fear or favour irrespective of whether the advice thus tendered may accord or not with the ministers initial view. The presentation to the minister of relevant facts the ascertainment and marshalling of which may often call into play the whole organization of the department demands of the civil servants the

greatest care. The presentation of inferences from the facts equally demands from him all the wisdom and all the detachment he can command.

### **Civil Service Reforms for Good Governance**

The civil service as the primary arm of government must keep pace with the changing times in order to meet the aspirations of the people. The purpose of 'reform' is to reorient the Civil Services into a dynamic efficient and accountable apparatus for public service delivery built on the public service ethos and values of integrity impartiality and neutrality. The reform is to raise the quality of public services delivered to the citizens and enhance the capacity to carry out core government functions thereby leading to sustainable development. Prior to developing the contents of Civil Service Reforms there is a need for an open objective stock taking of the current situation. Civil Service is essential for the functioning of government. The civil service has long been regarded as the 'steel frame' of administration in India right from colonial days. The colonial legacy of civil service is still continuing in this fast changing era of globalization. It is in this context that civil service reform forms a quintessential part for good governance. The importance of civil service right from ancient period to the modern and presents the problems affecting civil services the reforms that are needed as suggested by various Committees and the reorientation that is needed for the civil service for effective service delivery. Civil service refers to the body of government officials who are employed in civil occupations that are neither political nor judicial. The concept of civil service was prevalent in India from ancient times. The Mauryan administration employed civil servants in the name of *adhyakshas* and *rajukas*. The examination for civil servants in those days too was very stringent as revealed by Kautilya's Arthashastra. The expense of the territory and the need to hold it intact made it imperative for the Mauryan administration to recruit civil servants based on merit. The concept of civil service again came into prominence when British in search of creating a framework to hold the territories of India created the much coveted 'Indian Civil Services' or the ICS. Many changes took place in the Indian civil services since Lord Cornwallis introduced it in India. The Indian Civil service was created to foster the idea of unity in diversity. The service was expected to give continuity and change to the administration amidst the changing political scenario and turmoil affecting the country. By and large the Indian civil service was created to foster the idea of unity in diversity. The service was expected to give continuity and change to the administration. A well-functioning civil service helps to foster good policymaking effective service delivery accountability and responsibility in utilizing public resources which are the characteristics of good governance. "Good Governance" is being used as an all-inclusive framework not only for administrative and civil service reform but as a link between Civil Service Reform and an all-embracing framework for making policy decisions effective within viable systems of accountability and citizen participation. Administrative reform focuses on rationalizing structures and operations of government machinery. Governance reform tends to focus on facilitating the effective functioning of and interactions between the states the market and the civil society. It refers to the improvement of legal institutional and policy frameworks to create proper decision making and implementation environments for economic growth and distribution. It encompasses participatory systems for elements of civil society to become actively involved in

formulation of policies and programmes and their implementation. It also includes effective and transparent systems and processes for accountability in government activities. Civil service reform cannot be seen in isolation and it has to be undertaken along with administrative and governance reforms for effective results. Although comprehensive reform that involves governance the civil service administrative practices and civil society is ideal it requires sustained commitment from political and administrative leaders. It is also too complex to implement all at once. Few countries have undertaken comprehensive reforms and there are mixed results. The challenge lies in finding linkages among the governance civil service and: should come from within the civil servants to create pro-active vibrant and accountable civil service.

### **Civil Servant's Accountability for Good Governance**

The civil servants have always played a pivotal role in ensuring continuity and change in administration. However, they are dictated by the rules and procedures which are formulated taking their advice into account. It is the 'rule of law' rather than the 'rule of man' that is often blamed for widespread abuse of power and corruption among government officials. The explosion of media in the recent past has opened civil servants to external scrutiny and called for transparent accountability mechanisms in terms of outcomes and results not processes. The issues of accountability of civil servants in service delivery have come to the fore front in all dialogues regarding civil service reforms. The credibility of civil service lies in the conspicuous improvement of tangible services to the people, especially at the cutting edge. Conceptually, the civil servants are accountable to the minister in charge of the department, but in practice, the accountability is vague and of a generalized nature. Since there is no system of *ex ante* specification of accountability the relationship between the minister and the civil servants is only issue-sensitive. The civil servants deal with the minister as the issues present themselves. The accountability relationship can be anything from all-pervasive to minimalistic and it is left to the incumbent minister to interpret it in a manner that is most convenient to him. It is true that the legislatures in India are armed with control mechanisms such as questions adjournment motions no confidence motions calling attention notices half an hour discussions and control through legislative committees. However the legislatures in India have failed in demanding and enforcing any meaningful accountability from the civil service. The control mechanisms of the legislatures have at least succeeded only in reviewing how much money has been spent and how much more is going to spent. The reasons why the legislatures in India are not in a position to enforce accountability from the civil service is because their review is *ex post*. In all democratic countries civil servants are accountable both to the political executive and to citizens for ensuring responsive transparent and honest policy implementation and service delivery. But ensuring accountability for performance is not a simple task in government service there are immense complexities involved in making public officials answerable for outputs and outcomes. Setting performance targets and their measurement is easier in respect of service delivery agencies particularly when the service provided is tangible and thus an easily measured unit but for many public organizations where the output is policy related and therefore not very concrete assessment of performance becomes much more complicated. Accountability of the executive arm of government to

Parliament and to the citizens of the country is of course the fundamental feature of a democracy. The final expression of accountability in a democracy is through the medium of periodic elections which is an instrument for punishing and rewarding the Government of the day, and therefore serves as an ultimate instrument of accountability. In India constitutional and statutory bodies such as the office of the Comptroller & Auditor General the Election Commission and the Central Vigilance Commission (CVC) are examples of other oversight mechanisms that are autonomous but lie within the framework of the State. Analysts have categorized these accountability mechanisms into "horizontal" accountability mechanisms which refer to those located within the State as against 'vertical' accountability mechanisms which are those outside the State and include the media civil society and citizen.

### **Advisory Role of Civil Servants in Formulation of Policy**

Rendering policy advice to the political executive is the most important staff function of the civil servant. Policy making is the ultimate responsibility of the Minister. After a policy is approved by the elected government it is duty of the civil servant to implement such policy in the right earnest whether he/she agrees with it or not. At the same time it is the duty of the civil servant to provide the factual basis thorough analysis of all possible implications of any measure under consideration and free and frank advice without fear or favour at the stage of policy formulation. It is unfortunate that at times senior civil servants get bogged down in routine administrative decision making and are unable to contribute adequately to this crucial aspect of their functions. However for civil servants to be able to provide appropriate policy inputs they must acquire the necessary combination of a broad perspective of the sector as well as of the Government as a whole combined with conceptual clarity and requisite knowledge. If a policy that is being formulated is perceived by the civil servant to be against public interest his/her responsibility is to convince the political executive about the adverse implications of such a policy. However, if the political executive does not agree with such an advice there is little that the civil servant can do other than putting his/her views clearly on record. It is for the other institutional mechanisms such as Parliament the CAG Judiciary and ultimately the electorate to hold the political executive to account for bad policy.

### **Civil Servants Who Help the Ministers for Promoting Good Governance.**

Civil servants can place all the facts and opinions before the Minister without any fear.

The Civil servant is responsible for the continuity of policy.

The civil servant must maintain secrecy.

The Civil Servant remains anonymous but he has to bring creativity and excellence based upon facts.

The ultimate prerogative in Policy-making is of the Minister.

In India, the relationship is the same in theory but in practice many problems have crept which have become **challenging problems for good governance.**

- a) The increasing tendency on the part of Ministers to interfere in day-to-day administration to allow accommodation to individuals and groups for parochial and political consideration

- b) Lack of clear and adequate perception by Ministers of their administrative responsibilities and their inability for various reasons to do full justice to them.
- c) Lack of fuller appreciation by the Civil Servants of the political side of the Ministers role
- d) Differences in the Social background, intellectual ability professional commitment temperament and outlook of Ministers and Senior Civil Servants.

Good governance is generally characterized by **participation, transparency, accountability, protection of human rights and a society based on the rule of law**. Recent advances in communication technologies and the Internet provide opportunities to transform the relationship between governments and citizens in a major way, thus contributing to the achievement of good governance. It is in this context that the issue of e-governance needs to be analysed. Good governance must be founded on moral virtues ensuring stability and harmony. **Confucius** described righteousness as the foundation of good governance and peace. The art of good governance simply lies in making things right and putting them in their right place. Confucius's prescription for good governance is ideally suited for a country like India where many of our present day players in governance do not adhere to any principle and ensure only their own interests. **Confucius** emphasizes the righteousness for life and character building. This is in conformity with Dharma or righteousness as taught by all religions in the world and preached in Buddhism very predominantly in its fourth noble truth. He also emphasizes that man himself must become righteous and then only there shall be righteousness in the world. This is comparable with what Gandhiji said "Be the change you wish to see in the world."

#### **Role of Civil Service is in Challenging Situation**

The report of the Comptroller and Auditor General on the 2G spectrum deals submitted in November 2010 revealed a presumptive loss caused to the Central government of about Rs.1.76 lakh crore. The Central Bureau of Investigation's decision to arrest the former Telecommunications Secretary Siddhartha Behura along with the former Minister A. Raja in connection with the 2G spectrum case revives an old debate over the relationship between the civil servant and the politician. The drastic action by the agency should shake the entire bureaucracy especially the officers of the Indian Administrative Service and the Indian Police Service out of their complacency. It should make them introspect on how they should regulate their response to ministerial demands for unequivocal compliance of directions. The issue is ticklish and may never be resolved to the satisfaction of either side or even those members of the public who believe that the independence of the civil service became extinct a long time ago. Nevertheless it has become necessary to place things in perspective so that the public understands the dynamics of a relationship which places enormous strain of officers at the senior levels of the bureaucracy. There is nothing that has been reported till now that suggests that Mr. Behura had been dishonest and received monetary favours from the companies which benefited. Only a CBI charge sheet will lead to the process of confirming or disproving his integrity. There is just a possibility that while being personally honest he had been more than willing to do the Minister's bidding in order to stay in the good books. It is not insignificant that he had worked under Mr. Raja earlier in the Ministry of Environment. The fact that he signed more than 100 letters in regard to the issue of licences

within days of assuming charge as Secretary is a cause for grave misgivings he was dishonest or negligence or displayed a lack of application of the mind. His lawyer claims his client had raised several objections to the Minister's actions. It is not known these had been recorded on the files. If Mr. Behura's dissent had indeed been put down on paper that would provide an extenuating circumstances when his criminal liability is assessed.

#### **Conclusion**

Civil servants have special obligations to the community because of three reasons. First, they are responsible for managing resources entrusted to them by the community. Second, they provide and deliver services to the community. Third, they take important decisions that affect all aspects of the community's life. The community has a right to expect that its civil service functions fairly, impartially, and efficiently. It is essential for the community to be able to trust and have confidence in the integrity of the civil service decision-making process. Within the civil service itself the decisions and actions of civil servants should reflect the policies of the government of the day and the standards that the community expects from them as government servants. The expectation that the civil service will maintain the same standards of professionalism responsiveness and impartiality in serving successive political governments is a key element of the way which democratic polity functions.

#### **Necessity of Civil Service Law**

A civil service law describes and establishes the core principles, values, and characteristics which create the distinctive culture and ethos of the civil service. Drafted properly, it can provide a clear and unified framework within which the civil service can carry out its distinctive roles and responsibilities. It also provides a legal basis for the legislature to express the important values and culture it wants in the civil service. It becomes an unambiguous statement to those within the civil service and to the people of India of what is expected of the civil servants. In addition, the legal framework makes civil service law not just one initiative of the government in power, but a lasting initiative towards better performance and accountability.

#### **Civil Service Law and Civil Services Authority**

It is good to note that the Government of India plans to enact a civil service law. The Draft Civil Services Bill is soon to become a law. The purpose of the Bill is stated to be as follows:

To provide a statutory basis for the regulation of the Civil Services in India as enshrined in Article 309 and Article 312 of the Constitution of India, to regulate the appointment and conditions of the service of Civil Servants to lay down the fundamental values of Civil Services the Civil Services Code of Ethics. Civil Services Management Code to establish Civil Services Authority for facilitating review and to develop Civil Services as a professional, neutral, merit based and accountable instrument for promoting good governance and better delivery of services to the citizens. Section 14 of the Bill enumerates the functions of the central authority as given below:

Aid and advise the Central Government in all matters concerning the organisation, control operation and management of Civil Services and Civil Servants.

Recommended to the Central Government the Civil Services Code of Ethics and Civil Services Management Code

Recommend to the Central Government the policies on the protections given to the Civil Servants.

Recommend to the Central Government the policies for good governance in the civil service transparency to be maintained by the civil servants in the discharge of their duties and the activities.

Recommend to the Central Government changes to be made in the system and procedures in different departments and areas of governance by civil services,

Make recommendations to the Central Government on the grievance redressal mechanism for the civil servants.

Ensure adherence to the Civil Services Code and Act by the Cadre Controlling Authorities and,

Discharge such other functions as the Central Government may specify

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